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B-55277 January 23, 1946

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The Honorable, The Secretary of Commerce.

My dear Mr. Secretary:

I have your letter of January 22, 1946, requesting decision upon certain questions respecting the availability of funds appropriated for the Department of Commerce under the provisions of the Department of Commerce Appropriation Act, 1946, Public Law 61, approved May 21, 1945, for certain expenditures arising in connection with the contemplated return of employees of the Patent Office from Richmond, Virginia, to Washington, D. C. The questions presented are stated as follows:

"(1) Is the above-mentioned appropriation available for the payment of travel expenses of Patent Office employees transferring their official station incidental to the movement of a portion of the Patent Office from Richmond, Virginia to Washington, D. C.;

"(2) Is the above-mentioned appropriation available for the payment of travel expenses of the dependents of Patent Office employees incidental to the above-mentioned move; and

"(3) Is the above-mentioned appropriation available for the payment of expenses in connection with the movement of (a) office equipment and supplies and (b) the household goods and affects of the above-mentioned Patent Office employees?"

The said appropriation act of May 21, 1945, 59 Stat. 193 under the heading, "Patent Office," provides in pertinent part, as follows:

"Miscellaneous expenses: For purchase and exchange of law, professional, and other reference books and publications and scientific books; expenses of transporting publications of patents issued by the Patent Office to foreign governments; directories, furniture, filing cases; maintenance, operation, and repair of passenger-carrying automobiles; for investigating the question of public use or sale of inventions for one year or more prior to filing applications for patents, and such other questions arising in connection with applications for patents and the prior art as may be deemed necessary by the Commissioner of Patents; for expense attending defense of suits instituted against the Commissioner of Patents; for travel, including not to exceed exceed $500 for attendance at meetings concerned with the work of the Patent Office, when incurred on the written authority of the Secretary; and for other contingent and miscellaneous expenses of the Patent Office; $125,000."

In connection with the quoted statutory provision there are for consideration the provisions of section 201(a) of the Independent Offices Appropriation Act, 1946, 59 Stat. 131 which read as follows:

"Sec. 201. (a) Appropriations for the fiscal year 1946 available for expenses of travel of civilian officers and employees of the executive departments and independent establishments shall be available also for expenses of travel performed by them including expenses of transportation of their immediate families in accordance with regulations prescribed by the President, on transfer from one official station to another for permanent duty when authorized by the head of the department or establishment concerned in the order directing such transfer: Provided, That such expenses shall not be allowed for any transfer effected for the convenience of any officer or employee."

The language contained in section 201(a), supra, is general and, accordingly, the provisions thereof are for application to appropriations for travel of civilian employees of all executive departments and independent establishments of the Government. The quoted appropriation item for the Patent Office mentions "travel," only. It is clear that such item refers to travel of civilian employees of that Office. Consequently-- in consonance with the provisions of section 201(a) of the Independent Offices Appropriation Act, 1946, supra--such appropriation item also must be considered as legally available for the expenses of transportation of their immediate families upon transfer of official station for permanent duty. Accordingly, with the understanding that question (2) contemplates payment of transportation expenses, only, as distinguished from the more inclusive term "travel expenses" used therein, questions (1) and (2) are answered in the affirmative.

Section 201(b) of the said Independent Offices Appropriation Act, 1946, 59 Stat. 131, provides:

"(b) Appropriations of the executive departments and independent establishments for the fiscal year 1946 available for the transportation of things shall be available, in accordance with the Act of October 10, 1940 (5 U. S. C. 73c-1), for expenses incurred in the transfer of household goods and effects of civilian officers and employees such departments and establishments when transferred from one official station to another for permanent duty."

In that connection, there is for noting that an item of $900 appears in the 1946 budget for the Patent Office under "Miscellaneous Expenses," Patent Office for "transportation of things." Of course, the amount of that item in the budget was based upon conditions actually existing or expected to arise during the fiscal year 1946 and manifestly was without regard to the presently contemplated return of employees to Washington, D.C. Furthermore, it is settled that amounts of individual items in the budgetary estimates presented to the Congress on the basis of which a lump-sum appropriation is enacted, are not binding upon administrative officers unless carried into the appropriation act. See 17 Comp. Gen. 147. Hence, the Patent Office appropriation item quoted above being "available for the transportation of things" within the meaning of that term as used in section 201(b) of the Independent Offices Appropriation Act, 1946, it necessarily follows that the said appropriation item is available for expenses incurred in the transportation of household goods and effects of employees of that Office upon return to Washington, D.C. for permanent duty.

With respect to the availability of the Patent Office appropriation item above

quoted for expenses incurred in connection with the movement of office supplies and equipment, it will be seen that while no specific reference is made therein to expeses of that character, it expressly is provided therein that the said appropriation is available for "other contingent and miscellaneous expenses of the Patent Office." Hence, in the absence of any indication to the contrary, it reasonably appears that the appropriation item in question is available for payment of the expenses here involved. Accordingly, both subsections of question (3) are answered in the affirmative.

Respectfully,

Comptroller General of the United States