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B-66030 May 9, 1947

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The Director, Office of Defense Transportation

Mr. dear Mr. Johnson:

I have a letter of May 1, 1947, from the Deputy Director of the Office of Defense Transportation, as follows:

"At the time the original appropriation of $525,000 for the Office of Defense Transportation for the fiscal year ending June 30, 1947, was requested it was contemplated that the operating activities of the agency would be terminated about February 28, 1947, and a small force would be continued beyond that date to complete the liquidation of the agency about April 30, 1947. On the basis of this program it was estimated that expenditures for travel would not exceed $50,000 and that limitation was included in the language of the Act.

"In our request for a supplemental appropriation of $143,000, which was reduced by Congress to $136,500 in Public Law 20 of the 80th Congress, the language of the Act was as follows:

"'Salaries and expenses, For an additional amount, fiscal year 1947, for "Salaries and Expenses", $136,500.'

"While the supplemental estimates included an additional amount required for traveling expenses, through an oversight there was no request made for an increase in the limitation of $50,000 for travel expenses imposed by the original appropriation act, to cover this additional amount.

"We now have reached the $50,000 limitation for the combined traveling expenses of the ODT officials and the 40 ICC Bureau of Service Agents whose salaries and expenses are paid out of the ODT appropriation. Consequently it has been necessary to instruct these agents to remain at headquarters until the limitation is raised.

"These Bureau of Service Agents constitute the Field Forces of the Office of Defense Transportation and travel continually from railroad yard to railroad yard in order to expedite the movement of freight cars and thus increase the woefully inadequate car supply. On this account, this period of inactivity on their part seriously impairs their usefulness in reducing the car shortage.

"We discussed this situation with the Bureau of the Budget and as time is of the essence in the matter, they suggested our referring the matter to you with the

thought that if the circumstances justified a ruling on your part that the intent of the Congress was to permit the expenditure of amounts for travel in excel of the $50,000 limitation, although not specifically so stated in the Act, we then could make these expenditures without further delay and much valuable time would be saved over that required to amend the language of the Act.

"In support of this position we beg to submit the following documents:

"1. Public Law 20 of the 80th Congress (see page 3).

"2. Hearing before the Sub-Committee of the House Committee on Appropriations (see p. 224 for the justification of the supplemental appropriation requested by the Office of Defense Transportation).

"3. Supplemental Estimate of Appropriation for the Office of Defense Transportation for the Fiscal Year ending June 30, 1947, to which is attached Appendix A referred to in the 1st paragraph of the Justification included in the Hearings (Document 2 above).

"There documents show that the Appropriation Committee when it approved the Supplemental Appropriation had before it the following facts with respect to the additional expenditures for travel by the ICC Bureau of Service Agents included in this Supplemental Appropriation, namely:

"1. Amount requested for travel and other obligations for the Bureau of Service Agents in the original appropriation for $525,000 (see page 5 of Appendix A).

"Travel . . . . . $30,000 Other . . . . . 4,000 Total 34,000

"2. Statement that this original appropriation contemplated the termination of the operating activities of the agency (which included these Bureau of Service Agents) on February 27, 1947 (see 1st paragraph of General Statement, page 224 of Hearings Document 2 above).

"3. Estimate of revised expenditures for the fiscal year ending June 30, 1947 for other obligations, chiefly travel now required by the ICC Bureau of Service Agents to continue activities beyond February 28, 1947, as provided in the Supplemental Appropriation section 51, 767

"The difference between $51,767 and $34,000 is $17,767, which is all required for travel for the ICC Bureau of Service Agents.

"We would greatly appreciate a ruling from you on this matter as soon as possible."

The original appropriation for the Office of Defense Transportation for the fiscal year 1947, made by the set of July 25, 1946, Public Law 521, 79th Congress, 60 Stat. 605 provides in part as follows:

"Salaries and expenses: For all necessary expenses of the Office of Defense Transportation, fiscal year 1947, including salary of the Director at not to exceed $12,000, and the Deputy Director at $10, 000, traveling expenses (not to exceed $50,000), including reimbursement, at not to exceed 4 cents per mile, of

employees or others rendering service to said Office for official travel performed by them in privately owned automobiles within the limits of their official stations and attendance at meetings of organizations concerned with the work of the agency; personal in the District of Columbia and elsewhere; contract stenographic reporting services; lawbooks, books of reference, newspapers, and periodicals; maintenance, operation and repair of passenger automobiles; acceptance and utilization of voluntary and uncompensated services; printing and binding (not to exceed $10,000); not to exceed $4,000 for deposit in the general fund of the Treasury for cost of penalty mail as required by section 2 of the Act of June 28, 1944 (Public Law 364); payment, at rates not in excess of those fixed by law for witnesses attending in United States courts (28 U.S.C. 600c), of fees, mileage, and subsistence of witnesses appearing at hearings held by the Office of Defense Transportation in connection with the performance of its functions, $525,000 * * *."

The supplemental appropriation made by the act of March 22, 1947, Public Law 20, 80th Congress, 61 Stat. quoted in the above-quoted letter, is as follows: "Salaries and expenses',$136,500."

It is a general rule that a supplemental or additional appropriation referring specifically to the original appropriation is for use and expenditure in the same manner, for the same objects, on the same basis and subject to the same limitation as the funds under the said original appropriation, unless otherwise provided.

In 19 Comp. Gen. 324, it was held (quoting syllabus):

"The amount to be expended for stationery during the fiscal year 1940 by the Interior Department having been specifically limited by the appropriation act of May 10, 1939, 53 Stat. 687, may not be supplemented by the use, for the purchase of stationery, of the later but more general appropriation made in the Third Deficiency Act of August 9, 1939, Public, No. 361, 53 Stat. 1317, for work in connection with a new program of strategic mineral investigations, the general rule being that a specific appropriation for a particular class of expenditures is available therefor to the exclusion of a more general appropriation."

In 4 Comp. Gen. 642, it was held (quoting syllabus):

"Where Congress has specifically limited the amount to be expended for stationery by a department during a fiscal year, a later appropriation providing for additional work to be carried on by that department during the same fiscal year does not of itself authorize the exceeding of such limitation."

With respect to the effect of inclusion in budget estimate of items which are not otherwise authorized by law, see the following decisions:

18 Comp. Gen. 533, wherein it was held (quoting from syllabus):

"The inclusion of an item in departmental budget estimates submitted to the Congress, for a department medical officer not otherwise affirmatively authorized by law, and appropriation of funds with specific reference to the item, would not constitute statutory authority for the proposed employment or make the appropriation available for payment of the compensation involved."

17 Comp. Gen. 147, wherein it was stated:

"* * * The amounts of individual items in the estimates presented to the Congress on the basis of which a lump sum appropriation is enacted are not binding on administrative officers unless carried into the appropriation act itself."

10 Comp. Gen. 507, holding (quoting from syllabus):

"Neither the recommendation in an annual budget on the basis of which an annual appropriation for personal services is provided, nor the testimony before a committee of Congress, has the effect of repealing or rendering inoperative the terms of a prior statute specifically fixing the basis of salary payments."

In the instant matter, the above-quoted provision of the appropriation act of July 23, 1946, specifically limited the amount available for traveling expenses to a maximum of $50,000 and such limitation has not been amended by the supplemental appropriation above quoted or by any other enactment which has come to my attention. Furthermore, there has not been found anything in the estimates and hearings referred to in the above-quoted letter clearly indicating to the Congress that funds would be needed for traveling expenses in excess of the said $50,000 limitation. Neither is there found any indication that the attention of the Congress was directed to the question whether such additional funds would be needed for traveling expenses or that the Congress would have approved such additional expenditures if specifically brought to its attention. It is to be noted, also, that while the original appropriation act appropriated a total of $525,000, it limited funds for traveling expenses to maximum of $50,000--less then ten percent of the total appropriation.

In view of the foregoing, it must be held that the said limitation of $50,000 for traveling expenses remains in effect and may not be exceeded, notwithstanding the said supplemental appropriation. The question submitted is answered accordingly.

Respectfully,

(Signed) Lindsay C. Warren Comptroller General of the United States