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B-82368 July 20, 1954

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The Administrator Foreign Operations Administration

Dear Mr. Stasmen:

A survey of unliquidated obligations made by staff members of the Appropriations Committee, House of Representatives, indicates that some misunderstanding may exit on the part of the Foreign Operations Administration as to the proper application of decision of this office B-82368, to the Administrator of the Economic Cooperation Administration, dated January 13, 1949.

Under Eca operations at the time allotments of funds were made to participating countries, after which each country requested the issuance of procurement authorizations for definite dollar amounts of specific types of commodities. Upon receipt of a procurement authorization the country ordinarily issued sub-authorizations to importers who acted as agents of the country in making the actual purchases. It was stated in the decision of January 13, 1949, that the issuance of the procurement authorization might be considered an obligation of appropriated funds since there appeared to be no other practical method of determining with certainty the extent of outstanding obligations at any one time. The question also was presented whether the obligation thus created by the issuance of a procurement authorization to the foreign country was affected by the fact that the actual purchase of commodities thereunder subsequently was made, in whole or in part, by a procurement agency of the United States Government rather then by agents of the country itself. The decision held that while the amount of executed purchase contracts might be more readily ascertainable where purchasing was done by Federal agencies, it apppeared preferable in the interest of consistency and since it was not generally known in advance by whom the purchasing was to be done that the procurement authorization be considered as an obligation even in such cases.

The same reasoning would not necessarily apply where it is known in advance that all purchasing under a particular procurement authorization is to be performed by an agency of the United States Government. If this be the situation no real authorization to purchase would appear to have given to the participating country. The typical procurement authorization which was considered in the desision of January 13, 1949, was a written agreement signed by both parties which authorized the participating country itself to purchase a certain dollar amount of a specified type of commodity on a reimbursable basis. It would appear to be the type of agreement within the purview of section 1111(a)(1) of H.R. 9936, the bill for proposed supplemental appropriations for the fiscal year 1955. As utilized by the Economic Cooperation Administration, a procurement

authorization was in most cases immediately made the basis for the issuance of a letter of commitment to a bank through which the actual purchases would be financed, making it essential that the procurement authorization reserve to the ECA such control over the purchases to be made as might, if exercised, practically destroy the binding nature of the authorization. The basic concept of an "obligation" of appropriated funds is that a binding commitment has been made by the United States and the other party are, the less justification exists for treating the agreement as an obligation of appropriated funds.

The view of the information developed by staff members of the House Appropriations Committee, I have deemed it advisable to instruct the Division of Audits of the General Accounting Office to make a study of the obligating procedures of the Foreign Operation Administration. In the meantime I should be happy to have an expression of your views on the matter, together with any suggestions you may have which will tend to assure that no more than a reasonable time will elapse between obligation of funds and their actual expenditure.

Sincerely yours,

Acting Comptroller General of the United States