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The Honorable,

The Secretary of the Interior.

My dear Mr. Secretary:

There has been considered letter dated January 4, 1944, from the Acting Deputy Administrator, Solid Fuels Administration for War, Department of the Interior, as follows:

"Section 601, Title VI, of the Economy Act (June 30, 1932, 47 Stat. 417) provides that two departments or offices of the Government operating under separate appropriations may enter into an agreement for the performance of purely personal services by the personnel of one department or office for the performance of the work of the other for which reimbursement or transfer of appropriation may be made, not to exceed the regular salaries and authorized expenses, if any, of the personnel loaned, covering the period involved. It has been held by the Comptroller General (A 53791, 13 C. G. 234, 237) that in such cases there should be a written order or agreement in advance, signed by the responsible administrative officer of each of the departments or offices concerned, and said agreement should be attached to the request for transfer of appropriations or voucher for reimbursement for filing in the Office of the Comptroller General.

"For the purpose of financing the necessary administrative and other expenses of the Government incident to the taking over of the coal mines for Government operation on May 1, 1943, an allotment of \$10,000,000 was made to the Secretary of the Interior from the Emergency Fund for the President (See Exhibit 7 attached). Originally, the work incident to the taking over of the mines was carried out by the staffs of the Solid Fuels Administration for War and the Bituminous Coal Division. The latter has since been liquidated. Allotments were made by the Secretary from the \$10,000,000 fund to each of these units of the Department to supplement, where necessitated by the new work, funds already available to them.

"Later it was determined to be administratively sound to create a separate agency within the Department to carry on the federal operation of the mines and there was accordingly created on July 1, 1943, the Coal Mines Administration. It was intended, however, that the Coal Mines Administration also should make use of certain services of the Solid Fuels Administration for War and the Bituminous Coal Division

as a measure of economy from a governmental administration standpoint and that intention has been carried out from the start. Because of an oversight, there was not issued in advance a formal order such as that referred to in the decision of the Comptroller General above noted. Such an order, it is assumed, has been required by the Comptroller General to establish an intention, in advance, to perform a particular work on a basis of reimbursement between appropriations.

"The intention of the Department as above stated is, however, clearly reflected in a series of intradepartmental communications and, as evidencing the understanding under which the activities were carried on, I am attaching the following exhibits:

"1. Bulletin No. 3 of the Coal Mines Administration in Paragraph 3 of which it appears that the Deputy Coal Mines Administrator was appointed on July 1, 1943. On that date the Coal Mines Administration began to function.

"2. A memorandum dated July 16 from the Under Secretary to the Secretary in numbered paragraph 4 of which clearly appears the centralized character of certain parts of the organization and from which there clearly appears the intention of joint financing.

"3. Memorandum dated August 3 from me as Director of the Bituminous Coal Division, to the Managers of all the Division Field Offices concerning reporting by them for purpose of mutual reimbursement by the Solid Fuels Administration for War and the Coal Mines Administration. From the last sentence of the first paragraph and from the fourth sentence of numbered paragraph 1 of this memorandum there clearly appears the intention to operate on a reimbursable basis.

"4. Memorandum dated July 23 from the Deputy Coal Mines Administrator to the Secretary clearly indicating the intention to operate on a reimbursement basis. It will be noted that the items mentioned are not all inclusive as the work at the time was in the formative stage.

"5. Memorandum dated July 28 to employees of the Bituminous Coal Division from the Secretary of the Interior in the fourth paragraph of which there clearly appears evidence of the intention of joint financing by the Solid Fuels Administration for War and the Coal Mines Administration of certain activities.

"6. Memorandum dated December 24, 1943 from the Secretary of the Interior to the Deputy Solid Fuels Administrator and Deputy Coal Mines Administrator (both of which offices are now held by Dr. C. J. Potter) confirming verbal instructions under which all of the foregoing was carried on. The foregoing information is furnished in support of the attached voucher for reimbursement of the Solid Fuels Administration by the Coal Mines Administration in the amount of \$22,307.43 covering

services rendered the latter by the former during the period from July 1, 1943 through October 28, 1943. It is recommended that this information be accepted as evidence of advance intention of reimbursement sufficient to meet the requirements of the Economy Act as set forth in Paragraph 1 of this letter for this and subsequent vouchers."

It is understood from the foregoing that the Acting Deputy Administrator requests upon your behalf, and pursuant to 31 U.S.C. 74, the decision of this office upon the question presented with respect to the payment of the voucher which, having been approved and certified, was forwarded with his letter.

Section 601 of the act of June 30, 1932, as amended, 31 U.S.C. 686, contemplates an advance agreement as to the services to be rendered and the reimbursement contemplated, and, ordinarily, that should be regarded as essential. 13 Comp. Gen. 234. Particularly where questions may arise as to the amount transferable or as to the relative liabilities for any expenses so incurred without authority of law, the advance agreement may be a significant, and perhaps controlling, guide. 22 Comp. Gen. 74; 23 id. 181.

However, in otherwise proper cases involving reimbursement for work done rather than an advance payment for work to be done, the lack of a specific agreement does not necessarily preclude reimbursement upon the basis of actual costs incurred. A-85201, April 15, 1937; E-31862, February 27, 1943. In the present case, the exhibits forwarded with the above letter adequately establish that a reimbursable arrangement for services to be rendered was in contemplation, and no question upon that point will be required to be raised in the audit of the applicable vouchers.

Since no other question is presented in the above letter, no other matters with respect to the proposed reimbursement have been here examined or passed upon. Nevertheless, it may be suggested that, prior to the submission of the voucher for payment, there should be attached a statement showing the basis upon which there were determined the various percentages of salaries chargeable for the services of the several groups of employees on behalf of the Coal Mines Administration, it being noted in this respect that the ratios actually used vary somewhat from those listed in the memorandum of July 23, 1943, which was enclosure No. 4, with the Department's letter.

The voucher and supporting papers are returned herewith.

Respectfully,

(Signed) Lawrence G. Warren

Comptroller General
of the United States.

Enclosures.