



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

B-106002

October 30, 1951.

The Honorable

The Secretary of the Interior

My dear Mr. Secretary:

There has been considered the Administrative Assistant Secretary's letter of October 10, 1951, presenting for decision certain questions, quoted below, which have arisen concerning the application of limitations upon the amount which may be expended for personal services--as provided in certain appropriations for the current fiscal year--in relation to transfers of funds pursuant to section 601 of the Economy Act of June 30, 1932, as amended, 31 U.S.C. 686.

The questions are stated in your letter as follows:

"\* \* \* whether (1) funds of this Department advanced or reimbursed within the Department or to other Government establishments are subject to money limitations attaching to the parent accounts, (2) whether advances or reimbursements to this Department from appropriations of other departments or establishments which are subject to money limitations are chargeable to limitations under the parent accounts, and (3) your opinion is also requested as to whether that portion of the Jensen Amendment, Sec. 305 (Public Law 136), which reads, 'not more than 90 per cent/<sup>un</sup> of the amount shown in the Budget Estimates for personal services shall be available for such purpose', applies to working fund advances to other agencies of the Government."

It is stated in the letter of October 10 that the budget estimates for the Interior Department for the fiscal year 1952 were prepared in compliance with instructions contained in section 71 of Budget-Treasury Regulation No. 1, September 1950, and the Budget Bureau's call for estimates, Circular A-11, which provided in substance that Economy Act transactions should be classified under the object class which represents

the nature of the completed transaction and specifically restricted the use of object class "01 Personal services" to personnel to be carried on the rolls of the estimating department and detailed personnel. It is stated further that, as a result thereof, amounts shown in the Interior Department budget estimates for 1952 for "01 Personal services" under "Obligations by objects" represent amounts approved by the Bureau of the Budget for personal services of employees to be carried on the rolls of and directly paid by the Interior Department, and are exclusive of personal services involved under Economy Act transactions which are included with other items of expenditure comprising the finished product under "07 other contractual services" or other appropriate object class. There is cited as an example the estimates under the heading "National Park Service, Construction," appearing on page 661 of the budget estimates for 1952, wherein the amount of \$1,050,000 is shown under object class "01" and the amount of \$626,200 under object class "07."

The letter further states that H. R. 3790--which became the Interior Department Appropriation Act, 1952, Public Law 136, approved August 31, 1951--was passed by the House of Representatives without specific money ceilings on personal services, the limitation as finally contained in the act having been offered as Senate amendments and agreed upon in conference; that, as evidenced by page 2 of Senate Report No. 499 accompanying H. R. 3790, when reported out of the Senate Committee, the Committee (except for operation and maintenance funds, which were exempted) applied a minimum 10 percent reduction to amounts estimated for personal services such reductions in every case being applied only to the estimates under object class "01." The "National Park Service, Construction" item, mentioned above, again is cited as an example, in connection with

which it is pointed out that the limitation on personal services contained in the act (page 13) is \$945,000, which is 90 percent of the amount of \$1,050,000 budgeted under "01 Personal services."

It is contended, in view of the above-related circumstances, that personal services involved in Economy Act advances or reimbursements are not chargeable to personal service limitations in the Interior Department Appropriation Act. Also, the letter suggests that while your Department has no specific information as to the method followed in arriving at the limitations of other departments with which it has inter-agency agreements, the 1952 budget presentations of all such agencies presumably conform to the instructions contained in Budget-Treasury Regulation No. 1, September 1950, and Circular A-11, which guided the Interior Department in the preparation of its budget.

It repeatedly has been held by this Office that the Congressional purpose in placing limitations upon the expenditure of appropriated funds cannot be defeated by the transfer of the funds to another agency and, consequently, that the effect of the limitations may not be avoided by regarding an advance from the appropriation to a working fund as an expenditure by the advancing agency for the object class under which the anticipated advance was carried in the budget estimates presented to the Congress in explanation of proposed appropriations. See decision of September 26, 1951, B-105402, answer to question (E), and decisions there cited; see, also, section 1210 of the General

Appropriation Act, 1951, 64 Stat. 765. Obviously, the status of personal services as such is not changed by the circumstance of the compensation therefor being budgeted under one object class or another.

However, in the case of the "National Park Service, Construction" item referred to above, it is clear that the personal services limitation was arrived at by taking 90 percent of the amount shown in the budget estimates for the object class "01 Personal Services" under "Direct Obligations," although there also was set forth in the estimates an item under "07 Other contractual services" for services to be performed by other agencies (which may be expected to involve personal services in some degree), and an item "01 Personal services" under "Reimbursable Obligations." Such facts lead me to conclude that it was not within the legislative contemplation that advances or reimbursements by the National Park Service from the construction item in connection with Economy Act transactions embodied in the budget estimates under "07 Other contractual services" be charged to the personal services limitation specified in the appropriation. Accordingly, insofar as concerns the specific case herein considered and other cases wherein the facts are the same, question (1) is answered in the negative. Of course, any transaction appearing to evade the money limitations, such as a transfer of funds for the performance of work normally performed by the transferring agency or to relieve the transferring agency of work the expenses of which would be chargeable to the limitations, would be subject to question.

While no specific case has been presented in connection with the request for decision upon question (2), such question may be answered in the negative with respect to cases typified by the National Park Service example considered above.

Relative to the proviso quoted in question (3) from section 305 of the appropriation act, it appears that, in lieu of the Jensen amendment adopted by the House of Representatives (section 302 of H.R. 3790 as it passed the House), the Senate adopted an amendment enumerating reductions below the budget estimates for personal services already made in connection with personal services money limitations specified in various paragraphs throughout the bill, which have been considered hereinabove. Section 305 of the bill, as finally enacted, appears to be a combination of the House and Senate amendments, the proviso under consideration having the import of the Senate amendment. Accordingly, in answer to question (3), it is held that "the 90 per centum of the amounts shown in the budget estimates for personal services," as specified in said proviso, is for computation upon the amounts shown in the budget estimates for direct obligation under the heading "01 Personal services," and need not be applied in connection with working fund advances to other agencies. Such holding is, of course, subject to the same qualification as stated in connection with the answer to question (1), namely, that any transaction appearing to evade the limitation would be subject to question.

Sincerely yours,

Comptroller General  
of the United States