



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

JAN 4 - 1971

B-129374

Dear Mr. Chairman:

Reference is made to your letter of November 19, 1970, concerning the detail of General Accounting Office personnel to Senate committees and reimbursement for expenses incurred incident to such details.

In your letter you express the view that the Legislative Reorganization Act of 1970 does not alter the requirement of the Legislative Reorganization Act of 1946 that the detail of GAO personnel to Senate Committees must have the approval of the Committee on Rules and Administration and that Senate Resolution 77 requires that such details be on a reimbursable basis. You ask that you be advised if we disagree in any respect with your conclusions or feel that exceptions or distinctions of any kind should be made.

Section 202(f) of the Legislative Reorganization Act of 1946, approved August 2, 1946, ch. 753, 60 Stat. 834, 2 U.S.C. 72(a)(f) reads as follows:

"No committee shall appoint to its staff experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives, as the case may be."

Senate Resolution 77, 79th Congress, provides in part that:

"Whenever the head of any department or agency of the Government shall have detailed or assigned personnel of such department or agency to the staff of any Senate committee or subcommittee thereof, the appropriations of such department or agency from which the personnel so assigned or detailed is paid shall be reimbursed from funds available to the committee or subcommittee at the end of each quarterly period in the amount of the salaries of such personnel while on such detail or assignment; and the services of any personnel so detailed or assigned shall not be accepted or utilized unless, at the time of such detail or assignment funds are available to such

committee or subcommittee for the reimbursement of appropriations, as herein provided, for the period of such detail or assignment."

Section 204(b) of the Legislative Reorganization Act of 1970 requires the Comptroller General to have employees in the General Accounting Office who are expert in analyzing and conducting cost benefit studies of Government programs and directs the Comptroller General, upon request of any congressional committee, to assist such committee or its staff in analyzing cost benefit studies furnished by Federal agencies to the requesting committee or to assist in conducting cost benefit studies of programs under the jurisdiction of requesting committees.

Section 235 of the act establishes certain limitations on the assignment or detail of employees. Section 235(a) precludes for any period in excess of one year the detail or assignment on a full-time or continuing basis of GAO employees to committees. Section 235(b) provides a method for informing Congress in detail (1) of the extent to which employees of the General Accounting Office are assigned to committees of the Congress, and (2) of the fiscal impact of such assignments upon the General Accounting Office. It directs the Comptroller General to include in his annual report to Congress the following: The name of each employee of the General Accounting Office assigned or detailed to any committee of either House, or any joint committee of Congress, and the name of such committee; the length of the period of time of such assignment or detail, and a statement as to whether such assignment or detail is completed or currently in effect; and the sums paid out of appropriations available to the General Accounting Office for such employee's pay, travel, subsistence, other expenses, contributions for retirement and insurance benefits, and other necessary mandatory expenses for personnel benefits, during the whole of such assignment or detail or that part which has been completed.

Prior to the enactment of the Legislative Reorganization Act of 1970, the only specific statutory requirement imposed upon our Office concerning assistance to committees was section 312(b) of the Budget and Accounting Act, 1921, approved June 10, 1921, ch. 18, 42 Stat. 25, 31 U.S.C. 53(b). Section 312(b) requires the Comptroller General to direct assistants to furnish such aid and information to committees having jurisdiction over revenues, appropriations, or expenditures as might be requested. With regard to the Senate Committees we regard the Committees on Appropriations, Finance, and Government Operations as coming within the term "having jurisdiction over revenue, appropriations or expenditures." As a matter of practice, however, we have from time to time detailed or assigned employees to other Committees of the Congress when requested by the Chairman to do so.

We are of the opinion that section 202(f) of the Legislative Reorganization Act of 1946 is a limitation on the authority of committees to appoint staff assigned or detailed thereto rather than a limitation on the departments and agencies to assign or detail employees to committees. We believe that the language of the section requires this construction and that the legislative history of the language buttresses such construction. Specifically, in the recommendations made by the Joint Committee on the Organization of the Congress which resulted in the Legislative Reorganization Act of 1946 the Committee stated:

"No committee should be allowed to borrow personnel or experts from executive agencies without the express permission of the Committee on Administration. We feel that the current custom of borrowing personnel is neither economically sound nor politically wise. Whatever staff Congress needs should be employed by Congress itself with qualifications meeting our specifications and they should work for Congress alone. We do not see the sense of appropriating money to Government agencies and asking them to hire the personnel we need." S. Rept. No. 1011, 79th Cong. 10.

To the same effect see also the Joint Committee's explanation of this language in its comments on the House substitute to S. 2177, 79th Congress of July 22, 1946 (Committee Print), page 29.

While we agree that the Legislative Reorganization Act of 1946 requires Senate Committees to obtain written permission from the Committee on Rules and Administration in order to have loaned or detailed employees from the departments and agencies appointed to their staffs, we think that the responsibility for compliance with the act is with the committee making the request for personnel rather than with the departments and agencies.

With regard to reimbursement, as pointed out above our Office is required under section 312(b) of the Budget and Accounting Act, 1921 and section 204 of the Legislative Reorganization Act of 1970 to furnish assistance, including the assignment of personnel, to committees of the Congress upon request. Our appropriation acts are available to meet these requirements. Accordingly, it is not incumbent upon this Office to insist on reimbursement for the loan of personnel to committees because our appropriations are legally available for such details. It seems to us that the Congress has recognized this in

requiring in section 235(b)(5) of the Legislative Reorganization Act of 1970 that the Comptroller General include in his annual report to the Congress the amounts paid out of GAO appropriations for pay, travel, subsistence and contributions for retirement, life and health insurance and other expenses for personnel benefits for such detailed employees. We fully appreciate the purpose of Senate Resolution 77. However, as in the case with section 202(f) of the Legislative Reorganization Act of 1946, this requirement is in our view a limitation directed to Senate Committees and is not directed to the heads of Government departments, and agencies. This Resolution is characterized as a nonstatutory standing order of the Senate in the Senate Manual (see S. Doc. 91-1, 113) and does not place any legal responsibility upon the GAO to obtain reimbursement for employees detailed to the Senate Committees in the face of statutory requirements that we furnish employees to committees upon request and report the amounts of GAO appropriations used in such details in the Comptroller General's Annual Report. A similar view was expressed in testimony before the Legislative Appropriations Subcommittee of the Senate Appropriations Committee on May 7, 1964. See page 197 of the printed hearings.

To summarize, we are of the opinion that:

(1) The requirements of section 202(f) of the Legislative Reorganization Act of 1946 and Senate Resolution 77 are restrictions imposed on the Committees of the Senate rather than the departments and agencies and compliance with these restrictions is an in-house matter for the sole concern of the Senate; and

(2) when General Accounting Office personnel are detailed to Senate Committees to perform services pursuant to the above statutory requirements, there is no legal responsibility upon the GAO to obtain reimbursement for its employees.

We will be glad to discuss this matter further if you wish.

With kindest regards, I am,

Sincerely yours,

(SIGNED) ELMER B. STAATS

Comptroller General  
of the United States

The Honorable B. Everett Jordan, Chairman  
Committee on Rules and Administration  
United States Senate.