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



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Dear Senator Proxmire:

On December 8, 1971, you referred to us a letter from Mrs. Allen Viney and an article from the Janesville (Wisconsin) Gazette and requested our views regarding the possible improper use of funds provided to carry out the Emergency Employment Act of 1971 (85 Stat. 146). Mrs. Viney charged that Federal funds were used to pay for salaries which, in the absence of these funds, would have been financed by the city of Janesville.

In reviewing this matter we examined the applications for funding under the act and the related documents prepared by Rock County, Wisconsin, and Janesville and discussed the matter with Department of Labor officials. We did not verify the city's statements concerning its financial situation, which were submitted to the Department of Labor to justify the city's rehiring of former employees.

Section 12 of the act provides, among other things, that the Secretary of Labor not furnish financial assistance for any activity of a program agent--States, counties, and cities--that will result in the substitution of Federal funds for other funds for work that otherwise would be performed.

The Department's regulations provide that Federal Emergency Employment Act funds not be expended for work that otherwise will be performed at Federal, State, or local expense, unless the expenditure will result in an increase in the number of persons employed. The regulations provide also that persons employed under the act whose most recent employment was with a program agent or any employing agency receiving financial assistance through the program agent must have been unemployed for 30 days or longer prior to being employed under the act.

The Department's program guidelines, dated August 27, 1971, state that, if a program agent proposes to use grant funds to pay for work which was performed at any time during

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the past 6 months or to fill jobs which were vacant for less than 6 months preceding the application date, the program agent must submit clear evidence showing that the work would not have been performed without assistance under the act.

Under section 5 of the act, funds are made available to hire unemployed and underemployed persons through the Public Employment Program and demonstration programs whenever the Secretary of Labor determines that the nationwide unemployment rate has been 4.5 percent or more for 3 consecutive months. The act authorizes appropriations of \$750 million and \$1 billion during fiscal years 1972 and 1973, respectively, for programs under section 5.

Section 6 of the act establishes a Special Employment Assistance Program and authorizes appropriations of \$250 million each for fiscal years 1972 and 1973 to provide public service employment for unemployed and underemployed persons in areas which the Secretary of Labor determines have had rates of unemployment of 6 percent or more for 3 consecutive months.

The city of Janesville is a subagent of Rock County which serves as program agent to administer the programs under the act. In August 1971 the Department allocated \$648,700 to Rock County to carry out the Public Employment Program authorized under section 5 of the act. In September 1971 the Department allocated \$125,600 to Rock County for the Special Employment Assistance Program authorized under section 6 of the act.

From the funds allocated by the Department, Rock County allocated \$192,135 and \$40,820 to Janesville for hiring persons under the Public Employment Program and the Special Employment Assistance Program, respectively. Subsequently, in the applications submitted to the Department of Labor, the city proposed to use the funds to hire a total of 29 persons--such as a forester, an engineering trainee, firemen, policemen, public works trainees, and clerical personnel--and to give priority to laid-off city employees who meet all eligibility requirements.

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Department of Labor regional representatives told us that in October 1971 Janesville became involved in a controversy with Rock County because of the city's plan to lay off some of its employees and rehire them with program funds. The county felt that Janesville should use the funds to hire only persons who had been unemployed for a considerable period, rather than to hire recently laid-off city employees.

Regional representatives said that the Department had held discussions with Rock County on this matter in October 1971 and that the county had compelled Janesville to curtail hiring under the Public Employment Program until the issue was resolved. The Department also delayed approval of Rock County's application for funding under the Special Employment Assistance Program until this matter was resolved.

We were advised by Department regional representatives in December 1971 that it had been demonstrated to their satisfaction that Federal funds would not be used to subsidize employment provided for in the city's budget. This conclusion was based principally on (1) a certification from the program agent, Rock County, and (2) a six-page justification from the subagent, Janesville.

In its certification the program agent stated:

"The Program Agent hereby certifies that the employees proposed to be terminated and rehired as city employees under this Grant Agreement number EEA-55-2-0151 were not and will not be terminated in anticipation of the availability of EEA [Emergency Employment Act] funds and that there are no funds available to the City of Janesville from any source whatsoever other than this Grant to pay the salaries and wages of the participants to be rehired hereunder."

The subagent in its justification stated:

"*** the City of Janesville hereby declares its intention, with the permission of the Regional

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Manpower Director, to utilize funds granted under Sections 5 and 6 of the Emergency Employment Act of 1971 to rehire City employees previously laid off."

The city justified its action by referring to its financial crisis which it attributed principally to the loss of revenue from an unexpected decrease in the city's share of the State corporate and individual income taxes. Other cited factors contributing to this crisis were (1) the effect of a 13-week strike at the General Motors assembly plant (the city's main industry), (2) an insufficient amount of unbudgeted reserves, (3) the need to replace major capital equipment items, (4) the mandatory increases in the budget, and (5) delinquent tax collections. The city estimated that the total known deficit through the remainder of this fiscal year and the coming fiscal year would be about \$1,160,000.

In its justification the city said that these factors had forced it to terminate the services of 10 employees in 1970 and 11 additional employees in 1971. In addition, the city laid off, or planned to lay off, for a 30-day period, 20 employees--who according to the city, otherwise would have been terminated because of the severe financial crisis--with the intent of rehiring them with Emergency Employment Act funds. This decision was not made until after the city had been assured by the Department of Labor's regional office that the procedure was appropriate.

On November 18, 1971, the Department of Labor approved Rock County's application for funding under the Special Employment Assistance Program.

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We believe that there was reasonable cause for doubt as to the propriety of the use of the funds involved. Regional representatives of the Department of Labor advised us, however, that Rock County and the city of Janesville had demonstrated to the Department's satisfaction, as explained above,

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that Federal funds would not be used to subsidize employment provided for in the city's budget. The information provided to us does not warrant our holding otherwise. Accordingly, we cannot conclude that the provisions of the Emergency Employment Act of 1971 were violated.

We currently are conducting a review of the public service employment programs under the Emergency Employment Act. At the locations covered by the review, we plan to give specific consideration to the issue raised in the material which you referred to us.

As requested, we are returning the enclosures which you referred to us.

Sincerely yours,

R. F. KELLER,

Comptroller General
of the United States

Enclosures - 2

The Honorable William Proxmire
United States Senate

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20543

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R. F. KELLEY

Deputy Comptroller General
of the United States

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The Honorable William Proxmire
United States Senate

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