



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

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R. E. Ross

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JAN 25 1979

The Honorable Peter W. Rodino, Jr.
Chairman, Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

We were asked by your staff for some elaboration on the ~~legal~~ effect of the last sentence of our letter to you of December 21, 1978, concerning the lump-sum appropriation for the Immigration and Naturalization Service (INS), Department of Justice. Of particular concern was our use of the word "limit" in connection with the \$2 million which was earmarked for investigation and prosecution of cases involving alleged Nazi war criminals.

We used the word "limit," advisedly, to describe a congressional restriction on the agency's use of these funds. The \$2 million earmarked sum may be expended only for the above-stated purpose. Moreover, it must remain available for that purpose throughout the fiscal year since new cases requiring investigation and prosecution could arise at any time. In answer to another staff question, an unexpended balance, if any, at the close of the fiscal year would not have to be reported as a recision under section 1012 of the Congressional Budget and Impoundment Control Act of 1974, 31 U.S.C. § 1402, as long as the funds remained available at all times during the fiscal year for the statutory purposes and the INS took no action to prevent their expenditure.

On the other hand, there is no limit on the amount of the available appropriation which can be spent on Nazi war criminal cases if the agency chooses to allocate more than \$2 million for this purpose. The \$2 million is not a maximum figure but a minimum which must be kept available for expenditure for the prescribed purpose.

Sincerely yours,

R. F. KELLER
Deputy Comptroller General
of the United States

as you
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letter