



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

A-27765

JUL 8 1929

The Honorable,

The Secretary of Agriculture.

Sir:

There has been received your letter of June 25, 1929, as follows:

"Inclosed herewith is a copy of correspondence between this Department and the State Department and of the inclosures therein referred to, relative to the question of assigning engineers and equipment from the Bureau of Public Roads for cooperation with the Republic of Guatemala in a reconnaissance survey of the most desirable routes for highways across that republic, pursuant to the provisions of Public Resolution No. 104, 70th Congress, approved March 4, 1929.

"The aforementioned resolution authorized an appropriation of \$50,000 to enable the Secretary of State to cooperate with the several governments, members of the Pan American Union, when he shall find that any or all such governments have requested or signified a desire for cooperation in reconnaissance surveys to develop the facts and report to Congress concerning the feasibility of building an inter-American highway or highways. However, no appropriation has been made under this authorization, because of which fact the Assistant Secretary of State in his letter of May 18, 1929, to the Secretary of Agriculture, inquires if this Department, in advance of the appropriation of the money authorized by the resolution, may make available by the use of its funds otherwise appropriated such engineers and equipment from the Bureau of Public Roads as may be necessary within the terms of the resolution to carry out the suggestion made by the Director General of the Pan American Union in his letter of May 13 to the Secretary of State.

"This Department, therefore, would appreciate an opinion from you as to whether or not, in advance of an appropriation by

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Congress under the authorization contained in the resolution, funds otherwise available to the Bureau of Public Roads may be used to meet 'the additional cost incident to the assignment by the President of personnel in the Government service, as now authorized, additional compensation of such personnel for foreign service, compensation of employees, transportation and subsistence or per diem in lieu of subsistence (notwithstanding the provisions of any other Act), stenographic and other services by contract if deemed necessary, and such other expenses as may be deemed necessary by the Secretary of State in furtherance of the projects described'.

"If your answer to the foregoing question should be in the negative, would there be legal objection to such engineers and equipment being made available from the Bureau of Public Roads if funds to meet the items of cost enumerated should be provided by some agency, or agencies, other than the Federal Government, such, for instance, as the Republic of Guatemala or associations or organizations in the United States interested in promoting the purposes sought to be accomplished by the resolution?"

The resolution of March 4, 1929, 45 Stat. 1697, provides:

"That there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$50,000 to enable the Secretary of State to cooperate with the several Governments, members of the Pan American Union, when he shall find that any or all of such States having initiated a request or signified a desire to the Pan American Union to cooperate, in the reconnaissance surveys to develop the facts and to report to Congress as to the feasibility of possible routes, the probable cost, the economic service and such other information as will be pertinent to the building of an inter-American highway or highways, to be expended upon the order of the Secretary of State, including the additional cost incident to the assignment by the President of personnel in the Government service, as now authorized, additional compensation of such personnel for foreign service, compensation of employees, transportation and subsistence or per diem in lieu of subsistence (notwithstanding the provisions of any other Act), stenographic and other services by contract if deemed necessary, and such other expenses as may be deemed necessary by the Secretary of State in furtherance of the projects described."

This resolution did not make an appropriation but merely authorized one to be made, which appropriation, if and when made,

was to be used for the purposes therein specified. In the absence of an appropriation made pursuant to the resolution the resolution is ineffective because the authorization for the co-operative work therein contemplated is made dependent upon the appropriation therein authorized to be made. Hence the situation with respect to the use of any other appropriation for such co-operative work is the same as though the resolution had not been enacted. The appropriations made for the Bureau of Public Roads contemplate expenditure upon projects local to the United States and could not be construed as available for work in foreign countries. See section 3679, Revised Statutes.

Your second question is understood to contemplate the payment of the employees' regular salaries and expenses from the appropriation for the Bureau of Public Roads, only the additional compensation or extra expenses, etc., such as are enumerated in the resolution, to be paid from some other source. If such be the case you are informed that this procedure is not authorized for the reasons stated in the foregoing paragraph. If service should be rendered to the foreign Government and not as cooperative service, by the employees while on authorized annual leave or leave without pay, there would be no legal objection to the acceptance by such employees of compensation and/or reimbursement of expenses for such services from the foreign Government or other sources as this would not be in contravention of the provision in

the act of March 3, 1917, 39 Stat. 1106, relative to acceptance of compensation in connection with services as an official or employee of the Government.

Respectfully,

Comptroller General
of the United States.

[Handwritten signature]