



Office of the General Counsel

B-241668

February 19, 1991

Linda Resnick
Executive Director
White House Conference on Library and
Information Services
1111 18th Street, N.W.
Washington, D.C. 20036

Dear Ms. Resnick:

This is in response to your letter of October 10, 1990, requesting that the Chairman of the Advisory Committee for the White House Conference on Library and Information Services (WHCLIS) be relieved of liability for certain obligations he had no authority to incur. For the reasons stated below, it is not necessary to seek relief since no loss to the government has been sustained.

As you explained, WHCLIS was authorized by Congress in 1988 to "develop recommendations for the further improvement of the library and information services of the Nation and their use by the public . . ." P.L. No. 100-382, 102 Stat. 898, 899. The law directs that the National Commission on Libraries and Information Sciences (Commission) plan and conduct the Conference and establishes an Advisory Committee to assist and advise the Commission in its endeavors. Id. The Act provides that the Advisory Committee shall select the Chair of the Conference. Id. at 901.

Between April 1989 and late in the calendar year 1989, while awaiting the appointment of WHCLIS' Executive Director, the Commission delegated the responsibility to plan the Conference to the Advisory Committee which in turn delegated the power to obligate funds^{1/} for Conference planning to its Chairman. On February 12, 1990, however, the Department of Justice issued an opinion which held that neither the Advisory Committee nor its Chairman could perform non-advisory functions and thus neither could legally obligate federal funds. In a subsequent

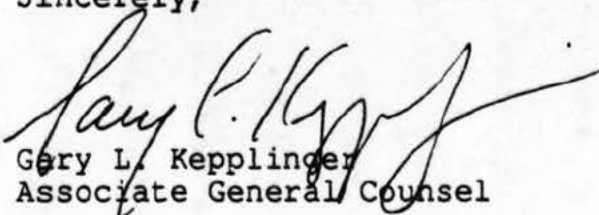
^{1/} WHCLIS has received three appropriations thus far: \$1,750,000 in Pub. L. No. 101-45, 103 Stat. 106 (1989); \$3,250,000 in the fiscal year 1990 appropriation which is available until expended, Pub. L. No. 101-166, 103 Stat. 1189 (1989); and \$500,000 for fiscal year 1991 in Pub. L. No. 101-517, 104 Stat. 2220 (1990).

audit conducted by Price Waterhouse, the auditor's report on compliance with laws and regulations stated that the Chairman had obligated funds under an improper delegation of authority. Price Waterhouse stated that the Commission acted in good faith when it erroneously granted the authorization and found no fraud, waste, or abuse associated with the obligations entered into by the Chairman. However, Price Waterhouse recommended that WHCLIS should obtain relief from the General Accounting Office in accordance with our relief of accountable officers provisions. See GAO, Policy and Procedures Manual for Guidance of Federal Agencies, tit. 7., Chapter 8 (February 12, 1990).

The impropriety in the situation you describe is that the Chairman of the Advisory Committee lacked authority to incur obligations against appropriated funds. The Chairman, however, is not liable for any improper payment because the government incurred no loss. The government apparently received the goods and services for which it bargained^{2/} and suffered no monetary loss. See B-223580, Aug. 22, 1986. Since the government incurred no loss, it is not necessary to relieve the Chairman from liability. B-211074, Dec. 15, 1983.

We note that it would be appropriate for the current head of WHCLIS' contracting activity to ratify the unauthorized commitments pursuant to the Federal Acquisition Regulations, 48 CFR § 1.602-3 (1988).

Sincerely,



Gary L. Kepplinger
Associate General Counsel

^{2/} We understand that funds were obligated for the purchase of furniture, temporary help and computers. Other funds were obligated through allocations to individual states to prepare for the Conference.