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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

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Honorable William L. Dawson, Chairman
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This refers to your request of April 12, 1962, for certain information concerning the White House Regional Conferences held during November 1961 in 12 major cities of the United States. The information requested is set forth below.

As indicated to you in our previous letters, we requested a report in the matter from the White House and received a reply to our request dated May 7, 1962. However, in the reply the White House advised us that while the Conferences were coordinated by White House staff, the expenses of each individual participant were charged to the particular Department or Agency which he represented. Accordingly, between May 24, 1962, and May 28, 1962, we sent letters to 30 Government agencies requesting cost data in connection with the Agency's participation, if any, in the Conferences. After these letters were sent we made a number of contacts with the various agency staffs for the purpose of seeking early receipt of the information requested. On various dates we received reports from 25 of the 30 agencies contacted. Based on the reports we had received, we furnished you an interim report in the matter on September 12, 1962, and advised that upon receiving the reports of the other five agencies we would furnish a final report as well as our opinion on the legality of such expenditures.

On September 26, 1962, we addressed letters to the Secretary of Commerce, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior and the Administrator, Housing and Home Finance Agency, the heads of the five agencies from which reports had not been received, requesting that the matter be given their immediate attention. Subsequently we received a report in the matter from the Secretary of Commerce, dated October 9, 1962. Also, we received a letter dated October 10, 1962, from the Administrator, Housing and Home Finance Agency, advising that his agency had gathered together the cost data and submitted it to the White House for review as the agency was directed to do.

B-147578

The Administrator stated that he was sure we would hear from the White House on the matter when the review was completed. By letter dated October 8, 1962, the Secretary of the Interior advised us that his Department's report is being prepared and should be ready without too much delay. The Department of Agriculture and the Department of Labor have not yet responded to our inquiry. Thus, we are still awaiting reports from four agencies. However, we are furnishing you the information we have received to date as well as our opinion as to the legality of such expenditures.

We have been advised by the White House that the basic purpose of the Conferences was to enable Federal officials to seek the views of State and local officials as well as interested private citizens in existing Federal programs. We were further advised by the White House that it was aware of the statute which prohibits lobbying for legislation with appropriated funds and as a consequence all who participated in the Conferences had the statute pointedly brought to their attention with the instruction it must not be violated.

Further, the Secretary of Commerce in his letter of October 9, 1962, advises that the Conferences were arranged and held at the direction of the President as a result of requests he had received from governors and mayors of the States and cities involved. The Secretary states that the purpose of the Conferences was to hold discussion type meetings between appropriate high-level Federal officials and citizens, primarily community leaders; and that in these meetings Federal officials and key local leaders sitting with them on panels discussed with the audience the domestic problems facing the country today and a variety of possible solutions to these problems.

As to the itemized and total cost of preparing for, conducting and reporting of such Conferences and the appropriations to which such costs have been charged, there is enclosed for your information two schedules representing our estimate of the costs that can be attributed to agency participation based on information submitted by the various agencies, as well as a schedule showing the appropriations charged with such costs where this information was furnished by the agency. The costs may be over or understated to some extent, because: (1) we did not verify reported costs, and (2) some agency participation in the Conferences was reported to us as having been combined with regular agency activities. For example, the costs included for the Small Business Administration are overstated to some extent because the agency could not apportion costs between Conference and regular activities, and because we have included estimates of the full cost of travel to Conference sites although

B-147578

some or most of these travel costs might be attributable to regular agency activities. In connection with our work, certain cost information was obtained that we could not identify as being reported to us by the agencies and, therefore, may not be included in the enclosed schedules.

We found that the Government Printing Office printed 26,910 copies of a report to the President dated November 1961 on the White House Regional Conferences. These reports were billed to the White House at a cost of \$9,602.19, which was paid from the appropriation 1120111 Special Projects, The White House Office, 1962. We were unable to identify any printing costs in connection with repeat orders of these reports or other material printed for the White House staff in connection with the Conferences.

Also, from a review of White House paid vouchers and supporting documents on file in the General Accounting Office, we noted two payments totaling \$353.73 made from Special Projects, The White House Office, 1962. The Western Union Telegraph Company billed the White House Regional Conference, San Francisco, California, in the amount of \$105.60, for the following charges:

"Nov. 14, Book of 66 messages regarding committee meeting at Fairmont Hotel, Nov. 14, at which Pierre Salinger will be host, signed Tom Saunders Conference Coordinator \$105.60."

A White House staff employee was paid \$248.13 for certain expenses for travel to six of the cities at which White House Regional Conferences were held. The employee's travel voucher does not show that the travel was for Conference purposes, but his visits to these six cities were made during or immediately prior to these Conferences. This travel expense does not include air transportation costs which may approximate \$150.

As to whether expenditures in connection with the Conferences violated 18 U.S.C. 1913 (which prohibits the use of appropriated funds to influence members of Congress with respect to legislation), this code provision is criminal in nature and it is not within our authority to enforce the penal provisions of statutes. Therefore, it would not be appropriate for us to make a determination as to whether the expenditure of Federal funds in connection with the Conferences is a violation of 18 U.S.C. 1913. Rather that would be for determination in the first instance by the Department of Justice. We will, if you desire, refer this matter to the Department of Justice for its consideration.

B-147578

Also, we are not aware of any provision of law which specifically authorized the expenditure of funds for the White House Regional Conferences. However, it is a settled rule of appropriation construction that an appropriation made in general terms for a particular purpose or program is available for expenses reasonably necessary to the proper accomplishment of the purpose or program for which made. Thus, assuming the Conferences were in connection with the official duties and functions of the various agencies involved, the appropriations made to an agency to carry out such duties and functions would be available to pay the expenses incurred by the agency in participating in the Conferences, in the absence of a statutory prohibition against expenditure for such purpose.

With reference to section 509 of the General Government Matters, Department of Commerce and Related Agencies Appropriation Act, 1962, Public Law 87-125, approved August 31, 1961, 75 Stat. 268, 269, this section provides as follows:

"No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any individual, corporation, or agency included in this or any other Act, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress."

It would not appear that section 509^x could reasonably be construed as precluding the President or other high Government officials from holding conferences for the purpose of seeking the views of State and local officials as well as interested private citizens in existing Federal programs, or for providing information and explanations concerning Federal programs or urging support of the President's program in their speeches or from issuing statements in which they state the Administration's position concerning pending legislative matters. To so construe the section would bring it in direct conflict with the legitimate interest and responsibility of a Governmental agency.

Section 509^x contains no guidelines for making exact judgment distinctions between prohibited and allowed activities; and in the absence of such guidelines it is extremely difficult to segregate the one from the other on the basis of distinctions which could be applied uniformly and impartially. We, therefore believe that in order to apply the statutory injunction there must be present circumstances which leave no room for doubt as to the prohibited nature of the expenditure involved.

where the facts of a particular case show clearly that the substantial purpose of an activity has been for the purpose of influencing the course of legislation we have held the activity to be one prohibited by the cited statutory language. Admittedly, the line separating legitimate activity in this regard from an activity which would require the conclusion that a proscribed lobbying campaign was, in fact, involved is finely drawn. However, based on our review of the "Report to the President, White House Regional Conferences," the brochure describing the program and Federal panel participants in the Conference for Detroit on November 14 and 15, 1961, and the speech delivered by former Secretary of Labor Arthur J. Goldberg at the Conference in Los Angeles, as well as several other speeches made at the Conferences, and considering the purpose of the Conferences as indicated above, we cannot say that the Conferences constituted publicity or propaganda within the meaning of section 509, even though some of the speeches made thereat by cabinet officers or their assistants may have contained statements urging support of legislation proposed by the Administration.

As to whether funds authorized and appropriated by the Congress for the execution of specific programs may be properly used in a general propaganda effort designed to aid a political party or candidates thereof by influencing public opinion in their favor, the answer is no. However, it is difficult to determine the criteria which should be used for distinguishing between political and nonpolitical conferences or speeches. Speeches by the President, cabinet officers, and other high Government officials, accompanied by press releases, and conferences attended by Government officials, have long been a standard practice.

Thus, the question presented, as related to the White House Regional Conferences, narrows down to whether the Conferences held--for the purpose indicated above--at the direction of the President and the speeches made thereat by Federal officials can be said to be so completely devoid of any connection with official functions or so political in nature that the Conferences are not in furtherance of purposes for which Government funds were appropriated, thereby making the use of such funds to cover the costs related to such activities unauthorized. This is extremely difficult to determine as the lines separating the nonpolitical from the political cannot be precisely drawn.

Consequently, where a determination is, in effect, made by the President, a cabinet officer or other agency head or an assistant, that certain activities are in connection with official duties and there is a reasonable basis for such a determination we do not feel that we would be warranted in questioning the expenses incurred in connection with such activities.

B-147578

Upon receiving the reports of the other four agencies we shall be pleased to advise you further concerning the costs incurred by such agencies in participating in the Conference.

Sincerely yours,

[Joseph Campbell]

Comptroller General
of the United States

Enclosures