



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

1962

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A-70486

The Honorable,

The Secretary of the Treasury.

Sir:

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There is returned herewith, without countersignature, covering warrant No. 7297, dated December 13, 1935, proposing to transfer \$5,500 as a charge against the appropriation "18395 - Foreign Service Buildings Fund" for crediting to "2-18395 - Working Fund, Treasury, Procurement Division (State, Foreign Service Buildings Fund)."

In letter of January 10, 1936 (File: NW-04-1), to this office, the Assistant Director of Procurement, Treasury Department, stated:

"Your letter addressed to the Chief Disbursing Officer under date of December 20, 1935, File AB-2.1-LOS, requesting certain information in connection with the funds included in Covering Warrant No. 7297, dated December 13, 1935, in amount \$5,500.00, was referred to this office for reply.

"In response thereto, you are advised that the warrant in question was drawn for the purpose of effecting the transfer of funds from the Department of State chargeable to the appropriation '18395- Foreign Service Buildings Fund', to cover the amount necessary for the excavation and rough grading, foundations, etc., for the proposed new roadway on the property recently acquired by this Government as a residence for the American Minister at Ottawa, Canada.

"The transfer is being made in conformity with Section 601, under Title 6, of the Act approved June 30, 1932 (47 Stat., p. 417), for the reason that this office has the necessary facilities for awarding the contract and supervising all work in connection with this project."

The appropriation act of August 12, 1935, 49 Stat. 596, provides in part "for the acquisition of a legation residence and the initial

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alteration, repair, and furnishing thereof, at Ottawa, Canada, \$1,325,000, which shall be available for the purposes and subject to the applicable provisions of the Foreign Service Buildings Act of 1926, as amended (U.S.C. Supp. VII, title 22, secs. 292-299)."

Under the provisions of the cited section 292 of title 22, U.S.C., the Secretary of State is "empowered, subject to the direction of the commission established by section 293 of this title, to acquire by purchase or construction * * * sites and buildings in foreign capitals and in other foreign cities, and to alter, repair, and furnish such buildings for the use of the diplomatic and consular establishments of the United States," and section 293 established "a joint commission to be known as the Foreign Service Buildings Commission * * * to consider, formulate, and to approve plans and proposals for the acquisition and utilization of the sites and buildings authorized by section 292 * * * including the initial furnishings of such buildings and the initial alteration and repair of purchased buildings and grounds."

While the appropriation "Foreign Service Buildings Fund" appears to be available for the cost of constructing the proposed new roadway as "initial alteration and repair of purchased * * * grounds" on the recently acquired site for a residence for the American Minister at Ottawa, Canada, the responsibility for letting the

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contract for the work to be done is that of the Secretary of State under the cited provisions of the Foreign Service Buildings Act of 1926, as amended, and such responsibility having been specifically fixed by law may not be transferred to another agency of the Government by the establishing of a special working fund under section 601 of the act of June 30, 1932, 47 Stat. 417, making available for expenditure by such other agency the funds entrusted to the Secretary of State for the project in question. Furthermore, there is not involved in what is here proposed the placing by the Secretary of State with the Division of Procurement of an order "for materials, supplies, equipment, work, or services, of any kind that" the Division of Procurement "may be in a position to supply or equipped to render" such as would authorize availing of the procedure provided for under the said section 601 of the act of June 30, 1932. On the contrary, what is here contemplated is the turning over to the Division of Procurement of an administrative duty which the Congress imposed upon the Department of State. Consequently, there is no authority of law for the establishing of the working fund, as proposed.

However, in the event it is determined to be in the best interests of the Government to have a representative of the Division of Procurement supervise the construction of the proposed new roadway, there would appear to be no objection to an arrangement under which the services of such an individual could be loaned to the Department of State for that

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purpose, the cost thereof to be borne by the appropriation "Foreign Service Buildings Fund" of the Department of State.

Respectfully,

(Signed) J. R. McCarl

Comptroller General
of the United States.

Enclosure.