



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

JUL 14 1936

A-74262

Administrator,  
Puerto Rico Reconstruction Administration.

Sir:

There has been received your letter of June 25, 1936, requesting reconsideration of decision of June 2, 1936, A-74262, holding that appropriated moneys are not available for payments under contract No. ER-PR-17, dated March 26, 1936, with the Governor of Puerto Rico for furnishing local police protection for activities of the Puerto Rico Reconstruction Administration.

You set forth at length the reasons which in your opinion justified the making of the contract, but these reasons do not change the basic character of the legal question involved, and as that question has been expressly determined by my predecessor it is not now properly for reconsideration by me. In this connection see United States v. Bank of Metropolis, 15 Peters 377, 401, where the Supreme Court of the United States said, respecting the right of an officer to review matters decided by a predecessor -

"This right in an incumbent of reviewing a predecessor's decisions extends to mistakes in matters of fact arising from errors in calculation; and to cases of rejected claims, in which material testimony is afterwards discovered and produced. But if a credit has been given, or an allowance made, as these were, by the head of a Department, and it is alleged to be an illegal allowance, the judicial tribunals of the country must be resorted to, to construe the law under which the allowance was made, and to settle the rights between the United States and the party to whom the credit was given."

In Cotton v. United States, 29 Ct. Cls. 207, 225, the Court of Claims said:

"It has repeatedly been held by this court and the Supreme Court that the final decision of a matter by a public officer is binding upon his successor, and that the right of an incumbent to review a predecessor's decision extends only to mistakes in matters of fact arising from errors in calculation and to cases of rejected

claims in which material evidence is afterward discovered and produced. (Jackson's Case, 19 C. Cls. R., 504; Day's Case, 21 C. Cls. R., 262; Rollin & Presbrey's Case, 23 C. Cls. R., 123, and numerous authorities cited in those cases.)"

See, also, United States v. Stone, 2 Wall. 525, 537; Noble v. Union River Logging Railroad Company, 147 U. S. 165; 1 Comp. Gen. 548; 2 id. 5; and 4 id. 636.

There is not involved in the present matter any correction of a mistake in fact, error in calculation, or the production of new and material evidence, and, accordingly, your request for reconsideration of the decision must be and is denied.

For your information, however, with respect to your argument that the proposed expenditure has been determined by you to be one of "incidental expenses" under the provisions of Executive Order No. 7057 of May 28, 1935, your attention may be invited to the definition of incidental expenses in relation to appropriation matters as stated by the Court of Claims in Dunwoody v. United States, 22 Ct. Cls. 269, 280, and it may be further said that the purchase of local police protection by the United States for its activities in one of its own territories would not appear to be a matter of "minor and unimportant disbursements incidental to any great business" as stated by the Court.

Respectfully,

(Signed) R. N. Elliott

Acting Comptroller General  
of the United States.