



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

JUN 18 1938

A-95083

The Honorable,

The Secretary of Agriculture.

Sir:

Your letter of May 17, 1938, is as follows:

"Your attention is invited to Section 387 of the Agricultural Adjustment Act of 1938, (Public No. 430, 75th Congress) which reads as follows:

"The Secretary may furnish reproductions of such aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices (not less than estimated cost of furnishing such reproductions) as the Secretary may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law."

"Your attention is also invited to Section 392(b) of the same Act, which is as follows:

"In the administration of this title, section 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and section 32, as amended, of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1939, for administrative expenses in the District of Columbia, including regional offices, shall not exceed 1 per centum of the total amount available for such fiscal year for carrying out such Acts, and the aggregate amount expended in any fiscal year for administrative expenses

in the several States (not including the expenses of county and local committees) shall not exceed 2 per centum of the total amount available for such fiscal year for carrying out such Acts.'

"In considering these two provisions of the Act mentioned, the question arises as to the effect of the last quoted section on the proceeds of sale of photographs, etc., by the Agricultural Adjustment Administration. Although Section 387, supra is contained in Title III of the Agricultural Adjustment Act of 1938, it is by its terms applicable to 'the authorized work of the Department' and was not, therefore, with sole reference to the provisions of the Agricultural Adjustment Act of 1938.

"While Section 392(b) of the Act, quoted above, provides that administrative expenses under Title III of this Act and under certain other Acts shall not exceed one and two percent, respectively, for the District of Columbia and the field, 'of the total amount available for such fiscal year for carrying out such Acts', it is felt that Congress must have intended that this percentage calculation should be made in advance of any expenditures and without reference to receipts from the sale of photographic reproductions or maps. Furthermore, it is believed Congress did not contemplate that receipts from sale of reproductions under Section 387 should be considered part of the 'total amount available' for carrying out the Acts, within the meaning of Section 392(b).

"In order to remove the slight element of doubt that still exists with respect to this matter, it will be appreciated if you will advise (1), if proceeds of sale of reproductions financed from funds affected by Sec. 392(b) above will, after July 1, 1938, be reexpendable for general administrative expenses or for the expenses of the photographic laboratory making the reproductions, without being affected by the 1 percent or 2 percent limitation, or (2) will the deposit of such proceeds of sale in the Treasury to the credit of the appropriation charged with the cost of the reproductions be subject to the 1 percent or 2 percent limitation on the amounts available for administrative expenses in Washington or in the field, as the case may be."

The question involved is understood from the submission as whether the one and two per cent limitations are applicable only to the amount appropriated and not to the receipts credited thereto

so that the amount of such receipts would be available for expenditure without the respective percentage limitations thereon. The effect of crediting the receipts to the appropriation is an increase in the amount of the appropriation so that there will be available for expenditure thereunder the full amount of the appropriation including the credits thereto. It must necessarily follow that any limitations on the basic appropriation must equally apply to such credits as are authorized to be made to such appropriation. Hence the one and two per cent limitations must be applicable to the appropriation amount as it from time to time appears including the receipts credited thereto. It can be seen any other accounting procedure would separate the receipts from the basic appropriation and require in effect a set up of two appropriations -- one set up subject to the percentage limitation and the other not so limited. There is no basis for concluding that such was the intent of Congress but that all amounts available for expenditures under the appropriation at any time are subject to the limitations thereon. You are advised accordingly.

Respectfully,

(Signed) R. N. Elliott

Acting Comptroller General  
of the United States.