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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON 25, D. C.

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OFFICE OF GENERAL COUNSEL

B-130496-O.M.

MAR 13 1957

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Mr. Robert F. Keller
Assistant to the Comptroller General

Your memorandum of January 29, 1957, requests that we "outline our authority to assign personnel to committees and subcommittees, considering also the question as to when the loan would be required to be on a reimbursable basis."

The general rules for determining whether an appropriation for an agency in the Executive branch of the Government may be used to pay the salary of an employee of such Executive agency while on loan or detail to a Congressional investigating committee are stated in our decisions of April 27, 1942, 21 Comp. Gen. 954, and May 26, 1942, 21 id. 1055.

In 21 Comp. Gen. 954, we held, in part, quoting from the first paragraph of the syllabus:

"In view of section 3678, Revised Statutes, limiting expenditure of public funds solely to the objects for which they are appropriated, an executive agency of the Government, in the absence of specific statutory authority therefor, may lend an employee already on its rolls to a congressional investigating committee only where the investigation relates to matters ordinarily handled by the lending agency and, thus, will further the purposes for which the agency's appropriations are made, and where the absence of the employee will not be detrimental to the work of the agency or necessitate the hiring of an additional employee."

The holding in 21 Comp. Gen. 954 was amplified in 21 Comp. Gen. 1055, as follows--quoting from the first paragraph of the syllabus:

"An executive agency of the Government, in the absence of specific statutory authority therefor, may not lend or detail employees to a congressional investigating committee unless the work of the committee actually aids the agency in the accomplishment of a purpose for which

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its appropriations are made, or unless the services of employees who are already on the rolls of the agency may be spared for brief periods, such as a few days or a week or so, without detriment to the work of the agency and without necessitating the hiring of additional employees. 21 Comp. Gen. 951, amplified."

We see no reason why the foregoing holdings should not be applicable even though the Congressional committee involved is not an "investigating committee."

As indicated in the above cited decisions, the holdings therein are necessary by reason of section 3678, Revised Statutes, which provides:

"All sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

While our above-cited decisions refer only to Executive departments of the Government, in letter of May 9, 1944 (B-41849) to the Chairman of the Committee on the Judiciary, United States Senate, who had asked for a loan of our employee for "an indefinite period," we held that the rules set forth in 21 Comp. Gen. 951 and 21 id. 1055 were controlling as to this Office.

Subsequent to the date of our above-referred to decisions, there was enacted the Legislative Reorganization Act of 1946, 60 Stat. 812, 635 (2 U.S.C. 72a(f)), section 202(f), which provides:

"No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives, as the case may be."

This provision appears to be a limitation on the authority of Congressional committees to appoint to their staffs personnel detailed or assigned from Government departments or agencies. It does not authorize Government departments or agencies to loan personnel to Congressional committees nor does it authorize or require the committee to reimburse the department or agency concerned for the loan of such personnel. It does not appear that this provision would affect our holdings in 21 Comp. Gen. 951 or 21 id. 1055.

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Under the Budget and Accounting Act of June 10, 1921, 42 Stat. 20, creating the General Accounting Office and defining its functions, as well as the duties and responsibilities of the Comptroller General of the United States, the Comptroller General is not only authorized but required to provide assistance to certain committees of the Congress. Section 312(b) (31 U.S.C. 53(b)) of that act provides:

"He shall make such investigations and reports as shall be ordered by either House of Congress or by any committee of either House having jurisdiction over revenues, appropriations, or expenditures. The Comptroller General shall also, at the request of any such committee, direct assistants from his office to furnish the committee such aid and information as it may request."

While there is nothing in the Budget and Accounting Act to indicate just what committees the Congress considered as having jurisdiction over "revenues, appropriations, or expenditures," it appears that in the past this Office considered the committees referred to in section 312(b) to be the House and Senate Committees on Appropriations, the House and Senate Committees on Expenditures in the Executive Departments (now the House and Senate Committees on Government Operations), the House Committee on Ways and Means, and the Senate Finance Committee. See page 528, Organization of Congress, Hearings Before the Joint Committee on the Organization of Congress, Congress of the United States, 79th Congress, First Session, pursuant to H. Cong. Res. 18 (filed with Public Law 601 of the 79th Congress). It also appears that there might now be included, in addition to the above-named committees, the "Joint Committee on Reduction of Non-essential Federal Expenditures" and the "Joint Committee on Internal Revenue Taxation" (68A Stat. 4925). 267 U.S.C. 8001 P.L. 591 Aug. 16, 1954

Inasmuch as our Office is required to furnish aid including personnel to Congressional committees having jurisdiction over revenues, appropriations, and expenditures, and since our appropriations are available for necessary expenses incurred in carrying out our duties under the Budget and Accounting Act of 1921, the loan of personnel to such committees would not legally be required to be on a reimbursable basis. In that connection, we note that the Independent Offices Appropriation Act, 1946, 59 Stat. 106, 118, under the heading "General Accounting Office," contains the following provision:

"Investigations for, and detail of assistants to, committees of Congress: In order to enable the Comptroller General, as authorized in section 312(b) of the Budget and Accounting Act, 1921, to make investigations and reports ordered by either House of Congress or by any committee of

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either House having jurisdiction over revenue, appropriations, or expenditures, and to furnish, through assistants from his office, to such committees, at their request, any aid or information so requested, including the employment, in the District of Columbia or elsewhere, of necessary personnel for such purposes, and including salaries, contingent expenses, and necessary travel, \$67,980." (Emphasis added.)

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No such provision was contained in the Independent Offices Appropriation Act, 1947, 60 Stat. 60, ~~70~~. The following discussion in the House Hearings pertaining to the 1947 act disclose the reason such a provision was omitted:

"Mr. HENDRICKS. I note on page 149 of the committee print that you have bracketed out some language:

Investigations for, and detail of assistants to, committees of Congress * * *.

"Are you recommending that that be discontinued or are you doing any substantial amount of work in that respect at the present time?

"Mr. BAGLEY. At present we are not, and our regular appropriation in the act that created the General Accounting Office provides for it, anyway. After all, that might be a limiting appropriation. That is why we ask that it be left out." (Emphasis added.)

As to loaning our employees to committees of the Congress other than those Committees having jurisdiction over revenues, appropriations, and expenditures, in cases not falling within the rules set forth in 21 Comp. Gen. 954, as amplified by 21 Comp. Gen. 1055, there is for consideration section 601 of the Economy Act of 1932, as amended, 41 U.S.C. 1606. A strict interpretation of the language "Any executive department or independent establishment of the Government, or any bureau or office thereof," as used in section 601 might preclude the application thereof to the legislative branch of the Government. See B-57726-O.M., May 29, 1946. However, 31 U.S.C. 146 provides in pertinent part, that "All laws relating generally to the administration of the departments and establishments shall, so far as applicable, govern the General Accounting Office." Thus, it appears that, in any event, section 601 of the Economy Act of 1932 would be applicable to our Office. Also, as relates to the application of section 601 to the legislative branch generally, we have held the said section applicable to the Architect of the Capitol (12 Comp. Gen. 442) and to the Library of Congress (B-57726-O.M., May 29, 1946). In view thereof there would appear to be no reason why our personnel

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may not be detailed to Congressional committees under the said section in those cases not falling under section 312(b) of the Budget and Accounting Act of 1921, or not falling within the rules stated in 21 Comp. Gen. 954 and 21 id. 1055. Of course, loans of personnel under section 601 of the Economy Act of 1932 are required by that section to be on a reimbursable basis. Concerning reimbursement from a Senate Committee see generally Senate Resolution 77 as amended by Senate Resolutions 201 and 210, 79th Congress.

From the foregoing, and in answer to your specific request, we conclude that:

(1) Under section 312(b) of the Budget and Accounting Act of 1921, we may legally furnish or loan personnel to any committee of the Congress having jurisdiction over revenues, appropriations, or expenditures without requiring the loan of such personnel to be on a reimbursable basis. We indicated above the committees we feel are encompassed by section 312(b).

(2) We may loan our employees to committees of Congress other than those committees referred to immediately above. However, such loans must be on a reimbursable basis unless the loan falls within the rules set forth in 21 Comp. Gen. 954 and 21 id. 1055, i.e., unless the work of the committee involved actually aids this Office in the accomplishment of a purpose for which our appropriations are made, or unless the service of an employee already on our rolls may be spared for a few days or perhaps a week without need for the employment of an additional employee.

R. E. Ramsey
Associate General Counsel