



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

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The Honorable,

The Secretary of Commerce.

Sir:

I have your letter of November 1, 1940, as follows:

"The Bureau of the Census of this Department has been advised that the Social Science Research Council, an agency created by the various professional social science associations, which has as a major responsibility the promoting and financing of research in the social sciences, is giving serious consideration to granting funds for the preparation of certain monographs, which otherwise would not be prepared by the Bureau of the Census, from 16th Decennial Census data.

"The Bureau of the Census is authorized by its appropriation act, (Public 508, 76th Congress) approved May 14, 1940, to expend funds for 'contracts for the preparation of monographs on census subjects and other work of specialized character which cannot be accomplished through ordinary employment'.

"The Bureau states that it is probable that most or all of the funds available for the 16th Decennial Census will be used up in the field and office work on the regular census reports and that only a limited amount of money will be available for desirable analytical studies. For these, the assistance and cooperation of the Social Science Research Council would be very desirable.

"As the Bureau is desirous of obtaining the assistance of the Social Science Research Council in this work, your decision is respectfully requested as to whether it would be authorized to accept the free services and financial assistance of the Social Science Research Council in the preparation of census monographs; if not, would the Bureau be authorized to contract with the Social Science Research Council at the nominal rate of payment of \$1.00 and assistance in the form of space and equipment for the preparation of official monographs."

In decision of April 8, 1937, to the then Secretary of Commerce, 16 Comp. Gen. 911, it was held, quoting from the syllabus:

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"There is no authority for the acceptance of donations from private sources by the Bureau of Foreign and Domestic Commerce for the establishment of a British housing unit in its London office for the gathering and dissemination of British housing information to American officials and private citizens."

See also 11 Comp. Gen. 355.

In line with the foregoing it may be said that in the absence of specific legislation therefor there appears to be no lawful authority for an official of the United States Government to accept on behalf of the United States voluntary donations or contributions of cash to augment appropriations made by the Congress for particular purposes.

With respect to the acceptance of services, as distinguished from cash, section 665, title 31, U. S. Code, provides in part as follows:

3121 S. Code 665

"* * * Nor shall any department or any officer of the Government accept voluntary service for the Government or employ personal service in excess of that authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property. * * *"

In construing this act former Attorney General Wickersham expressed the opinion in 1913 that the words "voluntary service" were not intended to be synonymous with "gratuitous service" and that the purpose of the act was to forbid the acceptance of unauthorized services not intended or agreed to be gratuitous and, therefore, likely to afford a basis for future claims. 30 Op. Atty. Gen. 51. In 7 Comp. Gen. 810, it was said:

"The voluntary service referred to in said statute is not necessarily synonymous with gratuitous service, but contemplates service furnished on the initiative of the party rendering the same without request from, or agreement with, the United States therefor. Services

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furnished pursuant to a formal contract are not voluntary within the meaning of said section. * * *

Answering your question specifically I have to advise that, while there appears no authority of law for the acceptance of cash donations from the Social Science Research Council, or other similar sources, to carry out the appropriation provision referred to in your letter there would be no objection to the acceptance of gratuitous services pursuant to a cooperative agreement under which such services shall be rendered free of cost to the United States except for the furnishing of such space, equipment, facilities, etc., as the United States may be able to provide for the performance of such services by the non-governmental agency.

Respectfully,

(Signed) Lindsay C. Warren

Comptroller General
of the United States.

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