COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-136762

AUG 18 1958

Honorable Glenard P. Lipscomb
House of Representatives

Dear Mr. Lipscomb:

This is in response to your letter of July 7, 1958, with enclosure, acknowledged July 9, concerning expenditures made during 1957 by the Government for speeches on the Mutual Security program discussed at pages 271 to 274 of the House Hearings on the Mutual Security Appropriations for 1959.

Specifically, you call our attention to an item on page 274 of the hearings reporting that Mr. Charles H. Shuff, Deputy Assistant Secretary of Defense for Military Assistance Programs, accompanied by several other persons at a cost of $3,992.94, attended a meeting of the Aircraft Industries Association, December 3, 1957, at Palm Springs, California. You request to be advised whether any part of the cost to attend the meeting and for Mr. Shuff to make a speech before the organization was paid from funds appropriated in the Mutual Security Appropriation Act, 1958, Public Law 85-279, approved September 3, 1957, 71 Stat. 601; and, if so, whether there was involved an expenditure of funds contrary to section 102 of that act, 71 Stat. 603, which provides as follows:

> "No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress."

As stated in our letter of July 23, the Secretary of Defense was requested to furnish a report in the matter. By letter of August 4, the Secretary of Defense transmitted an opinion of the General Counsel of the Department thereon, and a summary report prepared by the Aircraft Industries Association of its meeting in Palm Springs.

It appears from the Association's report that the meeting was held on December 3 and 4, 1957. It was made up of four business sessions (two sessions each day), and two luncheons and two dinners. The first session was primarily devoted to the internal affairs of the organization, while the other sessions were conducted in the form of panel discussions on the business of the meeting. Mr. Shuff and the individuals accompanying him participated in all three panel discussions. He made the opening remarks at the second and fourth sessions and, was the principal speaker at the dinner at 8:30 P.M. on the evening of December 3.

The General Counsel of the Department of Defense, in his referred-to opinion, itemized the expenditure of $3,992.94 as follows:

"Charged to MAP Funds:

Per Diem

Charles H. Shuff	$ 39.75
B/Gen William E. Steele	39.00
Lt Col William C. Behnke	39.00
Henry J. Kuss, Jr.	39.00
Major Robert G. Lawrence	39.00

Expenses:

Taxi fare for Maj Lawrence from Palm Springs to Airport	3.50
	$ 199.25

Not charged to MAP funds:

MAX Aircraft	$3,513.75
Per diem and travel expenses of crew, comprising 3 officers and 3 enlisted men	204.37
Per diem and travel expenses of Mr. L. S. Thompson Deputy Assistant Secretary of the Air Force	45.57"

He points out that Mr. Shuff did not solicit an invitation to the meeting, having declined two invitations and accepted the third one only after a change was made in the meeting date. He states that attendance of Mr. Shuff and his team at the meeting was in the performance of official duty; that the panel discussions did not themselves constitute "publicity or propaganda" within the purview of section 102 of the Mutual Security Appropriation Act, 1958; and that the speech made by Mr. Shuff at the dinner on December 3, was incidental to his participation in the panel discussions.

He further states that the expenditure of $199.25 charged to mutual security funds to finance the cost of participation in the panel discussions was not increased as a result of Mr. Shuff's speech, inasmuch as it was made after he took part in the second session and before the opening of the third and fourth sessions. Thus, he contends that the one-quarter day per diem attributable to the time during which the speech was made would lawfully be payable even if Mr. Shuff had not delivered it. In such circumstances, he says, a determination of whether the speech was in the nature of "publicity or propaganda" would be without object, and expresses the opinion that expenditure of the mutual security funds was not in violation of said section 102.

We have examined closely the speech in question made by Mr. Shuff, a copy of which was transmitted with your letter. A number of the statements contained therein, representative comments of which are quoted on page 11759 of the Congressional Record for July 2, 1958, are clearly designed to enlist the aid of the Aircraft Industries Association, in publicizing and selling the Mutual Security program to the American public through the various media available to the Association, for the purpose of influencing and obtaining public support for mutual security legislation. These statements go far beyond the established practice for Government agencies to keep the public informed of the aims and achievements of authorized governmental programs, and we have no doubt they illustrate the type of publicity or propaganda prohibited by section 102. See 31 Comp. Gen. 311.

Therefore, we conclude that the speech in question falls within the meaning of the term "publicity or propaganda," as used in section 102 of the Mutual Security Appropriation Act, 1958. It follows that if it could be said that any mutual security funds were used solely for the purpose of making the speech the incurrence of such expenditures would have been in violation of the law and illegal.

However, the above-quoted statement of expenditures in this case shows that Mr. Shuff was paid a per diem allowance of $39.75 from mutual security funds. He, in fact, was authorized to be present at the meeting and participate in panel discussions held before and after making the speech. Per diem would be payable to him for the full day even though the speech had not been made. The sum paid thus reasonably appears allowable for official travel incident to attendance at the meeting on December 3 and 4, and we have no evidence that any extra expense was incurred attributable solely to the speech in question.

Accordingly, we trust you will understand why we deem no recovery properly can be made from Mr. Shuff or the accountable officers who made payment of per diem to him in this matter.

Sincerely yours,

FRANK H. WEITZEL

Assistant Comptroller General
of the United States