



B-198419

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

July 8, 1980

The Honorable Claiborne Pell  
Chairman, Committee on  
Rules and Administration  
United States Senate

~~This report is available to public reading.~~

Dear Mr. Chairman:

Your Committee's Chief Counsel asked for a summary of our views on the printing of business or calling cards for Senators and their staff members, at Government expense. He cited a 1962 Comptroller General decision (41 Comp. Gen. 529) which takes the position that this type of expenditure is not authorized, but suggested that the present situation might be distinguishable. Apparently there are a number of printing vouchers which have been presented for payment authorization to the Rules Committee for business card printing. It is proposed that the Senators' "10% accounts" under 2 U.S.C. § 58(a)(9) (Supp. I 1977), be charged with the expense.

Our decisions on this question, all rendered to executive departments and agencies, have consistently stated that business or calling cards are not necessary to the conduct of Government business and are, therefore, a personal expense to be borne by the individual employee. See, e.g., 10 Comp. Dec. 506 (1904); 12 Comp. Gen. 565 (1933); 41 Comp. Gen. 529 (1962). Our more recent decisions (we are enclosing copies of some of them for your information) have also relied on the Joint Committee on Printing's Printing and Binding Regulations which state:

"Printing or engraving of calling or greeting cards is considered to be personal rather than official and shall not be done at Government expense." 1977 ed., para. 20.

See in particular our latest decision on this topic, B-195036, July 11, 1979.

It is not entirely clear whether the Joint Committee's regulation, (paragraph 20), stated above, applies to members of Congress as well as to executive departments and independent establishments of the Government. The requirement that all printing or binding be "authorized by law" is contained in 44 U.S.C. § 501 which specifically includes the Congress. Paragraph 29 of the regulation states:

"All printed matter issued shall be devoted to the work which the branch or officer of the Government issuing the same is required by law to undertake, and shall not contain matter which is unnecessary in the transaction of the public business\* \* \*." (Emphasis added.)

On the other hand, only "a department, the Supreme Court, the Court of Claims, or the Library of Congress" are required to "certify that it [printing or binding] is necessary for the public service."  
44 U.S.C. § 1103.

Because of the time constraints on preparation of this reply, we were unable to consult with the Joint Committee on Printing to obtain its views on the applicability to the Congress of the flat prohibition on printing cards at Government expense contained in paragraph 20 of its regulations. While it would appear that we need not resolve that question in this case because of the specific provisions of 2 U.S.C. § 58(a)(9) (Supp. I 1977), which establishes the "10% account" for each Senator and which you propose to charge for the expenses of the cards, you may nevertheless wish to explore this question further with the Joint Committee before deciding to approve the pending printing vouchers.

Section 58(a)(9) reads in pertinent part as follows:

"[T]he contingent fund of the Senate is made available  
\* \* \* for the following expenses incurred by the Senator  
and his staff:

\* \* \* \* \*

"(9) reimbursement to each Senator for such other official expenses as the Senator determines are necessary \* \* \* but only to the extent that such expenses do not exceed for any calendar year, ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section for such calendar year.

"Reimbursement to a Senator and his employees under [paragraph 9] shall be made only \* \* \* upon presentation of detailed, itemized vouchers for such expenses\* \* \*. No reimbursement shall be made under paragraph 9 for any expense incurred for entertainment or meals." (Emphasis added.)

The Committee on Rules and Administration, however, has been delegated the full responsibility to determine what constitutes official expenses with respect to the contingent fund from which each Senator's discretionary office account is derived. Standing Rules of the Senate, at 25.1 p (1) (A).

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The discretionary account was created in 1977 to allow each Senator the flexibility to try new office methods and equipment. Hearings on H.R. 7932 Before the Senate Committee on Appropriations, 95th Cong., 1st Sess., 878-84 (1977). Once a type of expense has been determined to be "official", the individual Senator may determine for himself the necessity for and how much of his 10% allowance to spend on items in that category.

In a letter dated December 16, 1977 (B-145492) to the former chairman of your Committee, we quoted extensively from the floor debate on an amendment to H.R. 7932, introduced by Senator Alan Cranston, which later became the 10% provision discussed above. We stated:

"While the Legislative Branch Appropriations Act, 1978 does not specifically repeal the requirement of 2 U.S.C. § 68, that the Rules and Administration Committee sanction all payments made from the contingent fund of the Senate, the legislative history and language of the Act indicate that Congress intended the determination of what are to be 'official expenses,' of up to 10 percent of each Senator's office expense allowance, be made by the Senator alone (except that the law, as noted above, specifically precludes reimbursement of expenses for meals or entertainment). Therefore, we believe that, as a consequence of Pub. L. No. 95-94, your Committee's function in approving vouchers for expenditures from the 10 percent category is limited to insuring that the vouchers are regular in form, have been certified by the Senator as being for official office expenses not otherwise provided for in 2 U.S.C. § 58(a), and are not for meals or entertainment."

While we think our conclusion was reasonable at that time, it now appears that some limitations were clearly intended on the uses of the 10% fund. Senator Cranston recently restated his original intent in proposing the liberalization of Senators' office expense accounts. Supporting Senate Resolution 294, 96th Cong., 2d Sess. (1979), a resolution to clarify the limitations on the 10% fund, he said:

"Obviously in proposing the discretionary fund, I had no intention of opening the door for Senators or their staffs to use Federal funds for items or services where there is the least question that such expenditures are clearly for official purposes.

\* \* \* \* \*

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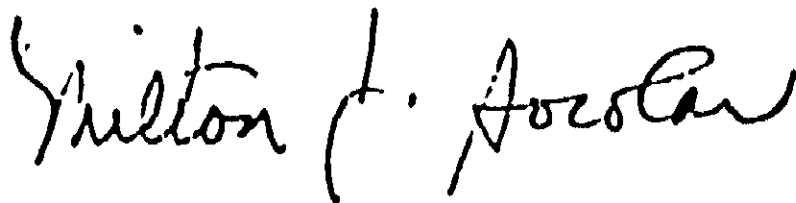
"I hope this action will once and for all lay to rest any suggestion that the 10 percent discretionary fund was intended to relax the bonds of fiscal discipline on official senatorial expenditures." Cong. Rec. S 18009-10 (daily ed. Dec. 6, 1979)..

The Senate Rules Committee, through Senate Resolution 294, lists nine categories of expenses which are not official expenses and for which no payment or reimbursement may be made. Among those prohibited expenses are "holiday greeting cards." Business cards are not specifically excluded. Further, the Resolution sets up as a standard for official expenses, the "ordinary and necessary business expense" test of the Internal Revenue Code. Business cards would thus meet the test of a business expense. See, Weich v. Helvering, 290 U.S. 111 (1933); G.G. Ebner, 17 T.C.M. 550 (1958).

We are aware that Senate Resolution 294, after its passage in December, was vitiated and returned for a minor technical amendment shortly thereafter. It has not yet been reenacted. At the moment, therefore, your Committee is technically free to decide that business cards are not "official" expenses. If the Committee does not make that determination or if the Resolution is reenacted in substantially the same form, we believe a Senator's discretionary funds may be used to purchase business cards.

We trust this answers your question.

Sincerely yours,



For the Comptroller General  
of the United States

Enclosures