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

B-130961
FPC-77-53

JUN 16 1977

The Honorable Robert N. C. Nix
Chairman, Committee on Post Office
and Civil Service
House of Representatives

Dear Mr. Chairman:

Reference is made to your request of May 31, 1977, for our comments on H.R. 6954--"Ethics in Government Act of 1977." This bill sets forth new financial disclosure requirements for Government personnel and would establish an Office of Government Ethics to enforce such disclosure. This bill would also amend section 207 of title 18, United States Code, concerning the disqualification of former Government officers and employees.

As you are probably aware, the General Accounting Office, over the past years, has issued a series of reports concerning financial disclosure systems in the executive branch. On February 28, 1977, we issued our summary report--"Actions Needed To Make The Executive Branch Financial Disclosure System Effective" (FPCD-77-23), a copy of which is enclosed. We are pleased to note that H.R. 6954 contains most of the recommendations we made in that report, including the establishment of an enforcement body--the Office of Government Ethics.

While we are highly supportive of this bill, we do offer several comments.

1. We propose an amendment to subsection 101(f) as follows:

--on page 3, line 1, insert after the word "Code" the following:

"with the exception of the General Accounting Office,"

We are proposing this amendment to exclude officers and employees of the General Accounting Office from coverage by reference to section 105, title 5, United States Code. We believe this inclusion was unintentional since our agency is the only entity in the legislative or judicial branch of the Government which falls within the definition of "Executive Agency" as stated in section 105.

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Thus the bill in its present form would cover no agency of the judicial or legislative branch other than the General Accounting Office. Furthermore, a reading of the bill in its entirety indicates an intent to establish a system of financial disclosure solely for employees of the executive branch. Therefore, we are recommending the specific exception in order to carry out this intent as we understand it.

2. Section 105(a) would require each agency to make the disclosure reports available to the public within forty-five days after filing. This would require each agency to establish such a system with personnel available to handle public requests. We believe a less costly and more efficient procedure would be to have each agency collect all required statements in duplicate and forward one copy of each with a checklist of all those required to file to the Office of Government Ethics which would make all statements public at one location.

This procedure would also make it easier for the Office to determine if all such statements had been filed and to perform the review of 5 per centum of the statements required of the Office by section 202(b)(4). We also believe that such a central repository might be an ideal location to receive allegations from the public concerning violations of conflict of interest laws as addressed by section 202(b)(12).

3. Section 107 states that

"Nothing in this title shall be construed to prevent the President from requiring officers or employees not covered by this title to submit confidential financial statements."

We believe section 107 should be deleted and the following inserted:

"Sec. 107. (a) Each officer or employee of the United States including each member of the uniformed services, who is not required to file a report under section 101 and, who in the course of the performance of his official duties makes any decision or takes any action with respect to

- (1) contracting or procurement,
- (2) administering or monitoring grants or subsidies,
- (3) regulating or auditing private enterprises, or
- (4) other activities having an impact on the interests of private enterprises,

shall file a report containing the information described in section 102 with the head of the agency for which he is employed at the time specified in section 101(d). Department and agency heads shall be responsible for identifying those officers and employees with such duties. All reports filed under this section shall be confidential and may not be released without written approval of the agency head or the Director of the Office of Government Ethics. Agency heads shall be responsible for reviewing all such statements filed with them."

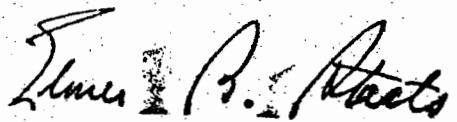
In this way, the confidential reporting requirements would have a statutory base, and the Director of the Office of Government Ethics would be required by section 202(b)(5) to monitor and investigate individual and agency compliance with the confidential reporting system.

4. Section 203 should contain a new subsection to state that

"The Comptroller General shall have access to financial disclosure reports filed with the Office of Government Ethics and with department and agency heads for the purpose of carrying out his statutory responsibilities."

In summary, I wish to reiterate our support for this bill as we believe the strong enforcement powers given to the Office of Government Ethics will remedy many of the deficiencies we have found in executive branch disclosure systems.

Sincerely yours,



James P. Racts
Comptroller General
of the United States

Enclosure