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Mullis

October 21, 1970



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Dear Mr. Boggs:

Your note dated September 18, 1970, referred to our Office for consideration a letter from Mr. Walter N. Conrad, Sr., New Orleans, Louisiana. You asked that we investigate the statements in the letter and furnish you with information for a reply to Mr. Conrad.

Mr. Conrad commented on three cases which he considered to have been wasteful expenditure of Federal funds in relation to needed assistance for the elderly.

Stockpiling of supplies by General Services Administration (GSA) 17

The basis for Mr. Conrad's comments regarding waste by GSA in stockpiling supplies is a report issued to the Congress by this Office in May 1970. A copy of the report "Opportunities for Savings Through the Elimination of Nonessential Stock Items" (B-114007) is enclosed.

Research grant

The research grant referred to by Mr. Conrad is grant number AI 09330-01 awarded by the National Institute of Allergy and Infectious Diseases, Department of Health, Education, and Welfare, to Dr. Paul M. Nollen, Western Illinois University, Macomb, Illinois. The title of the research project is "Studies on Reproduction in Digenetic Trematodes." The amount of the grant was \$20,116 for the period October 1, 1969, through September 30, 1970.

The purpose of the project was to study the processes of reproduction and development in certain types of parasites. The study is expected to yield basic information applicable to life cycles of important parasites which would be useful for investigations of the effects of immunity or chemotherapy on the parasites.

Illuminated sign identifying the Department of Housing and Urban Development building 23

In July 1965 CSA entered into a contract (GS-033-14597) with John McShain, Inc., for construction of the Housing and Urban Development office building, 7th and D Streets, S.W., Washington, D.C., at a

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total cost of \$22,295,500. This amount included \$41,000 for construction of a concrete banner (sign) and \$41,000 for installation of floodlighting on the banner and around the building. The banner and the floodlighting were included in the architect's design of the building. A GSA official stated that the banner is as much a sculptural element as it is identification, and that the geometric form of the vertical structure will serve to emphasize the curved lines of the building.

Funding for the project was extremely critical, and in January 1968, to conserve funds, GSA requested the contractor to delete construction of the banner and installation of the floodlighting and to furnish credit proposals for the deleted work. The already installed anchorage for the banner was to be retained for future installation of a banner.

Eight months later, upon finding that some reserve funds were in fact available, GSA proposed that the contractor construct the banner and install the floodlighting as originally contracted. However, the contractor contended that, by that time construction had proceeded beyond the point that would permit construction of the banner and installation of the floodlighting to be done in construction sequence.

Because of the Government's potential liability in having the contractor perform the work out of sequence, GSA decided to obtain a credit from the contractor for deletion of the work and to secure competitive bids to complete the deleted work under a separate contract. Negotiations with the contractor resulted in a credit of \$23,572.

Following competitive bidding, GSA awarded a contract (G5-033-16065) in April 1969 to Weiss Construction, Inc., Washington, D.C., to complete construction of the banner and install floodlighting on the banner and around the building at a cost of \$62,600.

The following table summarizes financial information pertaining to the contracts for construction of the banner and installation of the floodlighting on the banner and around the building.

Amount for banner
and floodlighting

Contract with John Messhain, Inc.	\$ 82,000
Less credit from John Messhain, Inc.	(23,572)
Net charge by John Messhain, Inc.	53,428
Contract with Weiss Construction, Inc.	<u>62,500</u>

Total	<u>\$116,028</u>
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Because data pertaining to cost of the banner and of the floodlighting on the banner and around the buildings are commingled, the final cost of the illuminated sign could not be ascertained.

Assistance for the elderly

In his letter Mr. Conrad asks whether Congress cares about, and when it will do something for, elderly people. In this connection, a preliminary report by the Social and Rehabilitation Service, Department of Health, Education, and Welfare, show that Federal outlays in all programs of special benefit to people 65 and over, for the year ended June 30, 1970, were expected to total about \$35.7 billion. A copy of this preliminary report showing comparative data for the 5 years ended June 30, 1970, is enclosed for your information (attachment II).

The principal programs are administered by the Department of Health, Education, and Welfare. As shown in the preliminary report (page 9), estimated outlays for fiscal year 1970 by the Social Security Administration amount to \$26.6 billion and by the Social and Rehabilitation Service to \$2.8 billion. Existing and proposed programs of the Service are listed in attachment I.

We trust that this information will be of assistance to you in replying to Mr. Conrad. We are returning the enclosure which accompanied your referral.

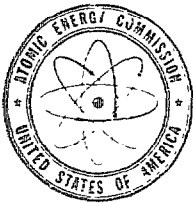
Sincerely yours,

McCarthy
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Sm...
10/16/70
...
R. F. Keller
Assistant Comptroller General
of the United States

Enclosures - 4

...
10/22/70

The Honorable Fale Boggs
House of Representatives



UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

LEGAL VALIDITY OF THE CHARGE OF \$28.70
FOR KILOGRAM UNIT OF SEPARATIVE WORK

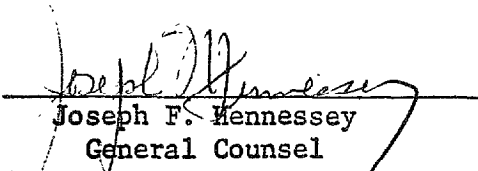
In my opinion the charge of \$28.70 per kilogram unit of separative work established by the Commission on August 25, 1970, to become effective on February 22, 1971, is a legally valid charge for enriching services until modified by Commission action pursuant to Uranium Enrichment Services Criteria established by the Commission in compliance with Section 161 v. of the Atomic Energy Act of 1954, as amended (hereinafter the "Act").

In establishing prices for enriching services, the Commission is required by Section 161 v. of the Act to establish them pursuant to established criteria for uranium enrichment services and such criteria may not be established until proposed criteria are submitted to the Joint Committee on Atomic Energy and a period of forty-five days has elapsed while Congress is in session unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five day period.

In an earlier opinion on July 2, 1970, I stated that the then proposed revision to the Criteria established in 1966 and the then proposed charge of \$28.70 would be legally valid under Section 161 v. of the Act. By separate opinion dated August 5, 1970, the Department of Justice joined me in that view. Subsequent thereto and after the elapse of the forty-five day period required by Section 161 v. of the Act ". . . before the Commission establishes such criteria . . .", the Commission on August 25, 1970, by publication in the Federal Register established the new Criteria and established the \$28.70 charge to become effective 180 days after such publication pursuant to the new Criteria.

On December 19, 1970, P.L. 91-560 amended Section 161 v. of the Act so as to change the basis for the establishment of prices for enrichment services from ". . . a basis which will provide reasonable compensation to the Government . . ." to ". . . a basis of recovery of the Government's costs over a reasonable period of time . . ." Promptly, on December 21, 1970, the Commission in compliance with Section 161 v. of the Act, as amended, submitted a proposed revision to the Criteria of 1970 to the Joint Committee. At that time the Commission also advised the Committee that a charge of \$32.00 per kilogram unit of separative work would be established pursuant to such revised Criteria. Upon elapse of the forty-five day period required by Section 161 v. of the Act, the Commission may then establish the new Criteria required to comply with the amendment to Section 161 v. of the Act effectuated by the enactment of P.L. 91-560 and may then establish the \$32.00 charge to become effective 180 days after publication in the Federal Register in compliance with the new Criteria.

In summary, any charge for enrichment services may only be established pursuant to established criteria for enrichment services and such criteria may only be established pursuant to the requirement of Section 161 v. of the Act. The \$28.70 charge was established on August 25, 1970, to become effective 180 days thereafter pursuant to legally valid criteria established on that date in accordance with the then requirements of Section 161 v. of the Act. The Commission may not modify that charge until such time as new criteria meeting the requirements of Section 161 v. of the Act as amended by P.L. 91-560 may be established, and then such charge (since it involves an increase) may not be applied until after expiration of a 180-day notice period.


Joseph F. Hennessey
General Counsel

EXCERPT FROM AEC'S
ORIGINAL URANIUM ENRICHMENT SERVICES CRITERIA
WITH AEC'S PROPOSED CHANGES

(c) Charge for Enriching Services.

(1) The charge for enriching services, in accordance with the Act, will be established on a nondiscriminatory basis and [provide reasonable compensation to the Government.]¹ **ON A BASIS OF RECOVERY OF THE GOVERNMENT'S COSTS OVER A REASONABLE PERIOD OF TIME.**² Applicable charges for enriching services and related services will be those in effect at the time of delivery of enriched uranium to the customer as (i) published in the Federal Register, or (ii) in the absence of such publication, determined in accordance with the Commission's pricing policy. The charge per unit of separative work for enriching services will be the same as that employed in the Commission's published schedule of charges for sale or lease of enriched uranium. The AEC may impose an appropriate surcharge representing additional costs, if any, to the AEC for providing enriching services on short notice.

(2) [The Act requires that such charges provide reasonable compensation to the Government.]¹ AEC's charge for enriching services will be established on a basis that will assure the recovery of appropriate Government costs projected over a reasonable period of time. The cost of separative work includes electric power and all other costs, direct and indirect, of operating the gaseous diffusion plants; appropriate depreciation of said plants; and a factor to cover applicable costs of process development, AEC administration and other Government support functions, and imputed interest on investment in plant and working capital. During the early period of growth of nuclear power, there will be only a small civilian demand on the large AEC diffusion plants. These plants were originally constructed for national security purposes, but will be utilized in meeting future civilian requirements. In this interim period of low plant utilization, the Commission has determined that the costs to be charged to the separative work produced for civilian customers will exclude those portions of the costs attributable to depreciation and interest on plant investment which are properly allocable to plant in standby and to excess capacity.

(3) Projections of supply and demand over a reasonable time period will be used in establishing a plan for diffusion plant operations. This plan will be the basis for establishing an average charge for separative work over the period involved, which charge will be kept as stable as possible as operating plans are periodically updated. Under such operating plans, AEC will at times be reproducing enriched uranium. Interest on the separative work costs of any such reproduced inventories will be factored into the average separative work charges.

¹ Brackets indicate deletions.

² Bold type indicates addition to original criteria.