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

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MAY 22 1979

B-194541

The Honorable Edward M. Kennedy  
Chairman, Committee on the Judiciary  
United States Senate

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Dear Mr. Chairman:

This concerns your request for our [comments on S. 400], 96th Congress, a bill to relieve certain privately owned libraries in Pennsylvania from liability for repayment of \$561,066.09 erroneously remitted to them by the Federal Government.

In June, 1972, as a result of Hurricane Agnes, the six privately owned libraries identified in S. 400 suffered varying degrees of damage. Subsequent to the President declaring Pennsylvania a major disaster area, the Federal Disaster Assistance Administration (FDAA) approved applications from a number of local governments in Pennsylvania on behalf of the libraries, pursuant to the Disaster Relief Act of 1970, Pub. L. No. 91-66, 84 Stat. 1744. (That Act has been essentially repealed by the Disaster Relief Act of 1974, 88 Stat. 143, 164, 42 U.S.C. § 5121 et seq. (1976)). A total of \$561,066.09 was provided to the libraries for repairs.

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In the Spring of 1976, while reviewing a request for a time extension for completion of repairs for one of the libraries, the FDAA questioned the eligibility of the libraries to receive assistance as publicly owned facilities. In June 1976, the Office of General Counsel of the Department of Housing and Urban Development (HUD) issued a legal opinion concluding that the funds were improperly provided to the libraries since they were privately owned; assistance awards under the Disaster Relief Act of 1970 were limited to publicly owned institutions. By the time this conclusion was reached, the libraries apparently had expended all or nearly all of the funds received.

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A private relief bill similar to S. 400 (S. 1147, 95th Congress) was reported on favorably by your Committee and was passed by the Senate on September 14, 1978; however, it was never voted on in the House, presumably due to time considerations. In response to a request for its comments on S. 1147, HUD's Office of General Counsel concluded that relief for the libraries was warranted because:

"The libraries, although technically privately owned, served the public without charge. Given the speed with which

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a large volume of disaster assistance applications had to be processed after tropical storm Agnes, and the public nature of these facilities, the mistake that occurred is understandable. To require the libraries to reimburse the Government for these grants at this time would only serve to penalize the beneficiaries of their services--the public. In our opinion, this is a case of limited applicability where, because of the unique circumstances involved, the remedy provided by the bill will not establish an undesirable precedent. . . ." Quoted in S. Rep. No. 95-1183, 95th Cong., 2d Sess. 3 (1978).

As a matter of general policy, this Office does not favor legislation granting private relief of indebtedness to the United States Government. We take this position because the beneficiaries of such legislation are afforded an advantage not enjoyed by others similarly situated who have not had special legislation passed on their behalf. B-188817 (July 11, 1977). Exceptions have been made, however, when the circumstances are extraordinary and unlikely to be replicated, and when equitable considerations strongly favor relief. Id.

The damage resulted from a natural disaster; the funds were applied for and received in response to the damage caused by the disaster and were eventually expended for repairs. We also note that HUD, whose Office of General Counsel concluded that the funds were awarded improperly, found that the unique circumstances warranted private relief. Additionally, the Disaster Relief Act of 1974, supra, which repealed the 1970 Act, contains a section which authorizes assistance for repair, restoration, reconstruction or replacement of private nonprofit educational facilities damaged in disasters. 42 U.S.C. § 5172(b) (1976). According to the sponsor of this bill, these six libraries are the only ones nationwide, to whom such erroneous payments were made. Moreover, the libraries do have public support, even though they are not publicly owned. In view of all the foregoing factors, we would not object to the granting of the relief described.

We would point out two technical matters that the Committee may wish to consider. First, we think S. 400 might include a provision giving any certifying or disbursing officer involved in the approval or expenditure of the monies credit for the amounts for which liability is relieved. A provision of this type is included in H.R. 2064, 96th Cong., a related bill in the House. If such a provision is not included, such certifying and disbursing officers could still be held liable for the amount of the improper payments. Second, we think that private relief should not include any insurance monies that might have been received by the libraries

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for damages for which Government funds were also provided. We do not think the libraries should be twice indemnified for the same damage if, in fact, that did occur.

We hope we have been of assistance..

Sincerely yours,

**E.F.KELLER**

{Deputy}

Comptroller General  
of the United States