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**Comptroller General  
of the United States**

**Washington, D.C. 20548**

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B-279886

April 28, 1998

The Honorable Peter Hoekstra  
Chairman, Subcommittee on Oversight  
and Investigations  
Committee on Education and the Workforce  
House of Representatives

Dear Mr. Chairman:

By letter dated April 22, 1998, you raised a number of issues concerning the availability of federal funds to pay the expenses of supervising a rerun of the 1996 International Brotherhood of Teamsters election. You asked for our response by April 28, 1998. Although we would typically solicit the views of interested departments and agencies in preparing our response, because of the short time frame requested, we did not obtain the views of the Departments of Justice, Treasury, or Labor.

Your questions relate generally to the availability of funds appropriated in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, Pub. L. No. 104-208, Division A, title I, 110 Stat. 3009 (1996) (1997 Justice Appropriations Act), the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, Pub. L. No. 105-119, 111 Stat. 2440 (1997) (1998 Justice Appropriations Act) and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998, Pub. L. No. 105-78, 111 Stat. 1467 (1997) (1998 Labor Appropriations Act), and the permanent, indefinite appropriation commonly referred to as the Judgment Fund, 31 U.S.C. § 1304. For ease of discussion we have grouped our analysis of the issues under one of three headings: the 1997 Justice Appropriations Act, the 1998 Justice and Labor Appropriations Acts, and the Judgment Fund. Your questions and our answers are set out below.

## I. Background

On March 14, 1989, the United States District Court for the Southern District of New York (the District Court) entered a consent order (the Consent Decree) embodying a voluntary settlement of charges brought by the United States pursuant to the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964, against the International Brotherhood of Teamsters (the Union). In the Consent Decree, the Union agreed to a number of "sweeping changes in the [Union's] electoral and disciplinary processes." United States v. International Brotherhood of Teamsters, 86 F.3d 271, 272 (2d Cir. 1996). The purpose of the Consent Decree and the changes it mandated was the elimination of the "hideous influence of organized crime" in the Union's operations. United States v. International Brotherhood of Teamsters, 742 F. Supp. 94, 97 (S.D.N.Y. 1990).

One of the reforms mandated by the Consent Decree was the appointment of an Election Officer to supervise, at Union expense, the 1991 election of Union officers. Consent Decree, para. 12(D). The Consent Decree specified that the Election Officer had the right to distribute election materials to Union members and to supervise the balloting process and certify the election results. *Id.* In October 1989, the District Court concluded that the Election Officer's duty to "supervise" the 1991 election was "expansive and proactive," giving the Election Officer a "broad mandate to intervene in, and coordinate, the [Union's] electoral process up to and including the next general convention." United States v. International Brotherhood of Teamsters, 723 F. Supp. 203, 206 (S.D.N.Y. 1989).

The Union also agreed in the Consent Decree that the United States had the option to have the Election Officer supervise, at the government's expense, the Union's 1996 election.<sup>1</sup> The United States availed itself of this option, covering the cost of the Election Officer's supervision of the 1996 election out of funds appropriated to the Departments of Labor and Justice. See United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (DNE), slip op. at 6-7 (S.D.N.Y. Dec. 18, 1997) (Teamsters (D. Ct.)).<sup>2</sup> The United States and the Union

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<sup>1</sup>"The union defendants consent to the Election Officer, at Government expense, to supervise the 1996 [Union] elections." Consent Decree, para. 12(D).

<sup>2</sup>Justice advised the District Court that from fiscal years 1994 through 1996, the government funded supervision expenses from Justice's annual appropriations for "Salaries and Expenses, United States Attorneys" and from a number of reprogrammings and transfers from the Justice and Labor Department appropriations. As of September 30, 1997, the government had spent approximately \$17.5 million. Teamsters (D. Ct.), at 6-7.

agreed that "the Election Officer in 1996 would function 'as similarly as possible to the 1991 Election Officer.'" Memorandum of Law in Support of Election Officer Application No. XIII For an Order Securing Funding for the Rerun Election, at 2 (quoting Feb. 7, 1995, order approving stipulation between Union and United States), Teamsters (D. Ct.). At the conclusion of the election, the Election Officer uncovered serious violations of the 1996 election rules, refused to certify the election results, and subsequently, in August 1997, ordered a rerun of the election. Id. at 4-5.

In the fall of 1997, the Justice Department negotiated a tentative agreement with the Union to share the rerun election costs. To pay the government's share, Justice identified two funding sources. First, Justice proposed to use the unobligated balance (an estimated \$900,000) of \$1.9 million in no-year funds appropriated in its 1997 Appropriations Act "for supervision of the International Brotherhood of Teamsters national election." 1997 Justice Appropriations Act, 110 Stat. at 3009-3. Second, the conference report accompanying the 1997 Justice Appropriations Act stated that the Attorney General might "provide an additional \$1,900,000 for [Union] election supervision from funds provided to the Department of Justice" subject to satisfying the reprogramming and transfer requirements found in the appropriations act. H.R. Conf. Rep. No. 104-863, at 779 (1996).

In October 1997, Justice proposed to both the House and Senate Appropriations Committees the transfer of \$1.9 million from other Justice appropriations to cover the costs of the rerun. Letter from Assistant Attorney General, Office of Legislative Affairs, Department of Justice, to Chairman, Senate Committee on Appropriations, at 3, Nov. 3, 1997 (DOJ Letter (Nov. 3, 1997)). The Committees objected to the use of federal funds to pay for the election rerun. In deference to the Committees' objections, Justice canceled its plans to transfer funds and opted not to apply its no-year funds to the rerun costs. Teamsters (D. Ct.), at 9, 13-16.

With respect to fiscal year 1998 funds, Congress included in the 1998 Justice and Labor Appropriations Acts a restriction on the use of any funds appropriated in those acts to pay for the Election Officer's supervision of a rerun. The language found in both acts is identical and reads as follows:

"None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters." 1998 Justice Appropriations Act, § 619, 111 Stat. at 2519; 1998 Labor Appropriations Act, § 518, 111 Stat. at 1519.

On December 1, 1997, the Interim Election Officer applied to the District Court for an order securing funding for the 1996 election rerun. The Union argued that despite the prohibitions in the fiscal year 1998 appropriations acts, "the Government must still pay for the rerun election." Teamsters (D. Ct.), at 16. The Union noted that "Congress did not completely bar Government funding of the [Union] election in these appropriations laws." Id. at 11. The District Court concluded that "the Consent Decree does not impose a legal duty on the Government to continue indefinitely to have the 1996 election process supervised at the Government's expense." Id. at 27. It held that "[b]ecause additional costs must now be incurred due to the actions taken by persons affiliated with and acting for the [Union], it is equitable to require that the [Union] bear the additional costs caused by its own conduct." Id. at 28.

The Union appealed the District Court's judgment. On March 30, 1998, the United States Court of Appeals for the Second Circuit reversed. In its opinion, the Court of Appeals (like the District Court before it) accepted the proposition that the rerun is a continuation or part of the 1996 election. Unlike the District Court, the Court of Appeals agreed with the Union's argument that "under the terms of the [Consent] Decree, the government must pay the cost of supervision if it chooses to have the rerun supervised." United States v. International Brotherhood of Teamsters, No. 97-6324, slip op. at 3 (2d Cir. Mar. 30, 1998) (Teamsters (Ct. App.)). The court noted that as part of the Consent Decree, "the government has the right, but not the obligation, to have the 1996 [Union] elections supervised by an Election Officer. If the government chooses to exercise that right . . . the Decree provides that the government must bear the costs of the supervision." Id. at 8.

## II. 1997 Justice Appropriations Act

The fiscal year 1997 Justice Department appropriation for "Salaries and Expenses, United States Attorneys" made \$1.9 million specifically available "for supervision of the International Brotherhood of Teamsters national election." 1997 Justice Appropriations Act, 110 Stat. at 3009-3. It provided that the funds "shall remain available until expended." Id. In November 1997, Justice expected to have an unobligated balance of approximately \$900,000 after paying all remaining costs of the 1996 election. DOJ Letter (Nov. 3, 1997), at 3. You ask whether Justice may apply any unobligated balance of the \$1.9 million to defray costs of supervising the 1996 election rerun. Because the funds remain available until expended, and because the District Court and the Court of Appeals consider the rerun to be a continuation of the Union's 1996 election, Justice may apply any unobligated balance to the cost of supervising the 1996 election rerun.

It is well established that the Congress can impose terms and conditions as to purpose, amount, and time on the use of appropriated funds. See, e.g., Cincinnati Soap Co. v. United States, 301 U.S. 308, 321 (1937). When the Congress expressly provides in an appropriation, as it did here, that the appropriation "shall remain available until expended," it has removed all statutory time limits as to when the funds may be obligated and expended. 43 Comp. Gen. 657, 661 (1964); 40 Comp. Gen. 694, 696 (1961). The appropriation is subject, nevertheless, to purpose limitations. 31 U.S.C. § 1301(a). What this means is that Justice may use the unobligated balance of the appropriation only "for supervision of the International Brotherhood of Teamsters election," the purpose specified in the appropriations act.

At the time Congress earmarked the \$1.9 million, it envisioned its use to cover the 1996 election. E.g., S. Rep. No. 104-353, at 15 (1996) ("to fund supervision of the 1996 [Union] election"). The fact that the Election Officer refused to certify a result for the 1996 election does not preclude the use of any remaining balance of those funds for another election, including an election rerun. Both the Court of Appeals and the District Court accept the proposition that the 1996 election rerun is a continuation of the 1996 election. Teamsters (Ct. App.), at 7 ("It is undisputed that the rerun is a part of the 1996 elections."); Teamsters (D. Ct.), at 21-22 ("[T]his Court agrees with both parties that the rerun of the 1996 election is necessarily part of a continuation of the 1996 [Union] election."). We accept the courts' views. Thus, Justice may apply any unobligated balance of the no-year appropriation to defray the cost of supervising the rerun, if the United States chooses to have the Election Officer supervise it.

In addition to the \$1.9 million of no-year funds specifically made available to Justice in its 1997 Appropriations Act, the Conferees stated that the Attorney General could transfer or reprogram an additional \$1.9 million to pay for the 1996 election from funds provided the Department, subject to the reprogramming requirements of section 605 or the transfer authority of section 107. H.R. Conf. Rep. No. 104-863, at 779. See also S. Rep. No. 104-353, at 15. Accordingly, you ask whether Justice may transfer or reprogram any of this \$1.9 million.<sup>3</sup> In addition, you ask a related question, namely, whether Justice may use any unobligated balances from unexpired funds provided by prior appropriations acts. For the reasons discussed below, we think the answer to both questions is "no."

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<sup>3</sup>As noted in the background section, Justice notified the House and Senate Appropriations Committees of its intent to transfer funds in the fall of 1997, but the Committees objected. We understand that Justice has deferred to the Committees' desire and has not reprogrammed or transferred any funds.

The reprogramming and transfer authorities contained in the 1997 Justice Appropriations Act require Justice to provide the House and Senate Appropriations Committees 15-days notice prior to transferring or reprogramming funds. Section 605(a) provides as follows:

"None of the funds provided under this Act . . . shall be available for obligation or expenditure through a reprogramming of funds which . . . (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted . . . unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds." 1997 Justice Appropriations Act, § 605, 110 Stat. at 3009-64.

Since the \$1.9 million of no-year funds provided in the 1997 Justice Appropriations Act is an earmark (that is, a separate appropriation account), Justice in fiscal year 1997 would have had to rely on transfer, not reprogramming, authority to increase the amount available in that account.<sup>4</sup> In this regard, Congress provided Justice with transfer authority in section 107 which provided as follows:

"Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act . . . may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section." 1997 Justice Appropriations Act, § 107, 110 Stat. at 3009-18 (emphasis added).

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<sup>4</sup>"Transfer" is the shifting of funds from one appropriations account to another. It is prohibited except where expressly permitted by law. 31 U.S.C. § 1532. See also 31 U.S.C. § 1301(a) (purpose limitation). "Reprogramming" is using funds in a lump sum appropriation account for specific purposes other than those originally budgeted or contemplated, but still within the general purposes of the appropriation account. Agencies may reprogram funds without specific statutory authority, subject to any specific statutory controls or non-statutory agreements between the agencies and their congressional oversight committees. See generally GAO, Principles of Federal Appropriations Law, vol. 1, at 2-20 through 2-28 (2d. ed. 1991).

The transfer and reprogramming authorities provided Justice in its 1997 Appropriations Act lapsed at the close of fiscal year 1997. As a general proposition, a provision in an appropriations act is effective only for the covered fiscal year unless Congress indicates otherwise. 65 Comp. Gen. 588, 589 (1986). This is because appropriations acts are by their very nature non-permanent legislation. *Id.* Unless Congress indicates that it intends to make a provision permanent law, the provisions of an annual appropriations act expire at the end of the covered fiscal year. We see nothing in the language or nature of sections 605 or 107 of the 1997 Justice Appropriations Act to suggest that Congress intended that they survive the close of fiscal year 1997. Thus, with the close of fiscal year 1997, Justice's authority to transfer funds from any appropriation made available for fiscal year 1997 in the 1997 Justice Appropriations Act expired. Accordingly, the transfer authority provided in the 1997 Justice Appropriations Act would not support a transfer of funds in fiscal year 1998 to cover the expenses of a 1996 election rerun. This is true whether the funds proposed for transfer were annual funds provided in the 1997 Justice Appropriations Act<sup>5</sup> or unobligated balances from unexpired funds (multiple- or no-year funds) appropriated in prior appropriations acts.<sup>6</sup>

### III. 1998 Justice and Labor Appropriations Acts

The 1998 Justice and Labor Appropriations Acts restrict the use of any funds appropriated in those acts to pay for election supervision. See 1998 Justice Appropriations Act, § 619, 111 Stat. at 2519, and 1998 Labor Appropriations Act, § 518, 111 Stat. at 1519, as quoted above. You ask if these provisions prohibit Justice and Labor from using funds made available by those acts to pay the costs of supervising the 1996 election rerun. We think they do.

The language of the prohibitions refer to overseeing, or supervising, "an election of any officer or trustee" of the Union. We accept the courts' view that the rerun of the 1996 election is a continuation of the 1996 election. Certainly, the rerun of an election has the same attributes as the "election," that is, the offering of a slate of candidates for particular offices to a qualified body of voters for a vote. Further, it is intended to take the place of the original election. However characterized, it is an election of Union officers. The

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<sup>5</sup>For the same reasons, any annual funds provided in the 1997 Justice Appropriations Act expired at the close of fiscal year 1997. As expired funds, they remain available only to support adjustments to valid 1997 obligations. 31 U.S.C. § 1553(a).

<sup>6</sup>We separately discuss Justice's and Labor's 1998 authorities to transfer or reprogram funds in Part III of this opinion.

conferees addressing the prohibition in the 1998 Labor appropriations bill clearly understood the prohibition to apply to a rerun. H.R. Conf. Rep. No. 105-390, at 115-16 (1997). Nor is there anything in the legislative history of the Justice appropriation prohibition to indicate that Members did not intend it to apply to a rerun. Rather, there is ample evidence that the possible use of appropriated funds to pay for supervising the election rerun is precisely what motivated insertion of these prohibitions. E.g., 143 Cong. Rec. S8794 (daily ed., Sept. 4, 1997) (statement of Sen. Nickles) ("The Nickles-Jeffords amendment is this: Taxpayers should not have to pay for the Teamsters' election twice.").

You also ask whether Justice may use the reprogramming and transfer authorities contained in the 1998 Justice Appropriations Act to supplement the no-year appropriation for Union elections with funds made available in the 1998 Justice Appropriations Act.<sup>7</sup> Because of the restriction in section 619 on the use of funds made available in the 1998 Justice Appropriations Act, Justice could not use any funds reprogrammed or transferred pursuant to its 1998 authority for the expenses of a 1996 election rerun.

This is true for multiple- and no-year funds previously made available, as well as funds currently available in the 1998 Justice Appropriations Act. The language of section 107 of the 1998 Appropriations Act, by its very terms, applies only to appropriations "made available for the current fiscal year for the Department of Justice in this Act." Although any multiple- or no-year funds appropriated to the Justice Department in prior years remain available for obligation and expenditure in fiscal year 1998, the 1998 transfer authority would not permit their transfer since they were not "made available for the current fiscal year" in the 1998 Justice Appropriations Act. In other words, Congress has drafted Justice's transfer authority to preclude transfers between different fiscal years.

You also ask if the Secretary of Labor may reprogram or transfer fiscal year 1998 Labor appropriations to make them available for paying the costs of the 1996 election rerun. Labor has transfer authority similar to Justice's:

"Not to exceed 1 percent of any discretionary funds . . . which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of

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<sup>7</sup>With the exception of the substitution of "1998" for "1997" in section 605, the reprogramming and transfer authorities contained in the 1998 Justice Appropriations Act are identical to those found in the 1997 Justice Appropriations Act.



Congress are notified at least fifteen days in advance of any transfer." 1998 Labor Appropriations Act, § 102, 111 Stat. at 1476-77 (emphasis added).

We identified no specific requirements or restrictions in Labor's fiscal year 1998 appropriations act on Labor reprogramming. Nevertheless, to the extent that Labor might otherwise have been able to transfer or reprogram any of its fiscal year 1998 appropriations, the prohibition in section 518 clearly precludes Labor from applying those funds to this purpose.

#### IV. The Judgment Fund

Your letter also asks about the availability of the Judgment Fund, 31 U.S.C. § 1304, as a source of funding for the costs of supervising the 1996 election rerun. Specifically, you ask whether, given the Court of Appeals opinion, the Justice Department may charge the costs of supervising the rerun to the Judgment Fund if the government chooses to have the rerun supervised. Your second question asks whether the Judgment Fund would be available to pay the costs of supervising the rerun if the District Court were to issue an order for the government to pay those costs.

The Judgment Fund is a permanent, indefinite appropriation available to pay most litigative and many administrative awards against the United States. 31 U.S.C. § 1304. Generally, the Judgment Fund is available to pay final awards certified by the Secretary of the Treasury<sup>8</sup> as made under one of the authorities specified in section 1304(a)(3), and the payment of which is "not otherwise provided for" from some other appropriation. 31 U.S.C. § 1304(a).

We have long viewed the Judgment Fund as available only to pay specific monetary damage awards, as distinguished from the costs of complying with injunctive orders. 70 Comp. Gen. 225 (1991); B-259065, Dec. 21, 1995. Compliance with any court order can be translated into a monetary amount in the sense that the costs of compliance with the order can be calculated and quantified. However, the fact that virtually any adverse judgment has a measurable cost to the government does not mean that the cost of compliance with the order is payable from the Judgment Fund. 70 Comp. Gen. at 228; 69 Comp. Gen. 160, 162 (1990). As a general rule, unless the government is

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<sup>8</sup>Effective June 30, 1996, the duty to certify payments to be made from the Judgment Fund was transferred from GAO to the Treasury Department. See Pub. L. No. 104-53, § 211, 109 Stat. 514, 535 (1995); Pub. L. No. 104-316, §§ 202(k)-202(m), 110 Stat. 3826, 3843 (1996).

directly ordered to pay a sum of money to an identified adverse party, the costs of compliance with a court order are not considered payable from the Judgment Fund. Id.

The Justice Department's Office of Legal Counsel (OLC) concurs in this view. 13 Op. Off. Legal Counsel 118, 119 (1989). As OLC has noted, the legislative history of the Judgment Fund statute "manifests an understanding that the Judgment Fund was designed to effect payments of final judgments without the need for the enactment of specific appropriations bills." Id. at 121-22 n.5. See also, e.g., B-236958, Oct. 3, 1989. OLC further observed that "by definition, [the law] only provides for disbursements from the Judgment Fund that are payable, i.e., judgments that, by their terms, require the United States to pay specified sums of money to certain parties." 13 Op. Off. Legal Counsel at 121-22 n.5 (underscoring omitted).

With respect to your first question concerning the Judgment Fund, although the Court of Appeals reversed the District Court's holding that the Union must bear the cost of funding the 1996 election rerun, the Court of Appeals did not order the government to supervise the 1996 election rerun, let alone pay the cost of supervision. Teamsters (Ct. App.), at 3. Given the Court of Appeals opinion, there is no final monetary award pending against the government, and an essential prerequisite to the availability of the Judgment Fund is missing. Accordingly, the Justice Department, if it chooses to have the rerun supervised, cannot charge the costs of supervising the 1996 election rerun to the Judgment Fund.

The answer to your second question concerning the Judgment Fund is more involved. As noted earlier, Congress created the Judgment Fund to avoid the need to enact specific appropriations to pay monetary awards against the government. As also noted earlier, the Judgment Fund was not created to cover the cost of judgments or settlements that are injunctive in nature, that is, that either direct the government to perform, or not to perform, some particular action. 70 Comp. Gen. at 228; 69 Comp. Gen. at 162. The OLC opinion captures the point well—the Judgment Fund is only available to pay judgments that, by their terms, require the payment of "specified sums of money to certain parties." 13 Op. Off. Legal Counsel at 122 n.5. Thus, a court order directing the government to pay the costs of supervising the 1996 election rerun would appear more in the nature of injunctive relief, than a monetary award of damages payable to a party for the government's breach of a duty owed.<sup>9</sup>

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<sup>9</sup>We agree with the United States Attorney for the Southern District of New York that "it is important to understand that the Consent Decree does not  
(continued...)

The costs of supervising the 1996 election rerun, like the 1996 election, are programmatic costs that, but for the restrictions in sections 619 and 518 of the 1998 Justice and Labor Appropriations Acts, would be payable from available Justice and Labor operating accounts. The fact that Congress has chosen to bar the use of funds made available in the 1998 Justice and Labor Appropriations Acts to pay the cost of the Election Officer's supervision of the 1996 election rerun should not be viewed as an open invitation to convert the Judgment Fund from an appropriation to pay damage awards against the United States to a program account to circumvent congressional restrictions on the appropriations that would otherwise be available to cover these expenses. Accordingly, we believe that the Judgment Fund would not be available to pay such an order, even if the court were to award a specific sum equivalent to the actual or anticipated costs of supervising the rerun. B-259065, Dec. 21, 1995, n.4.

We trust that you will find the above discussion useful. Please contact Mr. Tom Armstrong of my staff, at 202-512-5644, should you require additional assistance on this matter.

Sincerely yours,

James F. Hinchman  
Acting Comptroller General  
of the United States

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<sup>9</sup>(...continued)

impose a legal duty on the government to continue to have the election supervised at the government's expense." For this reason, a hypothetical court order directing the government to pay the costs of a 1996 election rerun resting on a contrary construction of the Consent Decree "would raise serious constitutional concerns regarding separation of powers and the appropriations process. See e.g., OPM v. Richmond, 496 U.S. 414 (1990); Evans v. City of Chicago, 10 F.3d 474, 478-79 (7th Cir. 1993)." Government's Response to Election Officer Application No. XIII For an Order Securing Funding for the Rerun Election, at 2 n.1.

April 28, 1998

**DIGEST**

1. In the 1997 Justice Appropriations Act, Congress provided \$1.9 million of no-year funding to the Justice Department to cover the costs of supervising the 1996 International Brotherhood of Teamsters election. The court-appointed Election Officer refused to certify the results of that election after finding serious violations of the governing election rules. Since the funds remain "available until expended" and the election rerun is a continuation of the 1996 election, Justice may use the unobligated balance, if any, from the \$1.9 million appropriation to pay the costs of supervising an election rerun.

2. Since an appropriation act is non-permanent legislation, the transfer and reprogramming provisions of the 1997 Justice Appropriations Act do not authorize Justice to transfer or reprogram funds in fiscal year 1998 (whether annual funds provided in the 1997 Justice Appropriations Act or unobligated balances of unexpired, multiple- or no-year prior appropriations) to cover the expenses of a rerun of the 1996 International Brotherhood of Teamsters election.

3. Specific restrictions contained in the 1998 Justice and Labor Appropriations Acts prohibit those departments from using funds appropriated in those acts to pay the expenses in 1998 of supervising the rerun of the 1996 International Brotherhood of Teamsters election. Consequently, Justice and Labor may not use funds transferred or reprogrammed under general authorities contained in those acts to pay for supervising the election rerun. Neither may Justice or Labor pay the expenses of supervising the election rerun using funds transferred from other multiple-year and no-year funds previously made available to them, because the general transfer authorities provided in their 1998 Appropriations Acts preclude transfers between different fiscal years.

4. The costs of supervising a rerun of a 1996 International Brotherhood of Teamsters election are programmatic costs that, but for specific restrictions in the 1998 Justice and Labor Appropriations Acts, Justice and Labor could pay from available Justice and Labor operating accounts. A court ruling that the terms of a governing consent decree require the government to pay the costs of the election rerun if the government chooses to supervise the election rerun does not amount to an award payable from the Judgment Fund, 31 U.S.C. § 1304. Neither would that fund be available to pay for those costs if the court were to directly order the government to pay those costs (in the manner of injunctive relief), or to pay a specific sum of money equivalent to the actual or anticipated costs of supervising the rerun.