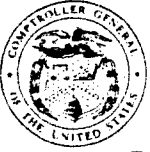


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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-202800

October 29, 1981

The Honorable John D. Dingell
Chairman, Subcommittee on
Oversight and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

This is in response to your request that we examine, in light of applicable laws, allegations that a group of non-Federal employees used the facilities of the Old Executive Office Building to solicit a number of corporations and individuals in the energy industry for contributions to the White House Historical Association to redecorate the White House. You specifically request that we determine whether solicitations were carried out consistent with Federal law and whether persons who used Federal facilities while soliciting funds violated any laws. You also questioned the "closely intertwined" relationship between the National Park Service, Department of the Interior and the White House Historical Association (Association).

We requested information and comments from the White House, the Department of the Interior, and the Association. The response we received from the White House denied that the solicitation of funds took place as described in your letter. We have no basis to challenge this denial. As explained by the Executive Vice President of the Association, its role in this matter was limited to being the recipient of the donations. Laws and regulations which would be relevant if solicitations had been made from the Executive Office Building or by Federal employees are briefly discussed on page 3.

The Association was incorporated in the District of Columbia in 1961. Its charter provides that the National Park Service will be represented by at least two members of the 16 member Board of Directors, one of whom is to be the Executive Secretary.

Responses from the Association and the Department of the Interior indicate that, in addition to its charter, the Association's relationship with the National Park Service is based on an agreement that covers the responsibilities of the Association and the involvement of Park Service staff in the operation of the Association.

Paragraph 2 of the agreement provides that the Association may use White House and other nearby Government facilities for the sale of educational and interpretive items. This paragraph particularly emphasizes that Association employees are not Government employees and that

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care should be taken to avoid the appearance that the Park Service "directs the management or decision-making process of the Association." Paragraph 6 provides that Park Service employees who serve on the Board of Directors of the Association may not participate in any matter between the two organizations.

The Park Service relies on a number of authorities of the Secretary of Interior in entering into this agreement. For example, 16 U.S.C. § 462 (1976) provides:

"The Secretary of the Interior (hereinafter in sections 461 to 467 of this title referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 461 of this title, shall have the following powers and perform the following duties and functions:

* * * * *

"(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeologic building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: * * *"

Also, 16 U.S.C. § 464 provides:

"(a) The Secretary, in administering section 461 to 467 of this title, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

"(b) When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

"(c) Such professional and technical assistance may be employed, and such service may be established as may be required to accomplish the purposes of sections 461 to 467 of this title and for which money may be appropriated by Congress or made available by gifts for such purpose." Aug 21, 1935, c.593, § 4, 49 Stat. 668.

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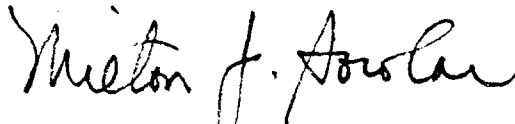
We believe that these authorities are sufficient to support the agreement with the Association.

With respect to fund solicitations for redecorating the White House, if solicitations had taken place from the Executive Office Building, it would be important to determine if they were conducted by "non-Federal" employees or whether the persons soliciting contributions were special employees within the meaning of the standards of conduct applicable to the White House employees. 3 C.F.R. § 100.735-2. To the extent any solicitation could be construed as an exchange of favors, §§ 100.735-8 and -23 as well as 18 U.S.C. § 201 (1976), the Federal bribery statute, might apply to these special employees. If those who did the solicitation are not special employees and an employee permitted them to use Federal facilities for the solicitation, a possible violation of 3 C.F.R. § 100.735-17 would be present. This section prohibits employees from permitting Government property to be used for other than official purposes.

We are reluctant, however, to render any formal opinion on this point due to the lack of facts at our disposal. We are forwarding to you copies of the responses we received from the Association and the National Park Service of the Department of Interior as well as the letter of the Counsel to the President. This information includes: a complete list of donors, a copy of the certificate of incorporation of the Association, as amended, and a copy of the agreement between the Association and the Park Service. If, upon review of the documents enclosed, you have additional questions about the activities in question, we will be happy to answer them.

We are also enclosing for your information portions of laws and regulations that seem particularly pertinent to the general area of concern raised by your letter.

Sincerely yours,



Acting Comptroller General
of the United States

Enclosures