

Comptroller General
of the United States

Washington, D.C. 20548

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B-217578

October 16, 1986

Frederick A. Bush, Esq.
Chief Counsel
Saint Lawrence Seaway Development Corporation
Department of Transportation

Dear Mr. Bush:

This is in response to your letter dated March 18, 1986, requesting further reconsideration of the decisions of this Office, B-193573, December 19, 1979 and B-193573, January 8, 1979.

We have reviewed your March 18 letter very carefully. Nevertheless, it continues to be our position that the Saint Lawrence Seaway Development Corporation does operate with appropriated funds. We cannot agree with your assertion that, because an agency does not receive funds annually appropriated by the Congress from the Treasury, it does not receive appropriated funds. See 35 Comp. Gen. 615, 618 (1956). The Corporation is not being singled out in this regard. This Office has consistently held that the term "appropriated funds" includes not only funds appropriated by the Congress out of the Treasury, but also other funds specifically made available by statute for obligation or expenditure by a Government entity. See 65 Comp. Gen. 25, 27 (1985); 57 Comp. Gen. 311, 313-14 (1978). A statute which authorizes income to the Government to be credited to a particular fund, such as a revolving, special, or trust fund, and which makes that income available for specified purposes, constitutes a continuing appropriation. See 63 Comp. Gen. 285, 287 (1984). Accordingly, any funds made available by such a statute constitute appropriated funds. 50 Comp. Gen. 323, 324 (1970). See also 31 U.S.C. §§ 701(2)(c), 1101(2)(c) (1982). An exception to this general rule occurs only when an agency's funds are specifically deemed by statute to be nonappropriated funds. See, e.g., 12 U.S.C. § 481 (1982) (Funds available to the Comptroller of the Currency); 12 U.S.C. § 244 (1982) (Funds available to the Board of Governors of the Federal Reserve).

As you point out in your letter, the Comptroller General has taken the position that the Corporation is subject only to

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restrictions on its use of appropriations that can be directly implied from its enabling legislation, that are included in appropriation acts applicable to the Corporation, or that are made specifically applicable to Government corporations. See B-193573, December 19, 1979. We do not think that the Corporation is unduly inhibited in its operations because it is subject to the relatively few restrictions on the use of appropriated funds which meet that standard. If you disagree, your remedy is to seek a legislative change in the Corporation's enabling legislation or in other legislation relevant to Government corporations.

We appreciate your concern that some agencies with which the Corporation does business mistakenly conclude that all of the common restrictions on the use of appropriated funds apply to the funds of the Corporation. We have repeatedly restated our position that most restrictions on the use of appropriated funds are not applicable to the funds of the Corporation. See B-210555.11, April 1, 1986. Proper interpretation of decisions of the Comptroller General is, of course, of great importance to this Office. Accordingly, we urge you to refer any agencies which misunderstand our position to us for guidance.

Sincerely yours,

for *Harry R. Van Cleave*
Comptroller General
of the United States

APPROPRIATIONS/FINANCIAL MANAGEMENT
Budget Process
Appropriated funds
Definition

APPROPRIATIONS/FINANCIAL MANAGEMENT
Appropriation Availability
Purpose availability
Appropriation restrictions
Government corporations

WORDS AND PHRASES

"Appropriated funds"