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B-211149

June 22, 1983

The Honorable James A. McClure  
Chairman, Subcommittee on the Department  
of the Interior and Related Agencies  
Committee on Appropriations  
United States Senate

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Dear Mr. Chairman:

In your letter dated March 9, 1983, you requested our opinion on whether the United States Holocaust Memorial Council may use Federal employees and consultants paid with Federal funds to raise money for the holocaust memorial. You also asked whether appropriated funds could be used to hire an investment counselor to manage the donations. You originally requested that we provide you with a preliminary response by April 15. However, when we spoke with Linda Richardson of your staff on April 14, and explained that we were awaiting formal comments on these matters from the Holocaust Memorial Council, she indicated that a preliminary response would be unnecessary and that she would prefer that we not respond until the Council had furnished us with comments. We recently received the Council's comments.

We see no reason to object to the use of appropriated funds to pay consultants and Federal employees who engage in fund raising activities. The Holocaust Memorial Council was established to encourage an annual commemoration of the Holocaust and to "plan, construct, and oversee the operation of, a permanent living memorial museum to the victims of the Holocaust." Section 3 of the Act to establish the United States Holocaust Memorial Council, Pub. L. No. 96-388, 94 Stat. 1547 (1980), provides for payment of Council members, other than full-time officers or employees of the United States or Members of the Congress, at the daily equivalent of a GS-18 salary, while section 5 authorizes the Executive Director of the Council to appoint and pay such additional personnel as he considers appropriate. Section 4 provides that the Council may hire experts and consultants. Section 7 authorizes the Council to "solicit, accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, to aid and facilitate the construction, maintenance, and operation of the memorial." Since the solicitation of donations for construction of the memorial is an authorized agency function, we would not object to the use of Federal funds to pay employees of the Council and consultants hired by the Council who engage in fund raising.\*

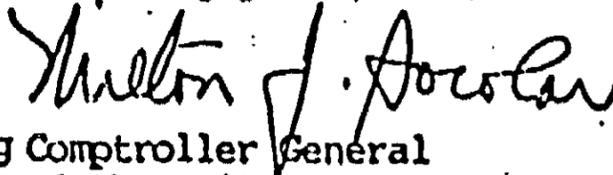
36 USC  
1405

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1407

\* We note that in its comments the Memorial Council stated that it did not intend "to pay fund raisers out of appropriated funds."

We would object, however, to the use of appropriated funds to hire an investment counselor to manage the donations. 31 U.S.C. § 1321 provides that funds received by the United States Government as trustee must be deposited in a trust fund account in the Treasury, from which they are appropriated to be disbursed in compliance with the terms of the trust. Donations for construction of the memorial, which may be accepted by the Council pursuant to the authority of Section 7 of the Act, must accordingly be deposited in the Treasury. We note that the Council has already established a trust fund account in the Treasury into which such donations are to be deposited.-- Since the donated funds may not be invested outside the Treasury, appropriated funds may not be used to provide administrative support for such investment.

Sincerely yours,



Acting Comptroller General  
of the United States