



COMPTROLLER GENERAL OF THE UNITED STATES
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The Honorable

The Secretary of the Interior

My dear Mr. Secretary:

Reference is made to your letter of June 12, 1950, requesting to be advised as to whether certain funds appropriated to the National Park Service may be used to acquire a tract of land adjacent to the Mount Vernon Memorial Highway.

It is explained that the Highway presently is administered and maintained by National Capital Parks, a unit of the National Park Service, and that Federal ownership of the land in question—which in recent years has been used in part as a dump—is essential to forestall its eventual development in a manner which would further detract from the memorial character of the Highway. It is stated that the land in question (known as the Arnold tract) has been involved in condemnation proceedings instituted on October 9, 1943, at the request of the Bureau of Public Roads and is one of four tracts of land selected for acquisition pursuant to a provision contained in the Independent Offices Appropriation Act, 1943, approved June 27, 1942, 56 Stat. 410, permitting the unexpended balance of funds provided for the construction of the Highway by the act of May 27, 1930, 46 Stat. 427, to be used by the Federal Works Administrator for the purpose of acquiring such additional lands as may be necessary to protect and preserve the memorial character of the Highway. It is further stated

that three of the tracts referred to above have been acquired, one by direct purchase and two through condemnation proceedings, with the funds made available by the said act of June 27, 1942.

The further pertinent facts in the matter, and the action proposed to be taken by your Department, are stated in your letter as follows:

"The unobligated balance of the funds appropriated to the Federal Works Administrator by the Independent Offices Appropriation Act, 1943, *supra*, amounts to \$16,963.00. This amount is insufficient to meet the award which appears certain to be rendered in the pending proceeding, since the Arnold land, on the basis of recent appraisals, is valued from \$30,000 to \$35,000. There are available to the National Park Service, however, unobligated land acquisition funds in an amount sufficient to acquire the Arnold Tract for addition to and protection of the Mount Vernon Memorial Highway. These funds were appropriated by the Interior Department Appropriation Act, 1950 (Public Law 350, 81st Congress, p. 32), which appropriated the sum of \$300,000 for the acquisition of privately owned lands or interests therein within the authorized boundaries of established areas under the jurisdiction of the National Park Service * * * ."

"While the Congress has not prescribed a specific perimeter boundary for the Mount Vernon Memorial Highway, an administrative determination has been made, pursuant to the authority cited, which identified certain lands needed for the protection and preservation of the memorial character of the Highway. The Arnold lands have thus been determined to be necessary for the Highway, as were the three parcels which have previously been acquired. As a result of the prior acquisitions made pursuant to law, the Arnold Tract is bounded on three sides by lands forming a part of the Highway, and on the fourth side by waters of the Potomac River. Therefore, it appears that the language of the appropriation item cited would be met as the tract falls within the boundary prescribed administratively for the Highway. Manifestly, the acquisition of the tract would be in the public interest. Its acquisition is essential to preserve and protect the substantial investment of funds made by the United States in constructing the Highway. In the circumstances, it appears that the funds may be used to acquire the Arnold Tract, but the view of your Office is desired inasmuch as the expenditure of funds is involved. Prompt action on the part of the Government in the acquisition of the property is desirable to preclude the necessity for a dismissal of the pending suit for lack of sufficient available funds and the resultant possibility of the sale or development of the property by private interests.

"We are aware of a prior ruling by your Office that there is no authority of law for charging for the payment of land, any other appropriation than that obligated at the time condemnation proceedings were

requested. (17 U. S. 664, 699.) In the circumstances, should you share our views that funds appropriated to the National Park Service for land acquisition may be expended in the acquisition of the so-called Arnold Tract, we propose to recommend to the Attorney General that the petition in condemnation be amended in such a manner that approximately one-half of the tract will be acquired on behalf of the Bureau of Public Roads with the funds available to that Bureau, and the remaining portion of the tract will be acquired either by direct purchase or become the subject of a new proceeding filed at the instance of this Department, to condemn such remainder tract on behalf of the National Park Service with the funds available to that agency. This procedure will have the effect of establishing a new obligation of current funds for the acquisition of that portion of the Arnold Tract to be acquired with National Park Service funds."

Under the facts set forth above, it appears that the Arnold tract properly may be considered to be within the authorized boundary of the Highway so that, if otherwise proper, the funds provided your Department by the Interior Department Appropriation Act of 1950, for the acquisition of land within the authorized boundaries of established areas under the jurisdiction of the National Park Service may be used for its acquisition. In such connection, however, it is noted that the funds provided by the act of June 27, 1942, were specifically made available for the purchase of lands adjacent to the Highway whereas the funds appropriated to your Department by the Appropriation Act of 1950, are available for the purchase, generally, of lands within the authorized boundaries of established areas under the jurisdiction of the National Park Service. Hence, there is for consideration the question—not referred to in your letter—as to whether the rule that the making of a specific appropriation for a particular object excludes the use of a more general appropriation

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which might otherwise appear available for such object (20 Comp. Gen. 272), precludes the use for the purchase of any part of the tract involved of the funds appropriated to your Department.

This latter phase of the matter has been considered carefully and, while not free from doubt, it has been concluded that, in this particular instance, this Office would not be required to object to the use for the purpose desired of funds appropriated to your Department by the Interior Department Appropriation Act of 1950, supra. Such conclusion is based on the fact, first, that, in the act of June 27, 1942, supra, the Congress did not specify or otherwise indicate, that the amount to be paid for the four tracts of land involved should not exceed the sum of \$69,639.23. In other words, the purpose of the said act of June 27, 1942, was merely to make available for the purchase of land adjacent to the highway the unexpended balance of \$69,639.23, which previously had been appropriated for the construction of the Highway proper. See B-10122, May 20, 1940, to the Federal Works Administrator, which decision is referred to in your letter. Secondly, if the condemnation proceedings which were commenced in 1943 had been concluded timely and title to a portion of the Arnold tract obtained by the Government therein, it is felt that, at this time, your Department could properly use the money subsequently appropriated by the Congress in the 1950 appropriation act to acquire the balance of the Arnold tract in separate condemnation proceedings, or by purchase, since the latter money is available

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for the acquisition of lands or interest therein within the authorized boundaries of established areas under the jurisdiction of the National Park Service.

Sincerely yours,

(Signature)

Acting Comptroller General
of the United States