



U.S. Department of Justice
Office of Legal Counsel

DWK:LB

cc: Cooper
Kmiec*
Bentley
Murphy
Files
Reading F.
Ret.

Office of the
Assistant Attorney General

Washington, D.C. 20530

MAR 27 1987

C. Normand Poirier
Acting General Counsel
United States Information Agency
301 4th Street, S.W.
Washington, D.C. 20547

Dear Mr. Poirier:

This letter responds to a USIA request of February 18, 1987, for an opinion on the question whether the Agency for International Development (AID) legally may provide funds for the training of Afghan journalists who are involved in the USIA's Afghan Media Project. Your request stated that AID was unwilling to assist in funding the project unless the Attorney General or the Comptroller General approved such action. Apparently, although AID favors such funding as a matter of policy, the General Counsel of AID was concerned that this funding might run afoul of the so-called "general-specific" rule. This Office has concluded that these concerns are unfounded and that AID is not legally barred from providing funds for the training of journalists involved in the Afghan Media Project.

It is important to note that AID generally has the authority to provide funds for the training and education of journalists in developing countries. Congress appropriated \$155,000,000 to AID in Fiscal Year 1987 for "education, public administration, and human resource development." See 22 U.S.C. 2151c and P.L. 99-591, 100 Stat. 3341-217--3341-218 (1986). AID has used these funds to support other programs designed to train journalists. We understand, for example, that AID has granted approximately \$300,000 each year to the United States Telecommunications Training Institute, a nonprofit corporation, for the training of journalists from the Third World. Therefore, it is not surprising that AID's General Counsel, in his letter to us of March 19, 1987 (enclosed), acknowledged that there was "no question that as a general matter AID authorities permit funding for training of this kind."

Despite this broad grant of authority, AID is concerned that funding programs for the training of Afghan journalists would violate the so-called "specific-general" rule which provides that "if an agency has a specific appropriation for a particular item, and also has a general appropriation broad enough to cover the .

same item, it . . . must use the specific appropriation." Principles of Federal Appropriations Law, U.S. General Accounting Office, 2-31 (1st ed. 1982). Whatever the merits of this rule generally, there is no basis for holding that it bars AID from providing funds for the training of Afghan journalists.

In Fiscal Year 1985, Congress enacted a supplemental appropriations bill providing USIA with \$500,000 "to promote the development of an independent media service by the Afghan people and to provide for the training of Afghans in media and media-related fields." P.L. 99-88, 99 Stat. 309 (1985). AID fears that it may be precluded by this "specific" appropriation from using its more general appropriation to fund the training of Afghan journalists. We find no legal basis for concluding, however, that this supplemental appropriation to USIA bars AID from undertaking this action.¹ This "specific" appropriation to USIA, which was to remain available only until September 30, 1986, expired almost six months ago. It thus cannot serve as a bar to the use of a more general appropriation in Fiscal Year 1987.

Furthermore, there is no "specific" appropriation to USIA in the current fiscal year which would preclude AID from using its general appropriation to fund the training of Afghan journalists. The statute appropriating funds to USIA for Fiscal Year 1987 does not even mention the training of Afghan journalists. See P.L. 99-591, 100 Stat. 3341-71--3341-73. The Report of the Senate Appropriations Committee does state that the "Committee supports continued funding of \$500,000 for an additional year of support for the Afghan Media Project." S. Rep. No. 99-425, 99th Cong., 2d Sess. 83 (1986). This scant legislative history, which does not suggest that the funding is to be limited to \$500,000, does not constitute a "specific" appropriation. Indeed, it is not an appropriation at all. The Afghan Media Project currently is being funded out of USIA's general appropriation, and therefore, presents no occasion for specific-general conflict.

We also should note that by funding the training of journalists involved in the Afghan Media Project, AID would not be augmenting illegally the appropriation of USIA. The Comptroller General has opined that one agency may not use its appropriations to relieve another agency of program costs it is required by statute to bear. For example, the Comptroller General has ruled that employing agencies cannot use their appropriations to pay for the traveling expenses of hearing officers of the Merit Systems Protection Board (MSPB). 61 Comp. Gen. 419 (1982). The Comptroller General asserted that because the MSPB is "required

¹ In the opinion request, USIA asserts that the specific-general rule has been applied "to cases in which one agency sought to augment its own appropriations with those of another agency." We have no occasion to consider whether the specific-general rule is applicable across agency lines because the specific appropriation

by law to provide appeals hearings in cases under its jurisdiction and . . . receives appropriations for this purpose," its appropriations would be augmented illegally if the employing agencies helped bear these costs. Id. at 421. This line of reasoning is inapplicable to the case at hand. The Afghan Media Project is not established by statute; USIA has total discretion in deciding how to administer the program. USIA could choose not to spend any of its appropriation for the type of training projects that AID currently is willing to fund. Therefore, AID would in no sense be relieving USIA of the cost of a statutory responsibility.

In conclusion, we believe that the "specific-general" rule does not pose a bar to AID using its general appropriation to fund the training of Afghan journalists. Please let me know if this Office can be of any further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles J. Cooper", with a large, sweeping loop at the end.

Charles J. Cooper
Assistant Attorney General
Office of Legal Counsel

Enclosure

¹ Cont. to USIA already has expired.