



United States
General Accounting Office
Washington, D.C. 20548

Accounting and Financial
Management Division

B-250044

December 22, 1992



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The Honorable Robert J. Dole
Republican Leader
U.S. Senate

Dear Senator Dole:

Your office requested certain information relating to our recent audit of independent counsels.¹ Specifically, your office requested information on (1) the amount of expenditures by Independent Counsel Lawrence E. Walsh that we found to be inconsistent with laws and regulations and (2) whether Mr. Walsh had requested a waiver of any reimbursements related to those expenditures.

As we stated in our report, we were unable to verify the accuracy and completeness of independent counsel expenditures because of serious internal control weaknesses at offices of independent counsel and the Administrative Office of the U.S. Courts which performs the disbursing and accounting functions for independent counsels.

We found that some expenditures were inconsistent with laws and regulations. Some of the instances we identified may have been attributable to an oversight or ambiguities in the independent counsel law and a lack of comprehensive guidance to help independent counsels understand and follow operational and administrative legal requirements. Other instances were caused by the independent counsels relying on erroneous advice from the Administrative Office of the U.S. Courts.

In our report, we identified overpayments for lodging and meals for Mr. Walsh ranging between approximately \$44,000 and approximately \$78,000 (see page 17 of our report). We also identified overpayments for employees of Mr. Walsh of approximately \$5,000 for lodging and meals (page 17) and approximately \$3,700 for relocation expenses (page 18).

¹Financial Audit: Expenditures by Nine Independent Counsels (GAO/AFMD-93-1, October 9, 1992).

GAO/AFMD-93-46R

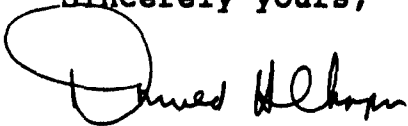
B-250044

In addition, the Administrative Office of the U.S. Courts procured more than \$100,000 of computers with special security features for Mr. Walsh on a sole-source basis without required written justification. We were unable to readily quantify the other instances of noncompliance identified in our report.

Mr. Walsh disagreed with our conclusions regarding some of the overpayments, but indicated that he would voluntarily follow our recommendations. He has requested that reimbursement for the overpayments be waived. Under 5 U.S.C. 5584 and regulations issued by our Office (4 C.F.R. parts 91-92), collection of such overpayments may be waived if it is determined that collection would be against equity and good conscience and not in the best interests of the United States. Generally, the criteria for waiver are met where there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the recipient of the overpayment. In particular, consideration is given to whether the recipient knew or reasonably should have known of the error.

Waiver determinations depend upon the facts of each case. In general the overpayments we identified appear to be attributable not to any fault on the part of the recipients but to an oversight or ambiguities in the law or to erroneous advice provided to independent counsels, and are appropriate for waiver consideration. We will notify you when we have completed our consideration of Mr. Walsh's waiver request.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Donald H. Chapin", with a large, loopy initial "D".

Donald H. Chapin
Assistant Comptroller General