

Comptroller General  
of the United States

Washington, D.C. 20548

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January 30, 1987

RELEASED

The Honorable William D. Ford  
Chairman, Committee on Post  
Office and Civil Service  
House of Representatives

Dear Mr. Chairman:

This responds, in part, to your letter dated May 21, 1986, which asked us to review the issues raised in a letter of the same date from the Honorable Patricia Schroeder, Chairwoman, Subcommittee on Civil Service, and the Honorable Gary L. Ackerman, Chairman, Subcommittee on Human Resources. One of those issues was:

"The legality of detailing Schedule C employees, that is, those employees in positions of a confidential or policy-determining character, to the White House or any agency, other than the one to which the individual was appointed."

As a result of staff discussions, it was agreed that we would provide our opinion on this issue separate from our response to the remainder of the issues raised. We conclude below that there are no specific prohibitions against detailing Schedule C employees to the White House or any agency other than the one to which the individual was appointed. Generally, these details should be made on a reimbursable basis, but there is a statutory exception to this rule with regard to details to certain White House offices. This is also discussed below.

SCHEDULE C EMPLOYEES

By definition, Schedule C employees hold positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. See 5 C.F.R. § 213.3301 (1986). These positions are dependent upon incumbency; once a Schedule C position has become vacant, the agency must request Office of Personnel Management (OPM) approval to

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reestablish the position before the position can be filled. Federal Personnel Manual (FPM), ch. 213, § 3-1b. Generally, prior approval must be requested for changes in such a position's duties, grade, organizational location, or reporting relationships. FPM, ch. 213, § 3-5a.

#### DETAILS

A detail is "the temporary assignment of an employee to a different position for a specified period, with the employee returning to his regular duties at the end of the detail." See Department of Health and Human Services Detail of Office of Community Services Employees, 64 Comp. Gen. 370, 376 (1985) (hereafter cited HHS Detail). A position is not filled by a detail, as the employee continues to be the incumbent of the position from which detailed. FPM, ch. 300, § 8-1.

Generally, details of Schedule C employees are not different from details of other Federal employees. However, Civil Service Rule VI does prohibit the assignment of Schedule C employees to the work of a position in the competitive service without prior approval of OPM. 5 C.F.R. § 6.5 (1986). As noted above, a position at the White House or any agency is not filled by the detail of a Schedule C employee to it; the Schedule C employee continues to be the incumbent of the Schedule C position from which detailed. It follows that the Schedule C position does not become vacant or terminate when its incumbent is detailed to another position.

#### GENERAL APPROPRIATIONS LAW FOR DETAILS

Appropriations must be spent only for the purposes for which appropriated. 31 U.S.C. § 1301(a) (1982). The complement to this requirement is the rule of law prohibiting the unlawful augmentation of agency appropriations. See HHS Detail, at 377. Thus, under principles of appropriations law, Federal employees, including Schedule C employees, may not be detailed away from their agencies to any other agency or the White House on a nonreimbursed basis, except in the limited circumstances where the details involve matters similar or related to matters ordinarily handled by the loaning agencies that will aid the loaning agencies in accomplishing a purpose for which their appropriations are provided. Also, such details are permissible for brief periods when necessary services cannot be obtained, as a practical matter; by other means and the numbers of persons

and cost involved are minimal. See HHS Detail, at 380-381. However, an agency may not spend money on salaries of employees detailed to another agency to perform work essentially unrelated to the loaning agency's functions, and the appropriations of the receiving agency are unlawfully augmented by the amount the loaning agency pays for the salaries of the loaned employees. See HHS Detail, at 379-380.

Special attention is drawn to our HHS Detail conclusions in FPM Letter No. 300-31, August 27, 1985. That letter also concluded that, "All other interagency details must be on a reimbursable basis unless the agency has a specific statutory authority to make nonreimbursable details." Whether particular details must be reimbursed is to be determined on the basis of case-by-case analysis.

STATUTORY AUTHORITY FOR WHITE HOUSE DETAILS

There is, however, a statutory exception to those principles of appropriations law for certain White House details. As we held in HHS Detail, at 380, section 112 of title 3, United States Code (1982), provides statutory authority to detail Federal employees, including Schedule C employees, to five specific White House offices on a nonreimbursed basis under certain circumstances for up to 180 calendar days in a fiscal year. Those offices are: the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration. Any such details extending beyond 180 calendar days must then be converted to reimbursed details for the additional time.

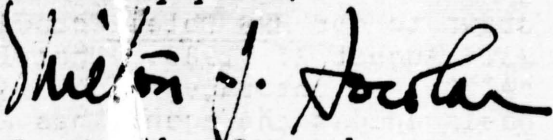
SUMMARY

In summary, there are no specific prohibitions against detailing a Schedule C employee to the White House or any agency other than the one to which the employee was appointed. Under appropriations law, Federal employees, including Schedule C employees, may not be detailed away from their agencies on a nonreimbursed basis except in the limited circumstances where the detail involves matters similar to matters ordinarily handled by the loaning agency or where services cannot be obtained by other means and the numbers of persons and costs involved are minimal. However, there is statutory authority to detail Federal employees, including Schedule C employees, to five specific White House offices on a nonreimbursed basis under certain circumstances.

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For your ease of reference, we have enclosed copies of the materials discussed above. We are providing copies of this letter and its enclosures directly to Chairwoman Schroeder and Chairman Ackerman. In accord with our usual policy, unless you publicly announce its contents earlier, we plan no further distribution of this letter until 30 days from its date.

Sincerely yours,

*for*   
Comptroller General  
of the United States

Enclosures

cc: The Honorable Patricia Schroeder  
Chairwoman, Subcommittee on  
Civil Service  
House of Representatives  
(With enclosures)

The Honorable Gary L. Ackerman  
Chairman, Subcommittee on Human  
Resources  
House of Representatives  
(With enclosures)