

carriers indebted to the Government. In this connection, we understand it is the usual practice for such organizations to share any recovery of undercharges on a 50-50 basis.

A similar situation could result with respect to the records maintained in our Claims Division in that there could arise a rash of "fishing expeditions" into those files by attorneys and others in search for bases for claims against the Government. These files of settled claims contain much information within the exceptions contained in this bill the separation of which before permitting examination would be a costly and time-consuming operation.

However, we are making no recommendation with respect to the exclusion of our transportation and claims records from the bill except to the extent they are within the general exclusions recommended herein or presently contained in the bill, but wish the committee to be aware of the possible results if the legislation is enacted in its present form.

For the reasons stated above, we recommend strongly that our working papers be excluded from the provisions of this bill. To accomplish this, we propose language along the following lines as an additional exception under section 161(c):

Investigatory and/or audit files compiled for the purpose of complying with requests for information by the Congress, its committees, or its Members or for the purpose of reporting to the Congress on investigations or audits made pursuant to law.

The inclusion of an exception of this nature should preclude us from being required to make information available to individuals that would be detrimental to the interests of the Government since, in our opinion, all of the work of the accounting and auditing divisions is, as required by law, basically for the purposes of reporting to the Congress, its committees or its members. We believe that this premise should be brought out in the committee's report on this bill.

In addition to the reasons stated above for the exclusion of information furnished by informants or otherwise submitted in confidence, it is evident that if such information and its sources are divulged to the public, information from such sources would no longer be available to the Government. Accordingly, we recommend that an additional exception be added to subsection (c) to the effect that disclosure is not required as to information submitted in confidence pursuant to statute or published rule or regulation or it be made clear in the legislative history that such information is of a "privileged or confidential nature" as that term is used in subsection (c) (4). It should also be made clear that subsections (c) (3) or (c) (4) include any information the disclosure of which would be a violation of 18 U.S.C. 1905.

We would like to point out that a number of files consisting of accountable officers' accounts containing such items as vouchers, contracts, etc., are in the technical custody of the General Accounting Office but actually in the physical possession of the various agencies. We assume that the responsibility of complying with the proposed legislation with respect to those files would be the responsibility of the agencies having physical possession of such files and that we could so provide in our regulations under subsection (a).

In order to assure that the authority of the General Accounting Office or other Federal agencies to examine agency records is not impaired by the exclusions set out in subsection (c), we suggest that there be included in section 2 of the bill a provision reading that—

Nothing contained in this Act shall be construed as in any way diminishing the authority of any Federal agency to examine the records or files of any other agency subject to the provisions of this Act.

Your letter of February 19 also requested our comments on H.R. 5013 through H.R. 5021 and your letters of February 24, 26, and March 2 and 15, 1965, requested our comments on H.R. 5237, H.R. 5406, H.R. 5520, H.R. 5583, and H.R. 6172. Since the above-mentioned bills are identical with H.R. 5012 considered above, the comments contained herein are likewise applicable to those bills.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.