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*Subject
Hand carried by
3 Feb. 1953
511 D Contracts
3 February 1953*

Acting Chief, Purchase Division
Office of the General Counsel
"Examination of Records" Clause

OGC HAS REVIEWED.

1. Reference is made to your memorandum of 21 January 1953 on the above subject, inquiring whether it is necessary to include an "examination of records" clause in Agency contracts which are not subject to review by the General Accounting Office.

2. The mandatory inclusion of this clause in such contracts would endanger security and seriously impair the authority of the Agency to employ unvouchered funds. It is not believed that the 82nd Congress had any such intention when it passed Public Law 245, requiring the inclusion of such a clause in contracts negotiated under the Armed Service Procurement Act. Consequently, if the contract in question is to be administered under unvouchered funds, in accordance with Agency regulations, this clause need not be included.

3. Some officials of the Office of Procurement and Supply have expressed the opinion that, even where unvouchered funds are used, the contractor should be required to keep his records available for inspection until the expiration of three years, as provided in the "examination of records" clause. This can be accomplished by leaving the standard "examination of records" clause in the General Provisions, but attaching in the Schedule of unvouchered contracts the following paragraph:

"Notwithstanding the provisions of Article _____ hereof, entitled 'Examination of Records', or any other provisions of this contract to the contrary, the Contractor shall not divulge any information in regard to this contract to the Comptroller General or insert an "examination of records" clause in subcontracts hereunder, except upon the written direction of the Contracting Officer or his authorized representative."

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This will have the incidental advantage of requiring no change in the printed General Provisions when the contract is on unvouchered funds.


Assistant General Counsel

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OGC/RGH:ed (30 January 1953)

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