

*Legal
Reviews*

SECRET

4 December 1946

MEMORANDUM TO: Chief, FBI

Subject: PROJ OF NO. 56

OGC Has Reviewed

1. In connection with the financial arrangements proposed for your Project No. 56, we wish to bring the following points to your attention for discussion with the individual concerned and for possible further consideration by the approving authorities. The project proposes that there be no salary paid, and an L&Q of \$3600. In view of the fact that L&Q is defined as a special allowance over and above salary for positions outside the country it is, to say the least, unusual to propose L&Q without establishing a base pay. If, in the future inquiry were made into this arrangement from the income tax point of view, in our opinion, the proposal would be regarded as a subterfuge for camouflaging the reportable compensation as non-reportable allowances. In such case, not only would the individual be liable for tax penalties, but also doubt would be cast upon the proper administration of confidential funds by this unit. If, as suggested above, the L&Q arrangement were regarded as a subterfuge for hiding what was really compensation, the individual might also be faced with the fact that he was receiving dual compensation from the Government in contravention of the provisions of 5 USC 59(a) and 62.

2. There are, in our opinion, two possible ways of overcoming the legal difficulties outlined above. If the circumstances warrant, the ADSSO may authorize representation allowances. It is our understanding that the policy has been to restrict these to situations similar to those for which representation allowances are given in other departments. This usually contemplates someone in the position of a chief of mission, or one otherwise placed in such a position that he must carry on a considerable establishment and considerable entertainment to maintain that position. We feel that a representation allowance should not be authorized unless circumstances somewhat as indicated above would justify it.

3. The alternative would be to make the total amount payable from Project 56 fully accountable operational funds. There is, of course, no legal limit on the amount of

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operational funds that can be authorized for one project so long as the results justify the cost. Consequently, if the project is considered to be worth \$4800 per year, it could be advanced entirely as operational funds and the individual would be briefed on the nature and content of the accounting; he would have to submit for approval in accordance with Special Funds regulations.

LAWRENCE R. HOLLTON
General Counsel

LRH/ml