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B-241725, Feb 19, 1991, Office of General Counsel

Number: B-241725

Date: 1991-02-19

B-241725, Feb 19, 1991, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Appropriation Availability - Amount availability - Imprest funds - Adjustments - GAO authority DIGEST: The Department of Veterans Affairs requests that GAO adjust its accounts under 31 U.S.C. Sec. 3530 for part of a loss resulting from the negligence of a cashier. For part of the loss, Section 3530 authorizes the affected agency to make adjustment without further action by GAO when the criteria for adjustment in that section have been met. For the other part of the loss, the Department may make adjustment under either 31 U.S.C. Sec. 3530 or 31 U.S.C. Sec. 1553, as amended by the National Defense Authorization Act for Fiscal Year 1991, Pub.L. 101-510 (1990), depending on the Department's administrative finding.

Frank D. Derville Deputy Assistant Secretary for Financial Management:

Reference No: 047G4

This is in response to your letter of October 16, 1990, requesting permission from our Office to adjust your accounts under 31 U.S.C. Sec. 3530. As explained below, since you have apparently made the requisite administrative determinations, you may adjust your accounts without further action by GAO.

The record reflects that in February and April of 1989 several shortages, totalling $4,040, were discovered in the accounts of Agent Cashier Michael P. Edwards at the Department of Veterans Affairs (Department) Medical Center in New York, New York. It was determined that $1,540 in losses were due to his negligence. The Department was able to recover $364.03 from Mr. Edwards final paycheck after he resigned on August 10, 1989. All subsequent efforts to collect on the remaining debt of $1,175.97 have proved unsuccessful. An investigation into Mr. Edwards involvement in the remaining $2,500 loss proved inconclusive. According to the Department, he apparently complied with existing procedures, applicable to the transaction that gave rise to the loss that, however, remains unexplained.

Under 31 U.S.C. Sec. 3530 government agencies are authorized to charge current operating appropriations with amounts necessary to restore deficiencies in accounts resulting from the fault or negligence of accountable officers when the head of the agency determines that the loss cannot be recovered from the accountable officer or any other party liable for the loss. See GAO, Policy and Procedures Manual for Guidance of Federal Agencies (GAO - PPM), tit. 7, Sec. 8.14D (1990). Thus with regard to the $1,175.97, the agency may make the adjustment without further involvement by GAO. Id. We stress that under the provisions of 31 U.S.C. Sec. 3530(b) the determination that amounts remain

uncollectible and are subsequently adjusted does not affect the personal financial liability of Mr. Edwards for the loss, should collection action become feasible in the future. B-235405, Mar. 19, 1990.

With respect to the $2,500 loss, it is unclear from the record whether or not your agency believes the loss is attributable to Mr. Edward's fault or negligence. Therefore, depending on your agency's final conclusion, there are two account adjustment alternatives: if your agency determines that relief should be denied or no relief should be sought because of Mr. Edward's fault or negligence, the account may be adjusted pursuant to 31 U.S.C. Sec. 3530 as described in 7 GAO - PPM Sec. 8.14D. If, however, the latter administrative findings cannot be made because Mr. Edwards was without fault, the account may be adjusted pursuant to 31 U.S.C. Sec. 1553(a), as described in 7 GAO - PPM, Sec. 8.14E. /1/

/1/ Procedures for adjusting accounts using withdrawn unobligated balances were formerly contained in 31 U.S.C. Sec. 1552(a). However, the National Defense Authorization Act for Fiscal Year 1991, Public Law 101- 510, amended sections 1551 through 1557 of title 31 to prescribe new rules for closing appropriation fund accounts to both defense and civilian agencies. Under the new procedures, accounts whose obligational authority expired on September 30, 1989-- such as the one in question here-- maintain their fiscal year identity and are available for the next five fiscal years for "recording, adjusting and liquidating obligations properly chargeable to that account." Pub.L. 101-510, Subchapter IV, *** Stat. ***, to be codified at 31 U.S.C. Sec. 1553(a). On September 30, 1995, fiscal year 1989 accounts will be closed, any remaining balance will be cancelled and thereafter the account shall be unavailable for obligation or expenditure for any purposes.