Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Army Corps of Engineers - Disposition of Fees Received from Private Sector Participants in Training Courses

File: B-271894

Date: July 24, 1997

DIGEST

The Army Corps of Engineers provides training on a fee basis to its employees and employees of other federal agencies and state and local governments and credits such fees to the Corps Civil Works Revolving Fund. The Corps also accepts on a reimbursable basis a limited number of private sector employees in such training courses. The Comptroller General has not objected to the provision of training to private sector personnel on a space available basis, even absent statutory authority to do so, provided that the fees received for the training are deposited in the Treasury as miscellaneous receipts. Since there is no statutory authority for the Corps to provide training to private sector employees, the fees must be deposited in miscellaneous receipts. 65 Comp. Gen. 666, 673-675 (1986), distinguished in part.

DECISION

A U.S. Army Corps of Engineers disbursing officer has requested our decision whether the Corps may deposit in its Civil Works Revolving Fund fees received from private individuals to attend Corps-sponsored training courses financed from the Revolving Fund, rather than deposit the fees in the Treasury as miscellaneous receipts. For reasons discussed below, we conclude that the Corps may not retain the fees for deposit into the Revolving Fund.

Background

According to the Corps, it operates a training program primarily for the benefit of Corps employees, which includes courses or subjects unique to the Corps, and it finances this program almost entirely on a reimbursable basis from the Revolving Fund. In addition to Corps employees, employees from other federal agencies and employees of state and local government agencies attend. Occasionally, employees of private entities attend on a space available basis, incidental to the primary training requirements of government employees. Attendees are charged fees at rates calculated to recoup estimated costs of the training.

The Corps deposits training fees it receives from federal, state, and local government attendees into the Fund. However, the Corps is uncertain whether it has authority to deposit the fees received from private sector attendees into the Fund, or whether it must deposit them into the Treasury as miscellaneous receipts.[1]

The disbursing officer notes that under the revolving fund concept, receipts that are properly for credit to the fund are exempt from the requirement that they be deposited into miscellaneous receipts. The Corps's counsel, however, has opined that in this case the fees should be deposited into miscellaneous receipts since the Corps does not have specific statutory authority to provide training to individuals from the private sector and to deposit the fees charged them into the Corps's Revolving Fund. In support of this position, the counsel cites our decision 42 Comp. Gen. 673 (1963), and letter B-241269, February 28, 1991, holding that although an agency may accept a limited number of private individuals into its training courses on a fee basis, after adequate provisions have been made for all government personnel attending, fees received from the private individuals must be deposited in the Treasury as miscellaneous receipts.

Analysis

Absent statutory authority to the contrary, all funds received for use of the United States must be deposited into the Treasury as miscellaneous receipts. 31 U.S.C. § 3302(b).[2] An exception to this requirement is a revolving fund, created by statute, under which receipts may be credited directly to the fund and are available, without further appropriation by Congress, for expenditures to carry out the purposes of the fund. 69 Comp. Gen. 260, 262 (1990). The existence of a revolving fund, however, does not automatically signal that 31 U.S.C. § 3302(b) will never apply. Thus, where the statute establishing the fund does not authorize the crediting of receipts of a particular type back into the fund, those receipts must be deposited in the Treasury as miscellaneous receipts, since to credit them to the fund would constitute an improper augmentation of the fund. See 69 Comp. Gen. 260 (1990): 40 Comp. Gen. 356 (1960): 23 Comp. Gen. 986 (1944): and 20 Comp. Gen. 280 (1940).

---

[1]The disbursing officer is currently holding $1,455 in training fees received from private companies pending our decision.

[2]Section 3302(b) provides in pertinent part that ". . . an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim." This language has long been held to mean deposit into the general fund of the Treasury as miscellaneous receipts. See e.g., 10 Comp. Gen. 382, 383 (1931); and 69 Comp. Gen. 260, 261 (1990).

The fund in this case, the Corps of Engineers Civil Works Revolving Fund, is established by 33 U.S.C. § 576, and provides in pertinent part as follows:

> "There is established a revolving fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions, including acquisition of plant and equipment, maintenance, repair, and purchase, operation, and maintenance of not to exceed four aircraft at any one time, temporary financing of services finally chargeable to appropriations for civil works functions, and the furnishing of facilities and services for military functions of the Department of the Army and other Government agencies and private persons, as authorized by law. . . . The fund shall be credited with reimbursements or advances for the cost of equipment, facilities, and services furnished, at rates which shall include charges for overhead and related expenses, depreciation of plant and equipment, and accrued leave . . ."

The Government Employees Training Act, 5 U.S.C. Chapter 41 authorized the Corps to provide training to its own employees and employees of other federal agencies. Similarly, the Corps is authorized to provide such training to state and local government employees by 42 U.S.C. § 4742. These statutes provide specific authority for reimbursement to the agency providing the training for federal agency and state or local government personnel. 5 U.S.C. § 4104, and 42 U.S.C. § 4742(b), respectively. Thus, providing the training to these employees falls within the statutory language creating the Fund, as "the furnishing of facilities and services for . . . other Government agencies . . . as authorized by law." Therefore, the Fund may be properly credited with the reimbursements received for these employees.

As to the private sector personnel, no statutory provision specifically authorizes the Corps to train them. In our prior decisions on the reimbursement of government agencies for training expenses, we have not objected to an agency's decision to provide training to nongovernmental employees. 42 Comp. Gen. 673; B-241269, February 28, 1991. The fact that we did not object, however, should not be read to imply that we determined that the agencies' furnishing of such training was "authorized by law," as that phrase is used in the statute, 33 U.S.C. § 576, creating the Corps Civil Works Revolving Fund. Rather, in both cases, we merely accommodated the desires of the agencies involved to provide training to private individuals once the agencies had determined that their own training needs had been met. In both cases, in fact, we declined to allow the agencies to categorize the training fees they received as anything other than miscellaneous receipts.

Our decision in 65 Comp. Gen. 666 is not to the contrary. In that case, we necessarily determined that the agency's provision of training was authorized by law. The case involved an agreement between a Job Corps Center and a state education office, pursuant to which state-sponsored students were allowed to participate in a Job Corps training program. We held that the agreements in question were "consistent with the purpose of the Job Corps program, and authority to enter [into] them may be inferred from other provisions covering the program." 65 Comp. Gen. at 673. Because the provision of Job Corps training to the students was thus an authorized activity and because the Job Corps was authorized to credit income and reimbursements generated under the program to its account, the Job Corps could deposit reimbursements for training the state-sponsored student into its account without violating the prohibition against augmenting the agency's funds.

We can find no similar basis for permitting the Army Corps of Engineers to retain private training reimbursements at issue in this case. Although we have no objection to the Corps continuing to provide such training on a space available basis, there is simply no statutory authority which would permit the inference that the training in question is "authorized by law". Absent such an inference, the reimbursement must be deposited in the Treasury as miscellaneous receipts.

Comptroller General
of the United States