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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Effect of Recent Amendments to the District of Columbia Victims of Violent Crime Compensation Act, Public Law Nos. 106-554 and 107-96

File: B-288173

Date: June 13, 2002

DIGEST

1. The District of Columbia Victims of Violent Crime Compensation Act requires that "any unobligated balances existing in the [Crime Victims Compensation] Fund as of the end of each fiscal year" be used in accordance with specified percentages for compensation payments and outreach to victims. The District of Columbia Courts should apply the percentage formulas relating to the use of unobligated balances to the total annual unobligated balance after the end of each fiscal year's activities. To exclude unobligated balances of prior fiscal year allocation from the calculation would not be consistent with the plain language of the Act.

2. The District of Columbia Courts method of calculating "unobligated balance" is consistent with the Compensation Act.

3. The Courts may implement District of Columbia Council changes to the Crime Victims Compensation Program as long as the changes do not alter or exceed the conditions of applicable federal appropriation and authorization acts.

DECISION

The District of Columbia Courts (Courts) request an advance decision interpreting recent congressional amendments to the District of Columbia's Victims of Violent Crime Compensation Act (Compensation Act) and on other implementation issues related to the Compensation Act. Specifically, the Courts ask whether: (1) the statutory percentage formulas relating to the use of unobligated balances in the Crime Victims Compensation Fund should be applied to the Fund's end-of-year accumulated balance or its annual balance of amounts remaining after each fiscal

year's activities;[1] (2) the Courts method of calculating "unobligated balance" is consistent with the Compensation Act; and (3) the Courts may implement changes made in the Crime Victims Compensation Program by the District of Columbia Council (Council) without further congressional action.

As explained below, we conclude that the Compensation Act requires that (1) the percentage formulas relating to the use of unobligated balances should be applied to the total annual unobligated balance after the end of each fiscal year's activities; (2) the Courts method of calculating "unobligated balance" is consistent with the Compensation Act; and (3) the Courts may implement Council changes to the Compensation Act as long as the Council changes do not alter or exceed the conditions of applicable federal appropriation and authorization acts.

BACKGROUND

The District of Columbia enacted the Victims of Violent Crime Compensation Act (Compensation Act) to provide compensation to victims of violent crime in the District. D.C. Code Ann. §§ 4-501 through 4-518 (2001).[2] The Compensation Act established a Crime Victims Compensation Fund (Fund), consisting of appropriated funds, federal grant funds, and costs, fees and other assessments collected by the District entities identified in the statute, and any monies received from other public or private sources for the purpose of the fund. D.C. Code Ann. § 4-515. The Compensation Act, as amended, provides that the Courts may make compensation payments totaling up to $25,000 from the Fund to crime victims for economic loss. Payments can also be made for shelter, burial costs, or medical expenses.

In 1997, the Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act) that provided that all money received by the District of Columbia Courts be deposited in the Treasury of the United States or the Crime Victims Fund. Pub. L. No. 105-33, Title XI, §11243,

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[1] We define the Courts' use of the terms "accumulated balance" and "annual balance" in the analysis section of this opinion.

[2] The original Victims of Violent Crime Compensation Act was enacted in 1981, and was codified in D.C. Code Ann. §§ 3-401 through 3-415 (1994). The program was first administered by the Department of Employment Services and then by the Department of Human Services. The Victims of Violent Crime Compensation Act of 1996 transferred operational responsibility to the Superior Court of the District of Columbia. D.C. Law 11-243, 44 DCR 1142 (April 9, 1997). The 1996 Compensation Act permanently repealed sections 3-401 through 3-415 and created a new system for compensating crime victims, codified at D.C. Code Ann. §§ 4-501 through 4-518 (2001). Unless otherwise noted, all references to codified sections of the Fund are post 1996 codifications.

111 Stat. 251, 753 (1997). Consequently, in fiscal year 1998, the Courts began depositing their fines, fees, and all other funds the Courts received into the Fund. Letter from Anne B. Wicks, Executive Officer, District of Columbia Courts (June 5, 2001). The Courts also made Compensation Act payments and administrative cost payments for administering the Compensation Act in fiscal year 1998.

In September 1999, we issued a report reviewing the Courts financial operations for fiscal year 1998. The report concluded that the $1.8 million in Compensation Act payments and administrative cost payments that the Courts made from the Fund in fiscal year 1998 were made without proper authority. D.C. Courts, Planning and Budgeting Difficulties During Fiscal Year 1998, GAO/AIMD/OGC-99-226, at 18 (September 16, 1999). Our report advised that Section 446 of the District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, 87 Stat. 774 (1973) (Home Rule Act), as amended, states that no officer or employee of the District of Columbia government may obligate or spend an amount unless it is approved by an act of the Congress and then only according to that act. GAO/AIMD/OGC-99-226, at 18. Although the Revitalization Act authorized the Courts to deposit into the Fund the fines, fees, and other money to the Fund, the Revitalization Act made no mention of obligating or expending amounts from the Fund. Id. Furthermore, no other federal law authorized payments from the Fund. Consequently, the Courts did not have the legislative authority to make payments from the Fund. Id. We recommended that the Courts seek legislation authorizing the Courts to use the Fund to pay eligible claims under the Compensation Act. Id. at 25.

In 1999, Congress enacted the District of Columbia Appropriations Act for fiscal year 2000, providing the Courts with the requisite authority our Office had found lacking, and amended the Fund in several other ways. Pub. L. No. 106-113, 113 Stat. 1501 (1999). First, the Appropriations Act amended section 16(a) of the Victims of Violent Crime Compensation Act of 1996 to require that the Fund be maintained as a separate fund in the Treasury of the United States and provided that "all amounts deposited to the credit of the Fund are appropriated without fiscal year limitation" to make payments as authorized under the Compensation Act. Pub. L. No. 106-113, § 160(b), 113 Stat. 1528 (1999), codified at D.C. Code Ann. § 4-515(a). The Appropriations Act also ratified any payments made from or deposits made to the Fund on or after April 9, 1997. Id. § 160(e). Lastly, Congress struck the authority to pay administrative costs from the Fund and added language prohibiting the use of the Fund for "any other purpose." Id. §160(a)(1), (2). Thus, in 1999, the Fund was available only for payments for the compensation of victims.

In the Omnibus Consolidated Appropriations Act, 2001, Congress again amended the Fund's language to provide that:

> Any unobligated balance existing in the Fund in excess of $250,000 as of the end of each fiscal year (beginning with fiscal year 2000) may be used only in accordance with a plan developed by the District of

> Columbia and approved by the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate, and not less than 80 percent of such balance shall be used for direct compensation payments to crime victims through the Fund under this section and in accordance with this Act.

Pub. L. No. 106-554, Appendix D, Div. A., Ch. 4, § 403, 114 Stat. 2763A-188 (2000).

The most recent congressional enactment relating to the Fund occurred in the District of Columbia Appropriations Act for fiscal year 2002, which further amended the Compensation Act to provide that **any** "unobligated balance as of the end of each fiscal year" (the Appropriation Act struck the "in excess of $250,000" language) could be used only in accordance with the plan submitted to Congress. In addition, the Appropriations Act changed the percentage allocation for the unobligated balance as follows:

> Any unobligated balance existing in the Fund as of the end of each fiscal year (beginning with fiscal year 2000) may be used only in accordance with a plan developed by the District of Columbia and approved by the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate, except that under such plan –
>
> > (1) 50 percent of such balance shall be used for direct compensation payments to crime victims through the Fund under this section and in accordance with this Act; and
> >
> > (2) 50 percent of such balance shall be used for outreach activities designed to increase the number of crime victims who apply for such direct compensation payments.

Pub. L. No. 107-96, 115 Stat. 923, 928 (2001). Lastly, the Congress amended the Compensation Act to provide that not more than 5 percent of the total amount of monies in the Fund may be used to pay administrative costs necessary to carry out the Act. Id.

In 2000, after the Congress enacted the amendments to the Compensation Act in the fiscal year 2000 District of Columbia Appropriations Act, the Council enacted legislation of its own amending the Compensation Act. The District of Columbia legislation expanded the definition of a victim, increased compensation for crime victims, provided that compensation paid to a victim should not affect the victim's

eligibility for other public benefits, and permitted the Courts to pay administrative expenses from the Fund. Fiscal Year 2001 Budget Support Act of 2000, D.C. Law 13-172 (2000).[3]

The Courts have three questions related to the effect of these various legislative changes to the Fund. First, the Courts ask whether the statutory percentage formulas relating to the use of unobligated balances in the Fund should be applied to the Fund's accumulated balance or to the annual balance of amounts remaining after each fiscal year's activities (we define these terms in our analysis which follows). Second, the Courts seek guidance on whether their interpretation of "unobligated balance" is acceptable. Lastly, the Courts note that, in 2000, the Council made changes to the Compensation Act after Congress provided the Courts with the requisite authority to make payments out of the Funds. The Courts ask whether they may implement changes made in the Compensation Program without further congressional approval. Our answers to these questions are set out below.

ANALYSIS

1. Statutory Percentage Formula for Use Of Unobligated Balances

The Courts ask whether the statutory percentage formulas relating to the use of unobligated balances in the Fund should be applied to the Fund's accumulated balance or to the annual balance of amounts remaining after each fiscal year's activities. The best way to understand the Courts' first question is by using an illustrative example. Assume there is a $1 million unobligated balance in the Fund at the end of fiscal year one (FY 1). The Compensation Act requires that this $1 million unobligated balance be split evenly and used for two purposes: $500,000 for direct compensation payments to crime victims and the other $500,000 for outreach activities.

At the end of FY 2, assume that no victim compensation payments were made so that the $500,000 unobligated balance for compensation payments at the end of the FY 1 remains unobligated at the end of FY 2. Also assume that all of the prior fiscal year unobligated balance dedicated to outreach was obligated and expended (unobligated balance for outreach reduced to zero). If, in FY 2, another $1,000,000 in unobligated balances were accumulated there would be $500,000 in "old" unobligated balances dedicated, at the end of the prior fiscal year, to compensation payments, and a "new"

[3] District of Columbia Law 172, the "Fiscal Year 2001 Budget Support Act of 2000," was introduced in the Council and assigned bill number 13-179, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 18, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act Number 13-375 and transmitted to both Houses of Congress for its review. District of Columbia Law 172 became effective on October 19, 2000.

FY 2 unobligated balance of $1,000,000. The Courts posit two ways to calculate how much of this $1.5 million is available for each purpose; each calculation has very different results and a significant impact on the funding for each of the purposes described above.

Annual Balance Calculation Method

Under the scenario outlined above, if we add the "old" $500,000 unobligated carryover balance to the $1,000,000 in "new" unobligated balances that were built up in the Fund during FY 2 there would be $1.5 million in total unobligated balances. Under the annual balance calculation method, the Courts would apply the 50-50 split to the total unobligated balance at the end of FY 2 ($1.5 million), making $750,000 available for direct compensation payments to crime victims and $750,000 available for outreach activities.[4] Thus, in this calculation, what was previously otherwise available only for direct compensation payments in the form of unobligated balances ($500,000 from FY 1) loses its character and is subsumed into the end of the FY 2 unobligated balance and split 50-50.

Table 1: Illustration of Annual Balance Calculation Method

Fiscal Year	**Annual Balance Calculation Method**	
	Crime Victims	**Outreach**
End of FY 1 Unobligated Balance	**$500,000**	**$500,000**
Unobligated Balance FY 2	**$500,000**	**0**
$1 million in new FY 2 unobligated balances added	**$1,000,000**	
Old plus New Unobligated Balances	**$1,500,000**	
Application of 50-50 split formula	**$750,000**	**$750,000**

[4] This hypothetical does not include the impact of the administrative expense allowance found in D.C. Code Ann. § 4-515(e)("Not more than 5 percent of the total amount of monies in the Fund may be used to pay administrative costs necessary to carry out this Act.")

"Accumulated" Balance Calculation Method

Again using the same scenario, at the end of FY 1 the $500,000 was available for direct compensation payments to crime victims. Under the accumulated balance method of calculation, this "old" unobligated balance is not added to the $1,000,000 in "new" unobligated balances that were built up during FY 2; instead it is considered to have been dedicated for direct compensation at the end of FY 1 and remains dedicated for that purpose even though none of this $500,000 was used in FY 2. In this scenario we have only $1 million in new unobligated balances, not $1.5 million. If you apply the Compensation Act's 50-50 split to the total "new" unobligated balance at the end of FY 2, there would be $500,000 of "new" unobligated balances available for direct compensation payments to crime victims and $500,000 of "new" unobligated balances available for outreach activities. When added to the "old" unobligated carryover balance, there would be $1,000,000 for direct compensation payments to crime victims ($500,000 "new" plus $500,000 "old" = $1,000,000), as opposed to $750,000 available under the annual balance calculation.

Table 2: Illustration of Accumulated Balance Calculation Method

Fiscal Year	**Accumulated Balance Method**	
	Crime Victims	**Outreach**
End of FY 1 Unobligated Balance	**$500,000**	**$500,000**
Unobligated Balance FY 2	**$500,000**	**0**
$1 million in new FY 2 unobligated balances added	**$1,000,000**	
Application of 50-50 split formula	**$500,000**	**$500,000**
Old plus New Unobligated Balances	**$1,000,000**	**$500,000**

Discussion

To choose between the annual balance approach and the accumulated balance approach, we must ascertain congressional intent. The best way of determining legislative intent is the language of the statute itself. Mallard v. United States District Court, 490 U.S. 296, 300 (1989). As the Supreme Court has explained: "There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes." United States v. American Trucking Associations, Inc., 310 U.S. 534, 543 (1940). This is the so-called

"plain meaning" rule. Mallard v. United States District Court, 490 U.S. at 300; United States v. Ron Pair Enterprises, Inc., 489 U.S. 235, 241 (1989).

The Compensation Act clearly states that "[a]ny unobligated balance existing in the Fund as of the end of each fiscal year." Pub. L. No. 107-96, 115 Stat. 923, 928 (2001) (emphasis added). The Compensation Act also states that 50 percent "of such balance" must be used for compensation payments, and the other 50 percent "of such balance" must be used for outreach. Id. The Compensation Act does not address or distinguish between unobligated balances built up in prior fiscal years and balances built up during subsequent fiscal years for either purpose. Although in the illustration we posed above $500,000 was dedicated at the end of FY 1 for direct compensation payments, that amount, in our illustration was, in fact, never obligated during FY 2, and so remained unobligated at the end of FY 2. The Compensation Act plainly states that as of one point in time, that is, "the end of each fiscal year," any unobligated balance existing is to be equally divided among two authorized purposes: crime victim payments and outreach activities. Thus, under the plain meaning of the statute, the 50-50 split of unobligated balances should be applied using the annual balance calculation, i.e., the total annual unobligated balance after the end of each fiscal year's activities.

2. Courts Method of Calculating Unobligated Balance

The Compensation Act defines the term "unobligated balances" as not including the amount of claims pending at the end of a fiscal year which have been filed but for which awards have not been made, based on an estimated average cost of each award. D.C. Code Ann. § 4-515(d-1)(4). The Compensation Act requires, in other words, that the Courts consider claims pending at the end of the year to be obligated, even though not yet paid, and prescribes that for pending claims the Courts obligate an amount equal to pending claims based on the estimated average cost of each award. The Courts calculate the estimated average cost of each award in a multi-step process and have asked whether their approach is consistent with the Compensation Act.

In the first step of the calculation, at the end of the fiscal year, the Courts divide the total amount paid from the Fund during the fiscal year by the number of paid claims. Then the Courts, based on their data of what has occurred with claims in the current and prior years, estimate the number of pending claims that are not likely to be paid at all (not valid/ineligible claims) and those claims that will result in no cost to the Fund because expenses are paid by another source (no cost eligible/no payment claims). The Courts deduct these latter claims from the total number of pending claims. The Courts multiply the remaining number of pending claims by the average cost per claim calculated initially. By using this multi-step approach, the Courts believe they can more accurately estimate the average cost of each award at the end of the fiscal year, as required by the Compensation Act, and not obligate more than is necessary to meet actual estimated claims.

The Courts' approach is a reasonable application of the Compensation Act, and we do not object to it. The Compensation Act requires the Courts, at the end of the fiscal year, to obligate an amount equal to pending claims based on the average cost of award. The Courts multi-step approach is focused on obtaining the most accurate estimated "average cost of each award." The Courts first obtain the average cost of awards actually paid. Then, in order to arrive at an accurate estimate for pending unpaid claims, the Courts, using historical data, subtract all the claims that are not likely to be paid. Thus, at the end of the year, the Courts obligate funds based on the estimated average cost of awards that are likely to be paid. This method of calculation of "unobligated balances" (made at the end of the fiscal year using historical data to adjust for likely unpaid and no cost claims) is consistent with the Compensation Act.

3. Implementing Council Changes to the Compensation Program

After the Congress amended the Compensation Act in 1999 making monies in the Fund available for obligation and expenditure, Pub. L. 106-113, 113 Stat. 1501 (1999), the Council enacted legislation that, among other things, expanded the definition of a victim, increased compensation for crime victims, permitted the payment of administrative expenses and provided that a victim's receipt of compensation will not affect eligibility for public benefits. Fiscal Year 2001 Budget Support Act, D.C. Law 13-172/13-376 (2000).

The Courts ask whether they may implement these changes in the Compensation Program without further congressional approval. The Courts' uncertainty is due to the GAO report noted in the background section above: D.C. Courts, Planning and Budgeting Difficulties During Fiscal Year 1998, GAO/AIMD/OGC-99-226, at 18 (September 16, 1999). Our report noted that although the Revitalization Act supported the authority of the Courts to deposit the fines, fees, and other money identified in Compensation Act to the Fund, the Revitalization Act did not authorize obligating or expending the amounts deposited into the Fund. Thus, because appropriated funds may only be spent in accordance with an Act of Congress under the Home Rule Act, the Courts did not have the authority to make payments from the Fund.

Our report does not stand for the proposition that the Council cannot enact substantive legislation, but that, as a matter of appropriations law, legislation involving fiscal matters must be approved by an act of the Congress. The necessity for congressional approval of the District of Columbia budget and fiscal matters is longstanding. Congress rejected a proposed delegation of full fiscal authority to the District of Columbia when enacting the Home Rule Act. Cannon v. United States, 645 F.2d 1128 (1981). By that Act, Congress granted District of Columbia citizens the right to elect a Council authorized to enact local legislation, subject to Congress' ultimate authority. Congress retained its budgetary control, however, and prohibited the District of Columbia from obligating or expending revenues without obtaining the prior approval of Congress.

In our opinion, as long as the District's substantive legislation does not conflict with or exceed the fiscal prerogatives of the Congress, then the Courts may implement those changes. In other words, as long as the Council's legislation bears a reasonable relationship to the purposes for which Congress has allowed the Fund to be used and does not otherwise violate the conditions of the applicable appropriations and authorization acts, the Courts may implement the Council legislation.

For example, in 1999, Congress struck the authority to pay administrative costs from the Fund and added language prohibiting the use of the Fund for "any other purpose." Id. Pub. L. No. 106-113, § 160(a)(1), (2), 113 Stat. 1528 (1999), codified at D.C. Code Ann. § 4-515(a). Thus, in 1999, the Fund was available only for payments for the compensation of victims. In 2000, however, the Council amended the Compensation Act to permit the Courts to pay administrative expenses from the Fund. See discussion above; Fiscal Year 2001 Budget Support Act of 2000, D.C. Law 13-172 (2000). We understand that the Courts did not use the Fund to pay any administrative expenses even though the Council had amended the Compensation Act to permit such payments. In our opinion, the Courts acted properly in not implementing the District law because any payments for administrative expenses would have violated the conditions of the applicable appropriation, namely, the prohibition included in section 160 of Public Law No. 106-113.

Of course, current law permits the payment of administrative expenses. The District of Columbia Appropriations Act for fiscal year 2002 amended the Compensation Act to permit use of "no more than 5 percent" of the Fund for administrative costs. Pub. L. No. 107-96, 115 Stat. 923, 928 (2001). However, were the Council to enact legislation authorizing use of up to 15 percent of monies in the Fund for administrative costs, clearly there would be a conflict, as there was when the Council enacted D.C. Law 13-172, with the congressionally imposed budgetary/fiscal cap. However, as long as payments for administrative costs remain below the congressionally imposed limitation, District of Columbia changes to the Compensation Act's allowance for administrative expenses would not violate the condition imposed by Congress.

We reviewed, also, some other changes Council enacted in D.C. Law 13-172, namely, the expanded definition of a victim, increased compensation for crime victims, and providing that a victim's compensation will not affect eligibility for public benefits. We do not find these changes to conflict with or exceed the conditions that Congress enacted for the use of the Fund in either Public Law 106-113 or Public Law 107-96. Consequently, the Courts may implement these changes.

CONCLUSIONS

For the reasons explained above, the Compensation Act requires that (1) the percentage formulas relating to the use of unobligated balances should be applied to the total annual unobligated balance after the end of each fiscal year's activities; (2) the Courts method of calculating "unobligated balance" is consistent with the Compensation Act; and (3) the Courts may implement Council changes to the Compensation Act as long as the Council changes do not alter or exceed the conditions of applicable federal appropriation and authorization acts.

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