

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-186535

DATE: SEP 27 1976

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MATTER OF: Interagency Agreement - Administrative Office of the
U. S. Courts

DIGEST: Interagency agreement entered into in fiscal year 1976 by General Services Administration and Administrative Office of U.S. Courts for design and implementation of automated payroll system under section 111 of Federal Property Act, 40 U.S.C. § 759, rather than Economy Act, 31 U.S.C. § 686, is not subject to 31 U.S.C. § 686-1, which limits duration of appropriation obligations only in Economy Act transactions. Such agreement constitutes valid obligation against fiscal year 1976 Administrative Office appropriation to meet bona fide 1976 need.

This decision is to the Director, Administrative Office of the United States Courts, in response to his questions about the obligation of appropriations pursuant to an interagency agreement between the Administrative Office and the General Services Administration (GSA) under which GSA " * * * is to provide the automated data processing services of designing, programing, and implementing a uniform payroll system * * *" for the judicial branch of the United States Government.

[Requests were made to GSA for development of the system in fiscal year 1975.] For reasons not relevant here [GSA declined at that time to develop the system, and consequently granted authority to the Administrative Office to contract with a commercial source for development of the system.] See 40 U.S.C. § 759, infra. [The Administrative Office requested proposals for development of the automated payroll system, but none were found acceptable. Subsequently, GSA indicated it would be able to develop the system within the Government, utilizing GSA personnel. Consequently, the Administrative Office completed and submitted GSA Form 2068 formally requesting development of the system. While it is unclear from the record precisely when this form was submitted, it appears that this occurred some time during fiscal year 1976. Since adequate cost estimates were not available at the time the form was submitted, the Administrative Office did not at that time obligate the applicable appropriation. Subsequent to submission of GSA Form 2068, discussions were apparently held between the Administrative Office and GSA leading to execution, on April 5, 1976, of an interagency agreement.]

[Appropriations of the Administrative Office were obligated at the time of execution of the April 5 agreement in the amount of \$282,939.]

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which represented the total estimated cost of the project. The agreement further provides that if it appears at any time that total incurred costs will exceed \$282,939, specific written authorization from the Administrative Office is necessary before GSA may proceed further or incur additional costs.

It is anticipated that necessary work for developing the system will be performed in both fiscal year 1976 and fiscal year 1977, and that the system will not be operational until the first pay period in calendar year 1977. The question arises, therefore, whether fiscal year 1976 appropriations of the Administrative Office may be obligated for the full estimated cost, and whether the obligation may be liquidated by disbursements from the fiscal year 1976 appropriation throughout the entire life of the project.

In the absence of other statutory authority, the legal authority for such Federal interagency agreements or orders is section 601 of the Economy Act of 1932, as amended, 31 U.S.C. § 686 (1970). The availability of appropriations for Economy Act transactions was restricted, however, by section 1210 of the General Appropriation Act, 1951, Pub. L. No. 759, 64 Stat. 765 (September 6, 1950), codified in part at 31 U.S.C. § 686-1 (1970), which reads, as codified:

"No funds withdrawn and credited pursuant to section 686 of this title, shall be available for any period beyond that provided by the Act appropriating such funds."

Pursuant to section 1210, where work is performed or rendered by one agency for another for a period covering more than one fiscal year, and payments are to be made in advance or by way of reimbursement, the respective annual appropriations are to be charged pro tanto with the work performed or services rendered in a particular fiscal year. See 31 Comp. Gen. 83, 86-87 (1951). Agreements entered into pursuant to the Economy Act, supra, are to be recorded as obligations pursuant to section 1311(a) of the Supplemental Appropriation Act, 1955, 31 U.S.C. § 200(a) (1970). However, they are required by section 1210 of the General Appropriation Act, 1951, to be deobligated at the end of the fiscal year charged to the extent that the performing or procuring agency has not incurred valid obligations under the agreement. See 34 Comp. Gen. 418, 421-422 (1955).

Nevertheless, the Economy Act, supra, does not constitute the sole authority for interagency agreements. See, in this regard, 52 Comp. Gen. 128 (1972); 51 Comp. Gen. 766 (1972); Federal Election Commission, B-130961, April 21, 1976. Where the agreement is based upon some statutory authority other than the Economy Act, 31 U.S.C. § 686-1 does not apply. In this regard, section 111 of the Federal Property and Administrative Services Act of 1949, ch. 288, 63 Stat. 377 (June 30, 1949), as amended by the so-called Brooks Act, Pub. L. No. 89-306, 79 Stat. 1127 (October 30, 1965), codified at 40 U.S.C. § 759 (1970) reads, in pertinent part, as follows:

"(a) Authority of Administrator to coordinate and provide for purchase, lease and maintenance of equipment by Federal agencies.

"The Administrator [of General Services] is authorized and directed to coordinate and provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment by Federal agencies.

"(b) Procurement, maintenance and repair of equipment; transfer between agencies; joint utilization; establishment and operation of equipment pools and data processing centers; delegation of Administrator's authority.

"(1) Automatic data processing equipment suitable for efficient and effective use by Federal agencies shall be provided by the Administrator through purchase, lease, transfer of equipment from other Federal agencies, or otherwise, and the Administrator is authorized and directed to provide by contract or otherwise for the maintenance and repair of such equipment. In carrying out his responsibilities under this section the Administrator is authorized to transfer automatic data processing equipment between Federal agencies, to provide for joint utilization of such equipment by two or more Federal agencies, and to establish and operate equipment pools and data processing centers for the use of two or more such agencies when necessary for its most efficient and effective utilization.

"(2) The Administrator may delegate to one or more Federal agencies authority to operate automatic data processing equipment pools and automatic data processing centers, and to lease, purchase, or maintain individual automatic data processing systems or specific units of equipment, including such equipment used in automatic data processing pools and automatic data processing centers, when such action is determined by the Administrator to be necessary for the economy and efficiency of operations, or when such action is essential to national defense or national security. * * *

Thus, 40 U.S.C. § 759(a)-(b) clearly provides (GSA with authority independent of the Economy Act, *supra*, to procure ADP equipment for Federal agencies.*) Moreover, subsection (b)(1) provides for the establishment and operation of " * * * equipment pools and data processing centers for the use of two or more * * * agencies when necessary for * * * efficient and effective utilization * * *" of ADP equipment. We understand that (12 such centers have been established by GSA, which offer a full range of data processing services to agencies including programming, systems analysis and design.) See Report, "Further Actions Needed to Centralize Procurement of Automatic Data Processing Equipment to Comply with Objectives of Public Law 89-306" (LCD-74-115), October 1, 1975. GSA's regulations implementing 40 U.S.C. § 759 provide procedures to be followed by agencies which seek to acquire such ADP services. See 41 C.F.R. §§ 101-32.201(c)(2) and 101-32.203.1 (1975). [The Administrative Office apparently followed these procedures in originally seeking development of the system. Moreover, in accordance with the terms and conditions of the interagency agreement, the costs of performance to GSA are to be funded initially by the Automatic Data Processing Fund (ADP Fund) established pursuant to 40 U.S.C. §§ 759(c)-(d) (1970) to carry out the purposes of subsections (a) and (b).

In light of the above,⁸ it appears that GSA has construed 40 U.S.C. § 759 as providing authority for the provision of not only ADP equipment to other agencies but also the necessary ADP services incident thereto. In view of the broad statutory mandate in sections 759(a) and (b) to provide for the economic and efficient utilization of ADP equipment through the establishment of equipment pools and data processing centers, we cannot conclude that this construction is erroneous.

We are of the view, therefore, that section 111 of the Federal Property and Administrative Services Act, as amended, 40 U.S.C. § 759, provides authority independent of the Economy Act for the provision of ADP services

*The term "Federal agency" is defined in 40 U.S.C. § 472(b)(1970), as meaning:

" * * * any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction)."

This definition would thus include the Administrative Office of the United States Courts.

such as are involved here to Federal agencies. Therefore, 31 U.S.C. § 686-1, which applies only to Economy Act transactions, is not controlling in the instant case.

It appears that in the instant transaction, the Administrative Office committed itself for the payment of a definite sum of money, for the delivery and installation of an ADP system to meet a bona fide need arising in fiscal year 1976. Accordingly, we are of the view that the applicable appropriation was properly obligated pursuant to 31 U.S.C. § 200(a) for the full amount stipulated in the agreement on the date of execution thereof (see 39 Comp. Gen. 317 (1959)), and is available for liquidation of the obligation during the entire period of performance. Cf. 51 Comp. Gen. 766 (1972).

Finally, we note that when the Administrative Office submitted Order Form 2068 to GSA no obligation was recorded. The obligation was recorded instead when the interagency agreement between GSA and the Administrative Office was executed on April 5, 1976. It is unnecessary to decide whether the obligation arose, and should have been recorded under 31 U.S.C. § 200, at the time the order was placed or when the agreement was executed since both events occurred in fiscal year 1976.

E. F. KELLER

Deputy Comptroller General
of the United States