

DECISION



19355
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-203554

DATE: September 10, 1981

MATTER OF: Funding the Executive Development Program Under the Civil Service Reform Act

DIGEST: The appropriations made to various bureaus and offices within the Department of the Treasury may be pooled so as to permit implementation of the Legal Division's Executive Development Program, under the Civil Service Reform Act of 1978, on an agencywide basis.

The General Counsel of the Treasury asks whether section 403(a) of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. § 3396 (Supp II, 1978), permits the pooling of appropriations made to the 16 distinct bureaus and offices to which Treasury Department attorneys provide legal services so as to permit the implementation of the Treasury Department Legal Division's Executive Development Program on an agencywide basis. We agree with the General Counsel that the various constituent appropriations may be collectively administered for the benefit of a comprehensive departmentwide Legal Division program.

Section 403(a) of CSRA provides:

"The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office." 5 U.S.C. § 3396(a).

The Office of Personnel Management (OPM) has elected to implement the latter of these statutory alternatives. The implementing regulations (5 C.F.R. Part 412) set forth OPM's criteria for agency executive and management development programs. These criteria include the following, with regard to program management:

"Overall planning and management of the agency executive and management development program(s) shall be provided by a departmental or independent agency executive resources board or a complex of executive boards at agency and subordinate levels. * * *"
5 C.F.R. § 412.107(a) (1980).

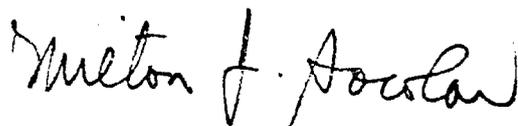
The regulations also provide that "[e]ach program * * * shall include provisions for the funding and staffing needed to support the program."
5 C.F.R. § 412.107(b) (1980).

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The Treasury submission cites a recent decision by our Office as support for the argument that the pooling of appropriations is allowable. In B-195775, October 10, 1979, we were asked whether the CSRA authorized transfers of appropriations so as to permit implementation of the Merit Pay System on an agencywide basis. In reaching a decision, we noted that two statutory provisions would preclude establishment of the proposed OPM implementation plan for the Merit Pay System unless CSRA authorized the transfer of funds from several appropriations to a common fund. The first of these provisions is 31 U.S.C. § 628, which prohibits the expenditure of appropriated funds for objects other than those for which they were appropriated, except as otherwise provided by law. The second is 31 U.S.C. § 628-1, which bars the transfer of funds between appropriation accounts, except as authorized by law. We found that, although neither CSRA itself nor the legislative history of the Act addressed the issue of pooling, a reading of the language of the Act in the light of the apparent purpose of the Merit Pay System indicated that agency level implementation was permissible. We thus concluded that a pooling of funds was otherwise "authorized by law" for purposes of 31 U.S.C. §§ 628 and 628-1.

In the case now before us, we find the language of the statutory provision itself and the legislative history of the Act to be similarly silent. However, we again conclude that agencywide implementation of the program in question is permissible. The purpose of the executive development program is to ensure that the executive management of the Government is of the highest quality. See 5 U.S.C. § 3131. The General Counsel urges that that goal is most effectively pursued in the Legal Division if the program is administered on a departmentwide level since all attorney SES candidates can be provided the same training opportunities, which "substantially insulates the program from bias or favoritism that might occur at a subordinate level." The implementing regulations (5 C.F.R. § 412.107(a)) indicate that OPM is also of the view that executive development programs are best administered at the agency level.

Since it appears to Treasury and OPM that the congressional objective of providing Government agencies with highly competent executive management is best served through the administration of executive development programs on an agencywide level, we conclude that a pooling of Treasury Department appropriations to implement this Legal Division program is "provided" or "authorized" by law within the meaning of 31 U.S.C. §§ 628 or 628-1, and is accordingly permissible.



Acting Comptroller General
of the United States