

**DECISION**



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

**FILE:**

B-216821

**DATE:** November 26, 1985

**MATTER OF:**

Delivery of Vendor Checks

**DIGEST:**

Generally, Treasury Department Financial Centers should deliver vendor checks directly to payees using United States Postal Service first class mail. However, the Centers may deliver vendor checks to involved agencies for forwarding to payees in cases in which the forwarding agencies determine that there is an administrative, litigative, contractual or ceremonial reason for so doing, provided that the interests of the United States are adequately protected. 16 Comp. Gen. 840 (1937) discussed and explained.

The Director of the Washington Financial Center, Bureau of Government Financial Operations, Fiscal Service, Department of the Treasury, has asked for guidance concerning the requirement that "vendor checks"<sup>1/</sup> be delivered directly to payees. Specifically, we are asked whether it would be legally objectionable for Treasury Financial Centers to deliver checks to Government agencies at their request for forwarding to the payees in certain cases.

Based on our review of applicable decisions, we find that, as a general proposition, vendor checks should be mailed directly to payees. However, this has never been an absolute requirement. It is not necessary that Treasury disbursing officials send vendor checks directly to payees in all cases. The Department may deliver vendor checks to involved agencies for forwarding to payees in cases in which the forwarding agencies determine that there is an administrative, litigative, contractual or ceremonial reason for so doing, provided that the interests of the United States are adequately protected as outlined below.

<sup>1/</sup> For purposes of this decision, "vendor checks" are defined as checks written to persons or organizations other than Federal employees.

## **BACKGROUND**

The Treasury Regional Financial Centers issue miscellaneous vendor checks (nearly 15 million in fiscal year 1983) for Federal agencies to pay amounts due corporations, financial organizations, Federal Reserve Banks and state and local governments. The funds come from the "owing" agency's appropriations. The Centers issue the checks based on certified vouchers. The names and addresses of payees are specified on the vouchers or, for bulk payments, on magnetic tapes which accompany the vouchers. Checks are mailed directly to the named payees at the addresses given, using first class United States mail.

The Department's practice of sending checks directly to payees stems from its interpretation of our decision at 16 Comp. Gen. 840 (1937), which it views as requiring that procedure in all cases.

The Director believes, however, that there are cases in which it is more appropriate for Centers to send vendor checks to agencies for forwarding to payees. Agencies often ask the Centers to send checks to them so that they can deliver the checks along with other pertinent documents. Examples are checks issued in connection with litigation and checks for ceremonial presentation. Also, agencies occasionally request that checks be returned to them for special handling or so they can employ special mailing methods to meet a specified need. The Director suggests that in light of current check issuance procedures and the needs of Federal agencies to pay their obligations in a timely manner, agencies should be allowed to decide how the delivery of specific miscellaneous vendor payments should be made when circumstances known to the agency warrant action different from direct mailing by the Centers.

## **DISCUSSION**

As noted, Treasury attributes its practice of sending checks directly to payees to 16 Comp. Gen. 840 (1937). In that decision (16 Comp. Gen. at 842), we stated:

"As a general rule, checks issued in payment of obligations of the United States should be delivered direct to the payees. The reason for this is that in time it may become important to show that the check was delivered to and received by the person entitled to payment, particularly if the endorsement or negotiation of the check should come into question."

The "general rule" established in 16 Comp. Gen. 840 has been reiterated in several later decisions, for example, A-93726, April 3, 1942; A-89775, November 14, 1938. See also A-44019, November 30, 1935.

The situation involved in 16 Comp. Gen. 840 was a proposal by an agency that all checks be routed through the agency as a matter of routine procedure. The agency's concern in that case was keeping a correct record of expenditures. A procedure which could increase the risk of irregularities (the risk increases in direct proportion to the complexity of the payment process) was simply not necessary to achieve the desired objective. In the context of that particular proposal, our answer was correct then and is still correct now. However, that decision was not intended to say, and should not be construed as saying, that direct mail to payees is a rigid requirement from which there can be no deviation.

There is precedent for check delivery through a responsible Government official when warranted by the needs of a particular situation. For example, checks issued in satisfaction of United States district court judgments are mailed in care of United States Attorneys to assure proper release and satisfaction of the judgments. This arrangement was developed jointly by GAO and the Department of Justice shortly after the passage in 1956 of the permanent, indefinite appropriation for the payment of judgments against the United States (now codified at 31 U.S.C. § 1304).<sup>2/</sup> The Government is protected under this procedure because the United States Attorney's Office obtains a signed release from the payee in exchange for the check. Also, although never addressed in a formal decision, we have occasionally authorized the delivery of judgment checks at ceremonial presentations. See also B-214446, October 29, 1984.

Accordingly, unless otherwise required by statute, if an agency has an administrative, litigative, contractual or ceremonial need which is clearly best met by having a vendor check delivered through the agency rather than directly to the payee, the agency may do so provided the procedure it follows adequately protects the Government's interests. This includes compliance with any applicable Treasury Department requirements. Whenever possible, the agency involved should obtain the payee's prior written authority for such indirect deliveries.

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<sup>2/</sup> This agreement was recorded in an internal memorandum B-63622/B-90307-O.M., August 15, 1956.

Having approved "indirect" deliveries in certain cases, we note several considerations of which agencies should be mindful when check deliveries are made through Government officials instead of directly to payees. Any agency employee who has custody of Government funds by reason of his employment is an accountable officer. 59 Comp. Gen. 113 (1979). Thus, officials holding vendor checks for subsequent transfer to payees would be accountable officers with respect to the funds the checks represent. As such they would assume all of the liabilities and responsibilities imposed upon accountable officers, including strict liability for fund replacement in the event of a loss while in the employee's custody.

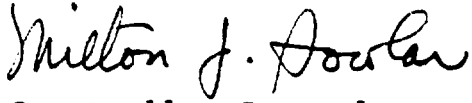
Moreover, cost effectiveness should be taken into consideration. Agencies should be cognizant of the provisions of the Prompt Payment Act, 31 U.S.C. §§ 3901-3909 (1982), when deciding if check delivery through an agency official is appropriate. The Act provides generally that an agency must make an interest penalty payment to a vendor if the agency fails to pay for a delivered property or service by the required payment date. 31 U.S.C. § 3902 (1982). With respect to prompt payment discounts, the Treasury Fiscal Requirements Manual states:

"When a cash discount has been offered for prompt payment, every effort should be made to process the invoice within the discount period, if the discount is cost effective to the Government \* \* \*."

1 TFRM § 4-2025.60. Absent some overriding justification, an "indirect delivery" would generally be inappropriate if it results in an interest payment under 31 U.S.C. § 3902 or in the loss of a discount.

In addition, as we noted in A-89775, November 14, 1938, any payment procedure in which checks are sent to the same individual who incurred the obligation and approved the voucher "might result in the gravest irregularities." See also A-86840, September 2, 1941. Accordingly, this practice should be avoided.

As a final note, this decision relates solely to the method of delivery. Nothing we have said should be construed as authorizing checks to be drawn in favor of anyone other than the person legally entitled to receive payment unless expressly authorized by law.

*for*   
Comptroller General  
of the United States