

B-113214-O.M., January 16, 1953

GENERAL ACCOUNTING OFFICE
WASHINGTON 25

DIVISION OF AUDITS

DEFENSE

The Comptroller General:

Subject: Jury Service - Fees - Disposition

In the audit of the Rocky Mountain Arsenal, Department of the Army, a question has arisen as to the authority, under existing law, of the Arsenal to deposit in its working-capital (industrial) fund the fees for jury service in State and Federal courts remitted to it by its employees.

The industrial fund was established under authority of Title IV, section 405 of the National Security Act of 1947, as amended by Public Law 216, approved August 10, 1949, 63 Stat. 587. Section 405 further authorized the Secretary of Defense to issue regulations to govern the operation of the industrial- and commercial-type activities, but the regulations so far issued do not deal with the question of whether such jury fees may be deposited in the industrial fund. All laws inconsistent with the provisions of Title IV were repealed to the extent of their inconsistency by section 411, 63 Stat. 590.

The Arsenal takes the position that because it has paid the employees' salaries from its industrial fund and included them in the reimbursable cost of work performed for its customers, equity requires that the remitted fees be deposited in the fund and passed on to its customers as a reduction of costs from which no direct benefit was received. It is intended, as a matter of practicality, that the reduction in costs will be made in the period in which the fee is remitted. Consequently there is no assurance that the same customers that received the original charge will get a corresponding or ratable reduction in the period in which the fees are remitted.

We feel that the Arsenal's position as to the disposition of the fees is sound theoretically both from an accounting and business viewpoint, but we cannot visualize its having any significant effect upon billings to industrial fund customers. The act of June 29, 1940, 54 Stat. 689, requires, however, that jury fees received by Federal employees be credited against the compensation payable by the United States to the employees.

The question arises as to whether these jury service fees remitted by an employee who is paid out of an industrial fund legally may be deposited to the credit of the industrial fund, or are to be deposited into "Miscellaneous Receipts" pursuant to the provisions of section 3617, Revised Statutes (31 U.S.C. 484).

(Signed) Irwin S. Decker

Irwin S. Decker
Associate Director of Audits

Indorsement

B-113214-C.M.

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Director of Audits

Returned. Section 405 of the National Security Act, 1947, as added by Public Law 216, approved August 10, 1949, 63 Stat. 587, does not specifically authorize the crediting to the working capital funds established thereunder of fees for jury service in a State court remitted by employees nor is section 405 necessarily inconsistent with the requirements of section 3617, Revised Statutes, in connection with such fees. Also, section 1 of the act of June 29, 1940, 54 Stat. 689, provides that the compensation of any Federal employee who may be called upon for jury service shall not be diminished during the term of such jury service. The cost of any project under the working capital (industrial) fund includes the compensation of an employee assigned to the project even though the employee is on jury duty.

Accordingly, and since there is no assurance that the customer which paid for the original project would receive a reduction in the amount of the jury fees, no legal basis for crediting such fees to the working capital (industrial) fund is perceived.

(Signed) Frank L. Yates

Acting Comptroller General
of the United States

Enclosures