

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

June 18, 1924.

A-2272

The Honorable

The Secretary of the Navy.

Sir:

I have your letter of April 17, 1924, requesting decision of the following matters:

"(a) When the Navy Department performs work for another department of the government, including the Shipping Board, such work being the ordinary repair, construction or manufacturing work involving the use of the Navy's existing permanent organization such as navy yards and their personnel and facilities, is it proper to include in the cost thereof to be reimbursed to the Navy, or to be charged against funds transferred for the purpose of defraying such cost, the time of such of the clerical, drafting, inspection and messenger forces actually engaged in such work who are paid from lump sum appropriations.

"(b) Is the decision rendered in (a) above equally applicable to work performed by the Navy, for private parties under 'special deposits'.

"(c) If (a) and (b) are decided in the affirmative, may the Navy, having in view economy, convenience and the circumstances of employment, determine the minimum time of such employees to be charged to such work."

In explanation of the work, etc., performed for other departments and establishments of the Government, you state:

"The class of work involved is not the loaning or detailing of personnel, nor is it assistance rendered in an emergency for the common good, but it is the case, by far the most frequent and the most important, where one department, in the ordinary course of business, is called upon to undertake, for another department, repair, alteration, manufacture, or new construction work in its regularly established plants. This is the case referred to herein as work for other government departments. Examples of it as performed by the Navy are repairs to vessels of the Lighthouse Service and the Shipping Board, construction of motor boats for the Coast Guard, building snag boats for the Army Engineers, manufacture of parts for the Army Air Service, etc. The Navy has performed similar work for other government departments for years past, and is still doing so to the value of hundreds of thousands of dollars annually. Such work requires the use of an active established plant, such as a navy yard, with its manifold facilities and the varied personnel of its organization. Reimbursement has always been made for such work but the question of the propriety of including in the reimbursable charges the cost of the services of the clerical, drafting, inspection and messenger forces has arisen, as shown in the attached papers.

"The mechanical and laboring forces are employed directly at the navy yards. They are per diem employees paid for lump sum appropriations, and there has never been any question as to the propriety of reimbursement for the time they are engaged on such work. Reimbursement has always been claimed and allowed, and the charges are based on a minimum time charge of one hour in conformity with the Navy's accounting system.

"Unlike the mechanical and laboring forces, the members of the clerical, drafting, inspection and messenger forces are given appointments from the Navy Department in Washington. Congress has for many years restricted the money that might be expended in the employment of clerks, draftsmen, inspectors and messengers, by inserting a limitation clause under each of the major annual naval appropriations, an example of which is that under appropriation 'Construction and Repair' for the

fiscal year 1924: 42 Stat., 1141, and see id., 1140, 1142 and 1147

"Provided, That the sum to be paid out of this appropriation \$15,785,000, under the direction of the Secretary of the Navy, for clerical, drafting, inspection, watchmen (ship keepers), and messenger service in navy yards, naval stations, and offices of superintending Naval constructors for the fiscal year ending June 30, 1924, shall not exceed \$1,600,000."

In order to comply with the restriction the navy Department on its own initiative, adopted the expedient of naming an appropriation in each appointment, so that by keeping records of such appointments there might be no possibility of exceeding the congressional limitations. This expedient has successfully prevented exceeding the limitations but has produced certain disadvantageous conditions among which is the one giving rise to this communication.

"Because all clerks, draftsmen, inspectors and messengers have a specific appropriation named in their appointments, they have, when engaged on naval work, been charged to that appropriation only. When engaged on work for other government departments they have usually been charged to the appropriations named in their appointments, but, as previously stated, this practice has occasionally been departed from, and their time charged to the accounts of the other government departments when engaged on their work, especially for continuous periods of a week or longer. When this has been done, reimbursement for such charges has always been allowed. It would seem that such reimbursement is fully justified, and that no expedient adopted by the Navy Department to prevent charges in excess of the congressional maximum being made against naval appropriations should operate to preclude such reimbursement.

"None of the clerks, draftsmen, inspectors and messengers are statutory employees, they are all paid from lump sum appropriations. Most of them are per diem employees although some may be on a per annum basis. Being like the mechanical and laboring forces in these particulars, it would seem that their time should be charged to other government department work when they are actually engaged upon such work and that the minimum time

charge, shall be such as convenience and circumstances may warrant, having in view the difference in the character of work performed by the clerical, drafting, inspection and messenger forces as compared with that of the mechanical and laboring forces."

The general rule is that services, etc., may be rendered by one branch of the Government only in so far as existing plant and employees may enable it to do so, and that there would be no authority therefor if it involved increasing the plant or the number of employees. The requirements of law are that "All sums appropriated for the various branches of expenditures in the public service shall be applied solely to the objects for which they are respectively made, and for no others". Section 3678, Revised Statutes. The performance of work by one department for another department, etc., without reimbursing the whole additional cost of such work as accurately as it may reasonably be ascertained, would contravene the requirements of law in that it would augment one appropriation at the expense of another. 23 Comp. Dec., 242.

It is understood that it has never been the practice for the Navy Department to charge against work done for other Government departments any part of that indeterminate overhead expense at the Navy Yards which would continue to be incurred even though work was not done for such departments. It is also understood that it is now

intended to charge Government departments and to work done under special deposits only that part of the clerical and drafting expense as can be directly allocated to such work through time distribution reports.

While the expense of a clerical and drafting force may be considered a part of the overhead expense of a yard it is recognized that any material amount of additional work requires increased expense for such service and that in many cases the time that such employees use on particular jobs may be charged directly thereto. It therefore appears entirely proper and in conformity with section 3678, Revised Statutes, above quoted, to require that the amount of such additional expense as can be accurately determined shall be reimbursed by other Government departments or other outside interests to the appropriations which may have been charged with such expenses. See also act June 30, 1914, 38 Stat., 413, relative to charging overhead charges at Navy Yards and Stations against the several appropriations for the support of the Naval establishment in order that the cost of the work may be determined.

The amount to be reimbursed to one appropriation for work performed for the benefit of another is the actual cost thereof. However, such actual cost is not usually susceptible of absolutely accurate ascertainment except at considerable expense; therefore, reasonable minimum time charges, when that procedure is necessary, will not be objected to by this office.

Any minimum time charge schedule adopted should be for accounting convenience only and should not operate so as to produce a profit. If the schedule should produce returns of more than the approximate actual cost, it would be open to objections, being contrary to law.

As to the matter of effecting payment for work done, see General Regulations of this office, No. 21, of March 10, 1923.

Respectfully,



Comptroller General.