

B-131580-O.M.

June 4, 1957

Director, Civil Accounting and Auditing Division

Returned. The acts making appropriations for the Bureau of Public Roads for the fiscal years 1955 to 1957 under "General Provisions" (68 Stat. 428, 69 Stat. 233 and 70 Stat. 321) provide:

"None of the money appropriated for the work of the Bureau of Public Roads during the current fiscal year shall be paid to any State on account of any project on which convict labor shall be employed, but this provision shall not apply to labor performed by convicts on parole or probation."

The funds for repair of roads damaged by Army maneuvers included in the Supplemental Appropriation Acts of 1955 (68 Stat. 819) and 1956 (69 Stat. 453), under the heading "Interservice Activities, Access Roads" are appropriated to the Department of Defense--

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"For advances to the Bureau of Public Roads, Department of Commerce, for the purposes of section 6 of the Defense Highway Act of 1941 (55 Stat. 765), as amended, and section 12 of the Federal-Aid Highway Act of 1950 (64 Stat. 785), as amended, when projects authorized therein are certified as important to the national defense by the Secretary of Defense, § * * * to remain available until expended." (Amounts which differ in the two provisions omitted.)

Section 308 of the Supplemental Appropriation Act, 1957, 70 Stat. 682, provides:

"Funds appropriated to the military departments for construction may be used for advances to the Bureau of Public Roads, Department of Commerce, for the purposes of section 6 of the Defense Highway Act of 1941 (55 Stat. 765), as amended, and section 12 of the Federal-Aid Highway Act of 1950 (64 Stat. 785), as amended, when projects authorized therein are certified as important to the national defense by the Secretary of Defense."

The funds for repair of roads damaged by Army maneuvers are thus appropriated to the Department of Defense. While the 1955 and 1956 appropriations were made in contemplation that the amounts for that purpose would be transferred to the Bureau of Roads and the 1957 appropriation permits such transfers in amounts that may be determined necessary by the Department of Defense, the appropriations were not made "for the work of the Bureau of Public Roads" but for the functions of the Department of Defense. In fact, under the 1957 provision, it appears the Department of Defense is not required to make any transfer to the Bureau.

It is well established that appropriated moneys cannot be made available by transfer to another agency for objects for which the funds would not be available under the appropriation from which the transfer is made. 22 Comp. Gen. 462. The converse of that rule is equally true, that is, appropriated funds available for certain objects do not lose their availability therefor when lawfully transferred to another agency for expenditure. 18 Comp. Gen. 489; 21 id. 254; B-35677, July 27, 1943; B-54171, December 6, 1945. Accordingly, and considering the language inhibiting use of funds for convict labor is contained in appropriations of the Department of Commerce, it is concluded that Department of Defense funds transferred to the Bureau of Public Roads for repair of roads damaged by Army maneuvers continued to be available for that Department of Defense purpose without regard to the inhibition against convict labor as to funds appropriated for the work of the Bureau of Public Roads. The question raised is accordingly answered in the negative.

FRANK H. WEITZEL

Assistant Comptroller General
of the United States

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Attachments