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DECISION

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

Stalgenberg
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NOV 28 1977

FILE: **E-190244**

DATE:

MATTER OF:

**Disposition of Fees Received From Participants in
Government-sponsored Conferences**

DIGEST:

1. Agency may not rely on 40 U.S.C. § 490(k) (Supp. V. 1975), permitting agencies providing space and services to collect and retain fees charged to occupants, as authority for charging non-agency participants in conferences sponsored by agency and held in premises procured and controlled by it, because in such cases, agency rather than conference participants, is "occupant" of space.
2. In absence of statutory authority for crediting fees received from non-Federal participants in Department of Labor-sponsored conferences, fees must be credited to miscellaneous receipts. 31 U.S.C. § 434 (1970).
3. Fees received from participants within Federal Government in Department of Labor-sponsored conferences may be credited to appropriation bearing cost of conference. 31 U.S.C. § 586 (1970).

This is in response to a request for our opinion regarding the proper disposition of fees obtained from participants in Department of Labor-sponsored conferences.

According to the Comptroller for the Department, component organizations of the Department conduct conferences periodically to assist in accomplishing agency program responsibilities. The Department bears the expenses of the conferences out of its appropriated funds. Participants include representatives of the Federal Government, States, State subdivisions, Comprehensive Employment and Training Act prime sponsors, contractors, and members of the general public. Each participant is assessed a fee based upon the estimate given by the vendor providing the conference facilities and services.

The question presented is whether the funds received from participants may be credited to the appropriation or fund initially charged, with any funds in excess of actual operating costs being credited to miscellaneous receipts, or whether all funds received must be credited to miscellaneous receipts.

The Comptroller suggests that 40 U.S.C. § 490(k) would allow Labor to credit the receipts to its appropriations. This section states that:

"Any executive agency, other than the General Services Administration, which provides to anyone space and services set forth in subsection (j) of this section, is authorized to charge the occupant for such space and services at rates approved by the Administrator. Moneys derived by such executive agency from such rates or fees shall be credited to the appropriation of funds initially charged for providing the service, except that amounts which are in excess of actual operating and maintenance costs of providing the service shall be credited to miscellaneous receipts unless otherwise authorized by law."

The conferences apparently are held in facilities procured from a commercial vendor. In our view the invited participants in the conferences are not the "occupants" of the space, within the meaning of section 490(k). According to the Comptroller, the Department sponsors these conferences in furtherance of its own program responsibilities. Accordingly, it is the Department which is the occupant, in the sense that it procures the conference facilities and controls their use, permitting or inviting others to attend. It follows that 40 U.S.C. § 490(k) itself does not constitute authority to charge fees to the conference participants in the situation in question and, accordingly, is not authority to credit fees charged to Department appropriations.

With regard to the proper disposition of fees, any fees charged to those from outside the Federal Government (or to those, if any, within the Government whose fees are not paid by their agencies) who attend the conferences must be deposited in the Treasury as miscellaneous receipts unless the Department has specific independent authority to retain the proceeds. The Comptroller has cited no other independent authority, nor are we aware of any. In the absence of such specific authority, disposition of the fees is governed by 31 U.S.C. § 484 (1970), which provides that:

"The gross amount of all moneys received from whatever source for the use of the United States * * * shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. * * *

See also in this connection the "user charge" statute, 31 U.S.C. § 471a (1970), providing that fees charged by Federal agencies for providing any service to persons outside the Government shall be paid into the Treasury as miscellaneous receipts, unless otherwise provided by law.

With regard to those attending the conferences from other Federal Government agencies which assume the costs of their employees' attendance, the Economy Act, 31 U.S.C. § 626 (1970), which authorizes one Federal agency to provide a service to another and to be paid a fee based on the actual cost of the service, would govern in the absence of more specific statutory authority in the case of a particular agency. The Economy Act permits the agency providing the service to credit payments to the appropriation bearing the expense of providing the service, 31 U.S.C. § 624(b).

Accordingly, letters may retain conference fees paid on behalf of participants by executive departments or independent establishments of the Government but, in the absence of statutory authority for the Department to retain fees collected, receipts from all other persons who attend the conferences must be deposited in the United States Treasury as miscellaneous receipts.

R.F.KELLER

Deputy | Comptroller General
of the United States