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

FILE: B-190290 DATE: NOV 28 1977

MATTER OF: Farmers Home Administration—Liability of accountable officer who delayed transmittal of collections for increased interest charges

DIGEST: Accountable officer who delayed transmittal of funds to Finance Office for deposit is not liable for interest that accrued during delay where no actual loss of funds occurred.

This decision is in response to a letter from the Administrator of the Farmers Home Administration (FmHA), Department of Agriculture, requesting our opinion as to the liability of an accountable officer, Mary Ann Wallace, for additional interest charges payable by FmHA as a result of her unwarranted delay in forwarding collections from borrowers to the proper office.

Ms. Wallace's position as County Office Assistant, Bloomington, Illinois, required her to forward collections, in the form of checks and money orders from FmHA borrowers, to the agency's National Finance Office in St. Louis, Missouri. FmHA Instruction 451.2 VIII D provides:

> "Time Limits for Transmitting Collections. All collections will be transmitted to the Finance Office on the day received, except when (1) cash collections are received too late to be converted in accordance with paragraphs VIII A or B, or (2) collections, other than coin and currency, received under assignments of agricultural income cannot be transmitted on the day received due to the volume of necessary clerical work. Collections received in these situations will be transmitted on the next business day following the day of collection. Whenever practicable, a night depository service will be utilized for cash collections necessarily held over. If impracticable, the collections will be retained in the office under lock until the next business day. * * *"

An investigation report prepared by the Office of Investigation, Department of Agriculture, discloses that between September 22, and December 30, 1976, Ms. Wallace delayed transmitting approximately 180 collections to the National Finance Office, amounting to $620,000.

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In a sworn statement, Ms. Wallace said that she did not transmit the collections on time because she "got behind" in her work. She acknowledges having been aware of the FmHA regulation, quoted above, requiring prompt transmittal. Ms. Wallace stated that she did not tell her supervisor about the delayed transmittals because it was her responsibility to forward them on time, and because it would be too embarrassing to mention her failure to do so.

The delays resulted in an additional cost to FmHA of $3,348.41, since the agency pays daily interest at 6 percent on money borrowed from the U.S. Treasury. Although none of the collections were lost, FmHA asks whether Ms. Wallace is accountable, as if for a fiscal irregularity, for the added interest charges resulting from her delays in forwarding collections.

An accountable officer of the Government is an insurer of the public funds in his custody and is excusable only for loss due to acts of God or the public enemy. United States v. Thomas, 15 Wall 337 (1872). The liability that occurs as a result of this rule has been applied only to physical loss or deficiency of Government funds, vouchers, records, checks, securities or papers. The Comptroller General is authorized to relieve accountable officers of liability for physical losses under the provisions of 31 U.S.C. § 82a-1 (1970). In this case, however, there was no loss or deficiency in Ms. Wallace's account. That is, the funds physically entrusted to her custody were intact. An accountable officer is not accountable as an insurer for interest on funds which should have been deposited but were not, where there was no physical loss or deficiency of funds in his or her account. Accordingly, although Ms. Wallace is an accountable officer, the interest charges that resulted from her poor performance is not the type of loss which is cognizable under the law applicable to accountable officers. Ms. Wallace's failure properly to fulfill her duties may subject her to disciplinary action under Civil Service regulations, but that, of course, is a matter within FmHA discretion.

Also, the United States may have a claim against any employee for losses resulting from his or her negligence. In this case, however, it is doubtful whether any loss occurred. If the FmHA, an agency of the Government, had to pay additional interest to the U.S. Treasury, also an agency of the Government, there appears to be no net loss to the United States (except in the sense that the Treasury, in theory, may have to borrow for a longer period as a consequence of

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the loss deposits). In any event, as stated above, the loss, if there was one, is not cognizable under the doctrines and statutes applicable to physical losses or deficiencies in the accounts of accountable officers.

R.F.KELLER

Deputy Comptroller General
of the United States