

## Memorandum

B-209650-O.M.

July 20, 1983

TO : Director, Defense Budget Task Force - Werner Grosshans

FROM : Acting General Counsel - *Harry R. Van Cleve*  
Harry R. Van CleveSUBJECT: Do not make available to public reading  
Liquidating Current Year Liabilities With Refund  
Credits From Prior Years' Activities--B-209650-O.M.

You have asked for our opinion on whether the Department of the Navy can use credits resulting from overcharges in prior years to pay for current fiscal year operating expenses. We conclude that such use of the credits is not permissible.

According to the facts you have described, the public works department at Oceana Naval Air Station, Virginia Beach, Virginia, overpaid its electric utility bills to the Virginia Electric and Power Company (VEPCO) from the period October 1978 through October 1981. The overpayments total \$422,618.73. Broken down by fiscal year, they consist of \$147,572.34 overpaid in fiscal year 1979; \$131,118.00 in fiscal year 1980; \$143,234.25 in fiscal year 1981; and \$694.14 in fiscal year 1982. Apparently, the Navy Department had a choice of whether to receive a credit to their account or a refund in the form of a check made out by VEPCO to the Treasury. The Navy chose a credit for the total amount, which it began using on December 9, 1981.

As a general rule, collections by Federal agencies from whatever source must be deposited into the Treasury as miscellaneous receipts under 31 U.S.C. § 3302 (formerly § 484). However, collections which represent repayments to appropriations, either reimbursements or refunds, are treated differently. Refunds are defined in GAO Policy and Procedures Manual § 13.2(2), as follows:

"(2) Refunds. Refunds are repayments for excess payments and are to be credited to the appropriation or fund accounts from which the excess payments were made. Unlike reimbursements, refunds must be directly related to previously recorded expenditures and are reductions of such expenditures."

Section 3.3 of the Policy and Procedures Manual states that "[r]epayments are properly for credit to the appropriation accounts originally charged or to the successor

759369/087741

accounts." This means that refunds due to a prior year expenditure may not be credited to current year appropriations. Further, under 31 U.S.C. § 1152(b) (formerly § 701(c)), which sets forth accounting standards for balances in appropriations, collections authorized to be credited to an appropriation but not received until after the transfer of the obligated appropriation balance to a successor account are to be credited to the account into which the obligated balance has been transferred.

If VEPCO's repayment to the Navy was in the form of cash (or a check), it would clearly qualify as a refund and would accordingly be credited, proportionately, to the accounts from which the overpayments were made, or to the successor account. In our opinion, the result is the same even though the repayment is in the form of a credit. The credit satisfies the definition of "refund" quoted above. It is a repayment or refund for excess payments. It is directly related to previously recorded expenditures and represents reductions of those expenditures. Therefore, as a refund, the credit must be returned to the accounts originally overcharged or to the successor account. It may not be credited to the appropriation account current at the time the refund is made or any subsequent year's account.

We reached a similar result in <sup>V</sup>B-139348, May 12, 1959. In that case, the Baltimore Gas and Electric Company was ordered to refund monies collected in a situation not unlike that of VEPCO. One form of refund being considered consisted of a credit against current billings, the same method as VEPCO has used to return the Navy's money. We there observed that "[r]efunds of overpayments of this nature should, strictly speaking, be credited to the appropriation from which the overpayment was made." 1/

We further note that use of the prior years' credit to offset current year operating expenses would constitute an improper augmentation of the Navy's appropriation. By using this credit to pay its current utility bills, the Navy would, in effect, be increasing the amount of funds it had available beyond that appropriated by the Congress.

1/ In that case, however, due to the probability that refunds to individual agencies would not be in large amounts, we decided that it would be impractical to require adjustments between appropriations.

Thus, we conclude that the credits issued to the Navy by VEPCO must be applied toward the appropriation from which the original payment was made. The credit can if necessary be used to offset costs still outstanding for the fiscal year in which the payments were made. We have been informally advised that the Navy is planning to charge the credits to the proper years' appropriation accounts.

...and has received an additional day off. Her situation is not analogous to a holiday because employees are in pay status on holidays.

...submitted to us as a request for

...within a pay period of