

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548****FILE:** B-212487**DATE:** April 17, 1984**MATTER OF:** Reimbursement for Banking Charges and  
Attorney's Fees - Inspector General  
Investigation**DIGEST:**

An employee subject to an Inspector General investigation, caused by a third party, may not be reimbursed charges he incurred for microfilming and research of his banking records after he produced the records at the Inspector General's request. There is no authority for reimbursement of the expenses that were voluntarily incurred, and for which there was no obligation to incur. Moreover, attorney's fees incurred by the employee may not be paid since the agency, having decided to investigate the employee, did not have a common interest with him.

Mr. John Balog, certifying officer with the Department of Agriculture's Marketing Service (AMS), requests an advance decision as to whether an AMS employee may be reimbursed for attorney's fees and fees for reproducing his bank statements. The costs were incurred because of an investigation into allegations about the employee. For the reasons that follow, we hold that the employee may not be reimbursed.

**FACTS**

An individual made an allegation that an AMS employee was receiving gratuities from a private corporation with which the employee had a potential to affect Government business. An Inspector General investigation of the employee's activities was initiated and the investigator asked the employee to furnish all of his personal banking records for 1980, 1981, and 1982. The employee states that the investigator informed him that production of the documents would show that he was cooperating and would save the investigator time by not having to obtain a subpoena. The employee complied and was billed \$342.60 by two financial institutions for various microfilming and research charges.

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The employee states that after the information was gathered he decided to retain a lawyer to answer his questions and review the information. The employee has requested payment of \$275 for attorney's fees.

The certifying officer reports that AMS officials believe that the employee should be reimbursed the above expenses. We have been informally advised that no action was ever taken against the employee incident to the investigation.

#### DECISION

We hold that the employee may not be reimbursed \$342.60 for the microfilming and research required to obtain his bank records. Had the agency requested or subpoenaed the documents directly from the financial institutions, it would not necessarily have incurred these costs. There is nothing in the record to indicate that it was necessary to reproduce the documents. The Government inspectors could have inspected the documents at the worksite. Although the employee's action may have expedited the Government's investigation, there is no authority to pay these expenses which he voluntarily incurred, and which he was under no obligation to incur.

We also hold that AMS may not use its appropriations to pay for the attorney's fees. We have held that, because of the unavailability of Department of Justice representation, an agency may use its appropriations to provide counsel in connection with an administrative hearing of charges of misconduct by an employee in the performance of his official duties where the charges were initiated and pursued by a private party in that administrative forum. B-127945, April 5, 1979. An agency, however, may not reimburse attorney's fees incurred by an employee as a cost of providing legal representation in cases where charges of misconduct, while initially raised by an outside party, are pursued not by the private party but by the agency on the basis of its independent determination to investigate the conduct of its employee. Upon the agency's determination that the matter should be further investigated, the situation is no longer one in which the Government's interest is aligned with the interest of the employee against charges pressed

by a third party. Hence, it is no longer in the Government's interest to provide the employee with legal counsel. 58 Comp. Gen. 613 (1979).

In view of the above, the employee may not be reimbursed the expenses he incurred when he obtained his banking records, nor may he be reimbursed his attorney's fees.

*for* Milton J. Fowler  
Comptroller General  
of the United States