



COMPTROLLER GENERAL OF THE UNITED STATES
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The Honorable

The Secretary of Commerce

My dear Mr. Secretary:

Reference is made to letter dated October 15, 1952, from the Acting Secretary of Commerce, requesting a decision on the following questions:

"(1) May the cost of the proposed work on the SS PRESIDENT CLEVELAND and the SS PRESIDENT WILSON be charged to the Vessel Operations Revolving Fund or any other appropriation?"

"(2) If your answer to the first question is in the negative, will there be any objection to the further amendment of the charter as outlined above, and

"(3) May charter hire from these ships under the circumstances of their present partial use in support of the United States defense effort and installations in the Pacific area be credited to the Vessel Operations Revolving Fund?"

The S. S. President Cleveland and S. S. President Wilson are now under bareboat charter to American President Lines, Ltd., under contract No. MA-483, effective July 2, 1952, and Addendum No. 1 thereto, effective September 5, 1952, for operation in combination passenger-freight service "E" on trade route No. 29, which has been determined to be an essential foreign trade route as provided by section 211 of the Merchant Marine Act, 1936, 49 Stat. 1989. It is stated in the Acting Secretary's letter that these vessels, presently being used in support of the national defense program, urgently require the correction of a

E-112395

serious corrosive condition which has arisen where aluminum is joined to the hull steel on the exterior of the superstructure and that such condition, which is due to chemical reactions caused by the contact of dissimilar metals in the presence of salt water, will become progressively worse unless alterations are now made in the structure of the vessels. Also, this repair work is stated not to be an obligation of the charterer and that, if not performed until the expiration of the present charter, would cost the Government a considerably greater amount. The Maritime Administration has already agreed, by Addendum No. 1 to the present charter agreement, to make such repairs at this time contemplating the use of the Vessel Operations Revolving Fund.

The Vessel Operations Revolving Fund was established by the Third Supplemental Appropriation Act, 1951, Public Law 45, approved June 2, 1951, 65 Stat. 59, which provides, in pertinent part, as follows:

"For working capital for the 'Vessel Operations Revolving Fund,' which is hereby created for the purpose of carrying out vessel operating functions of the Secretary of Commerce, including charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under the jurisdiction of the Secretary of Commerce, \$20,000,000, to remain available until expended.

"Notwithstanding any other provision of law, rates for shipping services rendered under said Fund shall be prescribed by the Secretary of Commerce and the Fund shall be credited with all receipts from vessel operating activities conducted thereunder: * * * * (Underscoring supplied.)

It is clear that the Fund was created for the specific purpose of carrying out vessel operating functions of the Secretary of Commerce

B-112395

including charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under his jurisdiction and that all receipts from vessel operating activities conducted under the Fund are to be credited thereto. The doubt in the matter is due to the Office decision of October 22, 1951, B-105693, to you, wherein it is stated that receipts from charters properly may be credited to the Fund only if the chartered vessel is being operated in an activity conducted under the program for the financing of which the Fund was established, as distinguished from a charter not connected with such activities such as the charter of the so-called "Good Neighbor Fleet" operating to South America. As indicated in that decision, the need for the reestablishment of the vessel operations function substantially similar to that carried on by the War Shipping Administration during World War II was the increased demand for the shipment of supplies, materials and other items resulting from the national defense and other programs. The proposed program under the Fund involved primarily the operation of additional vessels for the Government by established private operators acting as general agents of the Administration. Since the S. S. President Cleveland and the S. S. President Wilson, like the "Good Neighbor Fleet," are being operated under bareboat charter primarily for normal peacetime purposes, as distinguished from the purposes for which the Vessel Operations Revolving Fund was established, and were so operated prior to its establishment, it seems clear that they are not performing vessel operating activities under the Fund so as to authorize crediting the charter hire therefrom to the Fund.

It is understood that the Maritime Administration contemplated making no repairs to vessels not operated under the Fund, and consequently, no appropriation for this purpose was requested. This shortsightedness on the part of the Administration has caused the present dilemma. The Vessel Operations Revolving Fund was created "for the purpose of carrying out vessel operating functions of the Secretary of Commerce including * * * repair, reconditioning, and betterment of merchant vessels under the jurisdiction of the Secretary of Commerce." It is believed that this provision of law relates to vessel operating functions for which the Fund was created and generally it will be so considered. However, the language is broad and since to delay making the repairs would cost the Government a considerably greater amount the General Accounting Office will not object to charging the cost of the repairs, under the particular circumstances of this case, to the Fund.

Accordingly, in reply to question (1), the Vessel Operations Revolving Fund may be charged with the cost of the proposed work. Question (1) being answered in the affirmative, no answer to question (2) is required, and question (3) is answered in the negative.

Sincerely yours,

Lindsay C. Warren

Comptroller General
of the United States