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Mrs. Kalc
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DECISION



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

FILE: B-160998

DATE: April 13, 1978

**MATTER OF: Federal Fire Prevention and Control Act
of 1974**

DIGEST: Section 11 of the Federal Fire Prevention and Control Act of 1974 may be construed as constituting permanent indefinite appropriation authority for Secretary of the Treasury to pay certified claims by local fire fighting districts or departments for services performed on Federal property. However, amounts paid from section 11 appropriation are subject to reimbursement, by the Federal agencies under whose jurisdiction the fire occurred, from appropriations available or which may be made available for the purpose.

An Assistant Director in the Fiscal Service, Bureau of Government Financial Operations, Department of the Treasury, asked whether section 11 of the Federal Fire Prevention and Control Act of 1974 (Act), Pub. L. No. 93-498, October 29, 1974, 88 Stat. 1535, 15 U.S.C. §§ 2201 et seq. (1976), should be construed as establishing permanent indefinite authority for drawing moneys from the Treasury.

Section 11, 15 U.S.C. § 2210, provides that a local fire protection district or fire department may be reimbursed for the direct losses and direct costs it incurs in fighting fires on Federal property. Pursuant to the Act, the Secretary of the Treasury is responsible for paying claims submitted by local fire departments or districts in amounts not to exceed the sum determined to be due by the Administrator of the National Fire Prevention and Control Administration in the Department of Commerce. Section 11 provides that, once the Administrator determines the amount which a fire department is entitled to have reimbursed,

"(c) The Secretary [of Commerce] shall forward the claim and a copy of the Administrator's determination under subsection (b) (3) of this

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section to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination pay such fire service or its parent jurisdiction, from any moneys in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred, a sum no greater than the amount determined with respect to the claim under subsection (b)(3) of this section."

Section 17 of the Act, 15 U.S.C. § 2216, which authorizes appropriations necessary to carry out the provisions of the Act, originally provided as follows:

"There are authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, such sums as are necessary not to exceed \$10 million for the fiscal year ending June 30, 1975, and not to exceed \$15 million for the fiscal year ending June 30, 1976."

(This provision has since been amended to update the amounts of the annual authorizations but remains substantially unchanged otherwise.) The question is whether the Act provides for a permanent indefinite appropriation of moneys necessary to implement section 11 or whether the Treasury Department will need to seek annual appropriations to implement this provision.

Section 17 authorizes annual appropriations to carry out the provisions of the Act, except for section 11. While there is no explicit legislative history which explains the omission of the section 11 claim program from annual appropriation support, it is reasonable to assume that since funds would be available under section 11 on a continuing basis, its inclusion under section 17 was not necessary. As noted supra, section 11 orders the Secretary of the

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Treasury to pay claims "from any moneys in the Treasury not otherwise appropriated." Section 11 is clearly an appropriation, and one which is indefinite in amount. As to whether it is permanent, there is no indication that it is intended to be limited as to time. The purpose of section 11 seems best served by construing it as creating a right to draw upon funds in the Treasury whenever it is necessary to reimburse local fire departments.

The language of section 11 tracks that of 31 U.S.C. § 724a, the permanent indefinite appropriation for payment of judgments and compromise settlements against the United States. 31 U.S.C. § 724a speaks of sums necessary "on and after" a specified date, thus implying continuing future availability. Section 11, although it is not so explicit, provides for payment of claims under the Act. Since such claims may be presented at any time after enactment of the Act, it seems reasonable to construe section 11 as permanent authority. This is true even though the Act requires reimbursement for money paid out by the Treasury pursuant to the Administrator's determination from appropriations made available to the agencies on whose property the fire occurred. In other words, the statute contemplates that the appropriations to carry out section 11 will ultimately be those of the Federal agencies receiving the benefit, assuming that they have or will have funds available for the purpose, but until such reimbursement is possible, funds to pay the local fire fighters may be drawn from a general fund expenditure account established for this purpose in the Treasury.

We therefore conclude that section 11 constitutes permanent indefinite authority to draw money from the Treasury to pay the claims of individual fire departments.

Deputy

R. F. Katten
Comptroller General
of the United States