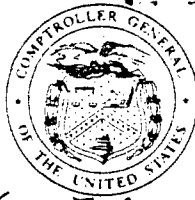


13800 CGM
Mr. Lupton



DECISION

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

[Refunds of Oil and Gas Filing Fees by Bureau of Land Management]

FILE: B-198371

DATE: May 22, 1980

MATTER OF:

AG 00008
Bureau of Land Management Oil and
Gas Filing Fee Refunds

DIGEST:

Bureau of Land Management Certifying Officer may not properly certify vouchers which will result in a percentage of erroneous payments in connection with the Bureau's \$7,000,000 refund of oil and gas leasing filing fees. As proposed, some refunds would go to applicants whose checks were dishonored, because checks cannot be matched with applications. GAO has no authority to authorize erroneous payments in advance. To prevent erroneous payments, Bureau should require applicants to submit claims for refunds. When claimant submits evidence of his entitlement, Bureau may settle the claim.

AG 000033

An authorized Certifying Officer, Bureau of Land Management, United States Department of the Interior, Washington, D. C., has asked for an advance decision concerning the payment of refunds of filing fees which may result in erroneous payments. The Bureau is in the process of refunding a total of \$7,000,000 in oil lease application filing fees to some 70,000 applicants. As a consequence of deficiencies in the Bureau's records, it is known that a small percentage of these refunds will result in erroneous payments and the certifying officer asks whether he will be personally liable for these payments if he certifies the vouchers. We conclude that he would be liable. We recommend instead that these refunds be made under the Bureau's claims settlement authority, in order to avoid any erroneous payments.

Under the ~~Mineral Leasing Act of 1920~~, as amended, the Bureau operated the Simultaneous Oil and Gas Leasing system. 30 U.S.C. § 226(c). This is a system of leasing Federal lands to the public through a non-competitive bidding process. The Bureau's State Offices periodically

Leasing Act (Mineral Lands)

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announce the available tracts. Interested persons themselves submit applications for leases of tracts or hire a "filing service company," in business for that purpose, to submit the applications in the applicants' names. A filing fee of \$10 must accompany each application. Once each month the Bureau randomly selects a winning application for each tract.

As a result of suspected illegal activities in the leasing process, the Secretary of the Interior suspended the Simultaneous Oil and Gas Leasing system. (Order No. 3049, February 29, 1980.) No further leasing under that system is to be conducted. At the time the program was suspended the Bureau had approximately \$7,000,000 in filing fees representing 700,000 applications. Of this total, approximately \$2,000,000 had not been deposited into the Treasury. The Bureau has instructed its State Offices to return undeposited checks to the remitters if they can be matched with the specific application card that accompanied the deposit. Where the match cannot be made, the checks are to be deposited in the Treasury.

The remaining, \$5,000,000 in filing fees has already been deposited in the Treasury. This represents about 70,000 individual applicants, since each applicant submits an average of seven application cards at \$10 each. As of March 27, 1980, checks totaling approximately \$29,000 had been returned as a result of stop payment orders or nonsufficient funds. For the most part, these checks cannot be matched with specific application cards. The application cards are the only records available to the Bureau that contain the name and address of the applicant. In many instances the checks accompanying the application were made by someone other than the applicant, such as a filing service.

The Bureau is as a result unable to determine which applications were accompanied by the checks later dishonored.

If refunds were made to all applicants, some would turn out to be erroneous payments, because the original check was not honored by the bank. The Bureau's Certifying Officer asks whether he would be held liable for such erroneous payments if they should occur.

The standards of accountability, and the criteria for relief from liability of certifying officers for erroneous payments are contained in 31 U.S.C. § 82c. Pursuant to that provision, a certifying officer is responsible to insure that only legal and proper payments are made and is held pecuniarily liable for erroneous payments he certifies. 55 Comp. Gen. 297 (1975). Further, the statute does not allow the Comptroller General to authorize a certifying officer in advance to certify payments some of which he knows may be improper or illegal. Accordingly, refund payments should not be certified, except when the Bureau can confirm that the remitter's check was not dishonored.

On the other hand, the remitters of filing fees have a claim against the Government for such fees. Potential claimants should be informed of the claims filing procedure and requirements prescribed in 4 CFR Part 31 through publication in the Federal Register and, possibly, through advertisement in trade publications. The notice should set forth the information desired and the evidence that should be submitted to substantiate the claims, including, when available, a copy of the applicant's cancelled check. It should list the address(es) of Bureau office(s) to which the claims should be submitted. Finally the notice should warn claimants that under 31 U.S.C. § 231, the False Claims Act, they may be penalized for making false statements in connection with their claims. The Bureau can then settle the claims. See Title 4, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

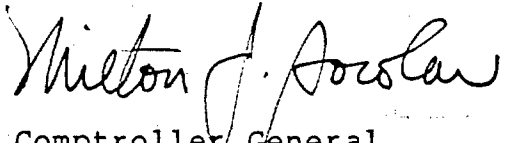
Under 31 U.S.C. § 71a and 4 CFR § 31.5, claimants have 6 years in which to submit their claims. As a practical matter, most of the claims will be received

(Against Government)

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within a short period after notice is given. However, the Bureau must make arrangements to receive claims throughout the limitations period. Accordingly, the Bureau may wish to consolidate all the application records in one office at some future date so as to be in a position to settle any late claims that should be submitted on a cost-effective basis.

In summary, we cannot authorize or grant relief to the Certifying Officer in advance for any improper payments which would quite probably occur if refunds were made to all applicants, without some effort, through the claims procedure, to identify those applicants who are entitled to refunds. The claims settlement procedure would be appropriate for making refunds to those claimants who can substantiate their entitlement. Accordingly, we think the Bureau should structure its filing fee refund program as a claims program, as outlined above.



For The Comptroller General
of the United States