

B-231551

September 12, 1988

The Honorable Gerald Murphy
Fiscal Assistant Secretary
Department of the Treasury

Dear Mr. Murphy:

This responds to your request of May 23, 1988, that we relieve [redacted], former Regional Director, Austin Financial Center, under 31 U.S.C. § 3527(c), for an improper payment of a \$3,676.50 check payable to Mr. [redacted]. For the reasons stated below, relief is granted.

A disbursing officer such as Mr. [redacted] is liable for erroneous payments made under his supervision. B-229126, November 3, 1987. However, the Comptroller General may grant the disbursing officer relief, pursuant to 31 U.S.C. § 3527(c) (1982), if it is determined that the improper payment was not the result of bad faith or lack of due care. 65 Comp. Gen. 858 (1986). In this case, there is no suggestion of bad faith on the part of Mr. [redacted]. Therefore, the question is whether the supervision provided by Mr. [redacted] reflects reasonable care on his part.

B-212336, supra.

The loss resulted when the payee negotiated both the original and the replacement check. Both checks were in the same amount. The original check was part of a group of mutilated checks which the Payment Facilities Branch of the Austin Financial Center had requested be replaced by the Austin Financial Center's Electronics Operations Branch. The computer operator at the Electronics Operations Branch responsible for printing the new checks did not follow the verification and replacement procedures of the office. These procedures required that the computer operator check each replaced check against the mutilated check. In this case, the computer operator failed to do this. Mr. [redacted] original check was not with the other mutilated checks. As a result, both the original and the replacement checks were released.

After the overpayment occurred, a decision was made by the Austin Financial Center to have the Payment Facilities Branch do their own verification of replacement checks, thereby supplementing the verification and replacement procedures carried out by the Electronics Operations Branch. A memorandum prepared by the Check Reconciliation Branch of the Austin Financial Center seems to indicate that the overpayment would probably not have occurred if this additional procedure had been in effect at the time. However, in order for us to deny relief on this basis, we must find that the failure of the Payment Facilities Branch to carry out verification procedures was the proximate cause of the improper payment. See B-227436, July 2, 1987. We do not reach this conclusion. Formal written check verification and replacement procedures were in existence at the time, which would have prevented the overpayment from occurring had they been followed.

The large volume of work processed by the Austin Financial Center prevents the Director from personally inspecting each disbursement operation. The Director, by sheer necessity, must rely upon his subordinates to work accurately. B-195106, July 12, 1979. In this type of situation, the failure of a director or supervisor's staff to follow proper procedures does not constitute per se evidence of the director or supervisor's negligence. See, e.g., B-229126, supra; B-212336, supra. Even in a properly established and supervised system, clerical errors, such as the one committed by the computer operator in this case, will occur. See B-229126, supra. Although the record is not entirely complete, there is enough evidence to show that Mr. maintained and administered procedures at the time of the overpayment that were adequate to constitute reasonable care.

The collection efforts undertaken by the Austin Financial Center have been adequate. Accordingly, we grant the requested relief.

Sincerely yours,

Robert H. Winter

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(Mrs.) Rollee H. Efros
Associate General Counsel