That fo [illegible]

Released

COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON 25

212

B-121695

FEB 3 [illegible] FEB 3 - 1955

Dear Mr. Secretary:

FEB 3

Reference is made to letter of October 5, 1954, from the Assistant Secretary of the Army (FM), presenting for decision certain questions relating to transfers of property which is carried in the civil works functions revolving fund, Corps of Engineers, established by the Civil Functions Appropriations Act, 1954, Public Law 153, approved July 27, 1953, 67 Stat. 199. The law provides as follows:

"For establishment of a revolving fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions, including acquisition of plant and equipment, maintenance, repair, and purchase, operation, and maintenance of not to exceed four aircraft at any one time, temporary financing of services finally chargeable to appropriations for civil works functions, and the furnishing of facilities and services for military functions of the Department of the Army and other Government agencies and private persons, as authorized by law, $100; and in addition, the Secretary of the Army is authorized to provide capital for the fund by capitalizing the present inventories, plant and equipment of the civil works functions of the Corps of Engineers. The fund shall be credited with reimbursements or advances for the cost of equipment, facilities, and services furnished, at rates which shall include charges for overhead and related expenses, depreciation of plant and equipment, and accrued leave: Provided, That on July 1, 1953, (1) the fund shall assume the assets, liabilities, and obligations of the Plant accounts, as carried on the records of the Corps of Engineers as of June 30, 1953, under the appropriations for 'Maintenance and improvement of existing river and harbor works', 'Flood control, general', and 'Flood control, Mississippi River and tributaries', and (2) there shall be transferred from said appropriations to the fund amounts equivalent to the unexpended cash balances of the Plant accounts on June 30, 1953: Provided further, That the total capital of said fund shall not exceed $140,000,000."

B-121695

The revolving fund is an individual entity established to finance the expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions. As a general rule, the corpus of the revolving fund should not be impaired by the transfer of assets. However, transfers of property which are authorized by law or statutory regulations to be made without reimbursement constitute an exception to this rule.

.121695, Sections 1257 and 1311, Title 10, United States Code, cited in the letter of October 5, 1954, as authority for transfers of property, were repealed by section 1(18) of the act of October 31, 1951, 65 Stat. 702. Hence, any transfers of property involved would appear to be those authorized by the Federal Property and Administrative Services Act of 1949, Public Law 152, approved June 30, 1949, as amended. Section 202 of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483, provides, in pertinent part (quoting from the United States Code):

"§ 483. Property utilization--(a) Policies and methods.

"In order to minimize expenditures for property, the Administrator shall prescribe policies and methods to promote the maximum utilization of excess property by executive agencies, and he shall provide for the transfer of excess property among Federal agencies and to the organizations specified in section 630g (f) of Title 5. The Administrator, with the approval of the Director of the Bureau of the Budget, shall prescribe the extent of reimbursement for such transfers of excess property: Provided, That reimbursement shall be required of the fair value, as determined by the Administrator, of any excess property transferred whenever net proceeds are requested pursuant to section 485 (b) of this title * * *.

*   *   *   *   *

"(c) Additional duties of executive agencies.

"Each executive agency shall, as far as practicable, (1) make reassignments of property among activities within the agency when such property is determined to be no longer required for the purposes of the appropriation from which it was purchased, (2) transfer excess property under its control to other Federal agencies and to organizations specified in section 630g (f) of Title 5, and (3) obtain excess property from other Federal agencies."

The extent of reimbursement required for personal property transferred to other agencies under such provision of law is set out in the regulations of the General Services Administration (GSA Reg. 1-111-303). The reimbursement required by those regulations generally is the fair value of the property.

The questions will be considered in the order presented.

> "(a) In the case of property acquired by transfer without reimbursement prior to enactment of Public Law 153, may transfer thereof to the Department of the Army, to The National Industrial Reserve, or to another federal agency, be made without reimbursement?
>
> "(b) In the case of property acquired by transfer without reimbursement subsequent to enactment of Public Law 153, may transfer to the Department of Defense military functions, or to another federal agency, be made without the reimbursement?"

There is no apparent basis for making any distinction between property acquired without reimbursement prior to, and property acquired without reimbursement subsequent to, the enactment of Public Law 153. In both cases, the property would have been capitalized under the revolving fund at the time of acquisition. Such property may be reassigned within the Department of Defense without reimbursement if in accordance with the policies of the Secretary of Defense. If the property is transferred to another Federal agency, the extent of reimbursement, if any, is for determination under the cited regulations of the General Services Administration in the absence of other specific provisions of law or statutory regulations.

> "(c) In either case may transfer be made without reimbursement for unamortized rehabilitation or capital improvement made to the property at the expense of the Civil Functions, Corps of Engineers."

Transfers of property originally received without reimbursement to which unamortized rehabilitation or capital improvements were made at the expense of the Civil Functions, Corps of Engineers, should be treated in the same manner as stated in answer to questions (a) and (b).

> "(d) If reimbursement is required for transfer of such property, should the amount of reimbursement be:

"(1) The book value as reflected on the accounts of the Corps of Engineers;

"(2) The appraised value as measured by the condition of the property; or

"(3) A mutually agreed value regardless of the book value or condition of the property?"

In the absence of other specific statutory authority, reimbursement for transferred property, where required, should be at its fair value in accordance with the regulations of the General Services Administration. Where the value thus established is different from the book value as recorded in the accounts, both the net book value and the reimbursement received should be recorded in a special nonoperating section of the income and expense accounts. The resultant gains or losses from such transactions should not be reflected in the Corps' regular operations since the transactions are governed by special provisions of law. No penalty from such transactions should be imposed upon future customers except in cases where there is a substantial difference between the book value as recorded under the fund and the fair value, and where this difference is caused by inadequate provisions for depreciation of the property transferred. In such cases, the difference should be recaptured through the regular operations of the revolving fund.

Where transfers of property are authorized by law to be made without reimbursement, the book value as recorded in the accounts of the revolving fund should be closed into the Transfers of Cost or Property (to or from) account.

A full disclosure of all such transfers of property should be reflected in the financial statements rendered for the revolving fund.

"(e) May real property of a depreciable character be granted for use on a revocable permit without requiring reimbursement for depreciation of the property?"

Revocable permits issued on depreciable real property should provide for the recovery of the cost of ownership to the Corps of Engineers including depreciation, insurance and maintenance.

Otherwise, such costs would have to be borne by civil works projects having no relation to the use of such property.

The questions presented are answered accordingly.

Sincerely yours,

FRANK H. WEITZEL

Assistant Comptroller General
of the United States

The Honorable
The Secretary of the Army