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DECISION

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

FILE: B-136318 DATE: August 14, 1978

MATTER OF: Washington National Airport; Federal Aviation Administration: Intra-agency Reimbursements Under 31 U.S.C. § 686 (1970)

DIGEST: 1. Unless otherwise necessary to accomplish some competing congressional goals, policies or interests, cost comparisons and billings under section 601 of the Economy Act of 1932, as amended, 31 U.S.C. § 686 (1970), to requisitioning agencies should not include items of indirect cost which are not significantly related to costs incurred by the performing agency in executing the requisitioning agency's work and which are not funded from currently available appropriations, (e.g., depreciation). 56 Comp. Gen. 275 (1977) modified.

2. The law vests authority to operate and manage Dulles International and Washington National airports in the FAA which has delegated this function to Metropolitan Washington Airports, a component of the FAA. There is no reason to distinguish the furnishing of facilities by the airports to other components of the FAA from the provision of facilities to other departments and agencies of the Government. Therefore, the same standard for determining cost under the Economy Act should apply to both.

3. Washington National and Dulles International Airports are operated as self-sustaining commercial entities with rate structures and concession arrangements established so as to assure recovery of operating costs and an appropriate return on the Government's investment during the useful life of the airports, with over 98 percent of their revenue coming from non-Government users. Therefore, fees collected from both Government and non-Government users should include depreciation and interest.

4. While section 601 of the Economy Act permits the depositing of reimbursements to the credit of appropriations or funds against which charges have been made pursuant to any order (except as otherwise provided), such reimbursements may, at the discretion of the agencies, be deposited in the Treasury as miscellaneous receipts. However, deposit of reimbursements to an appropriation or fund against which no charge has been made in executing an order is an unauthorized augmentation of the agency's appropriation and must be deposited as miscellaneous receipts.

This decision is in response to an inquiry from E. M. Keeling, Director of Accounting and Audit, Federal Aviation Administration (FAA), Department of Transportation, concerning the applicability of our decision, Commerce Department--inclusion of departmental overhead under 31 U.S.C. § 686 (1970), 56 Comp. Gen. 275 (1977), to cost recovery under intra-departmental service agreements between Washington National Airport or Dulles International Airport (both administered, operated and maintained as commercial airports by the FAA) and other components of the FAA. These agreements are made under authority of section 601 of the Economy Act of 1932, as amended, 31 U.S.C. § 686 (1970).

The Director says that the FAA operates Washington National Airport and Dulles International Airport with the goal of making them self-sustaining. These operations involve a wide variety of activities, one of which is the rental of space in the airport facilities to airport users. These users include not only the airlines and the public, but other Government agencies and the FAA itself. The rental rates are now based on full cost, including depreciation and interest. However, prior to our 1977 decision, depreciation and interest were excluded from rental rates charged to other Government agencies and the FAA.

The Director asks whether our decision, requiring reimbursement for full costs in Economy Act transactions, applies to intra-agency agreements between the airports and other elements of FAA, which are funded from different appropriations, as well as to inter-agency agreements. For fund accounting purposes, airport revenue from the airlines and the public are presently being deposited in the general fund of the Treasury by appropriate miscellaneous receipt symbols, fees charged to other Government agencies are treated as reimbursements, and fees charged

to other elements of FAA are treated as refunds. For operating statement purposes, all fees are treated as revenue, and costs are reflected in gross amounts to provide a more realistic picture of the true operating results of the airports. Thus, any failure to recover total costs directly affects the operating profit or loss.

Consequently, we have been asked specifically:

"1. Is it mandatory that the FAA operated airports base the fees established for intra-agency agreements upon full cost recovery including depreciation and interest when the receiving organization is funded from a different appropriation than the airports?

"2. If the answer to question no. 1 is no, would it not be advisable to base such fees upon full cost since the airports are required to operate on a self-sustaining basis?

"3. Would it be permissive for the FAA to treat fees collected from other Government agencies and other elements of FAA for services similar to those furnished to the airline and the public as general fund receipts rather than as reimbursements and refunds? The total reimbursements and refunds amount to only 1.8% of total revenue or approximately $500,000 out of a total of approximately $30 million."

Regarding this last question, it was indicated that:

"If this is permissive it would significantly simplify the accounting: i.e., (1) fund and operational accounting would be brought substantially into agreement, thus some of the existing reconciliation would be eliminated; (2) revenue analysis by type of customer would no longer be necessary; and (3) the number of accounting adjustments would be reduced because the final recipient of a service is not known at the time of obligation and must be adjusted after the service is rendered."

The inter- and intra-departmental furnishing of materials or performance of work or services on a reimbursable basis, when not otherwise

specifically authorized by statute, is authorized by section 601 of the Economy Act of 1932, as amended, 31 U.S.C. § 686(a) (1970), which provides in pertinent part that:

> "Any executive department or independent establishment of the Government, or any bureau or office thereof, if funds are available therefor and if it is determined by the head of such executive department, establishment, bureau, or office to be in the interest of the Government so to do, may place orders with any other such department, establishment, bureau, or office for materials, supplies, equipment, work, or services, of any kind that such requisitioned Federal agency may be in a position to supply or equipped to render, and shall pay promptly by check to such Federal agency as may be requisitioned, upon its written request, either in advance or upon its furnishing or performance thereof, all or part of the estimated or actual cost thereof as determined by such department, establishment, bureau, or office as may be requisitioned; but proper adjustments on the basis of the actual cost of the materials, supplies, or equipment furnished, or work or services performed, paid for in advance, shall be made as may be agreed upon by the departments, establishments, bureaus, or offices concerned: * * *." (Emphasis supplied.)

In 56 Comp. Gen. 275 (1977) we considered the question of whether the Department of Commerce was required to include administrative overhead applicable to departmental supervision (departmental overhead) as part of the "actual cost" to be recovered from another agency for which the Department performed services under the authority of 31 U.S.C. § 686(a). In responding, we stated:

> "We now take this opportunity to resolve any doubt which may exist as a result of the language of our earlier decisions and of the headnote to 38 Comp. Gen. 734. Effective compliance with the reimbursement provision of 31 U.S.C. § 686(a) is only achieved when all significant elements of cost are recognized and recovered in any transaction under that section. If overhead expense is significant, then like other elements of costs it should be recognized and recovered. The recognition of these costs is necessary

> so that the performing agency and the ordering agency will know the costs of their operations. Also, the requirement that prices of the performing agency be based on full costs affords the ordering agency a financial measurement for determining whether to deal with one or another Government agency, procure the services elsewhere, or forego the undertaking entirely. Prior decisions are overruled to the extent they are inconsistent with this conclusion." 56 Comp. Gen. at 277. (Emphasis supplied.)

That decision was necessary, in part, because of prior decisions of this Office which had held that indirect costs, including depreciation, might be recovered by the agency performing work or services for, or providing materials to, another agency under the Economy Act. However, none of these prior decisions had held that such recovery was required in every reimbursement made under the Act. Because of questions informally raised since our decision in 56 Comp. Gen. 275, particularly questions concerning recovery of unfunded costs, we now take this opportunity to reexamine our position in order to give due consideration to these concerns.

Section 601 of the Economy Act of 1932, as amended, was passed partly in response to decisions by this Office that an agency performing work for another agency could not be reimbursed for the salaries of the personnel during the time they were performing the work. Reference to the legislative history of section 601 makes it clear that all costs attributable to the performing agency's currently available appropriations were to be reimbursed.

H. R. 10199, 71st Cong., was introduced on February 22, 1930, for the purpose of authorizing inter-agency procurement of work, materials, or equipment with reimbursement to be based upon "actual cost." During hearings on H. R. 10199, before the Committee on Expenditures in the executive departments, Representative French, sponsor of the bill, testified that:

> "The purpose of the legislation is to permit the utilization of facilities and personnel belonging to one department by another department or establishment and to enact a simple and uniform procedure for effecting the appropriation adjustments involved.
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> "It is believed to be the policy of Congress, as evidenced in various provisions of the different appropriation acts, that whenever possible departments and establishments should make use of personnel and facilities of other departments or establishments.

"As an example the Navy Department appropriation act requires:

"'No part of the moneys herein appropriated for the naval establishment or herein made available therefor shall be used or expended under contracts hereafter made for the repair, purchase, or acquirement by or from any private contractor, of any naval vessel, machinery, article or articles that at the time of the proposed repair, purchase or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit, and when, in the judgment of the Secretary of the Navy, such repair, purchase, acquirement, or production would not involve any appreciable increase in cost to the Government.'

"Also in title 38, section 434, of the United States Code under the Veterans' Bureau it is provided:

"'The director * * * is hereby authorized * * * to utilize the now existing or future facilities of the United States Public Health Service, the War Department, the Navy Department, the Interior Department, the National Home for Disabled Volunteer Soldiers, and such other governmental facilities as may be made available for the purposes set forth in this act.'

"It is also a requirement of law, in using appropriations for the support of any activity that the appropriation be expended only for the objects specified therein. Section 3678 of the Revised Statutes states that:

"'All sums appropriated for the various branches for expenditure in the public service shall be applied solely to the objects for which they are respectively made.'

"This requires that when one department obtains work, materials or services from another department it should pay the full cost of such work, materials or services.

"If full cost is not paid, then such part of the cost as is not reimbursed must fall upon the department doing the work, which is contrary to section 3678 of the Revised Statutes and the appropriation of the department for which the work was done will be illegally augmented because it does not bear all of the cost of the work done for it.

"REASON FOR THE LEGISLATION

"There is no general authority for one department or establishment to order work, materials or services from another although a number of departments and establishments have authority to perform certain specific classes of work for other establishments. Examples are the Bureau of Standards, Bureau of Mines, Department of Agriculture, the Government Printing Office, and the Navy Department. The Comptroller General has held (7 C.G. Dec. 710):

> "'Where work can be done for another establishment only by increasing the plant or the number of employees of the establishment doing such work, there is no authority therefor in the absence of specific legislation that refers thereto.'

"This bill is intended to provide the specific legislative authority stated by the Comptroller General to be necessary by authorizing the performance of work or services or furnishing of materials by one department or establishment to another without any limitation as to existing facilities or personnel. On a job of any size for another department or establishment it might frequently be necessary to take on additional personnel in order to utilize existing facilities and complete the job within the time required or to retain the services of employees who would otherwise be discharged.

"In spite of the provisions of section 3678 of the Revised Statutes the Comptroller General has held (7 C.G. Dec. 710) that the general rule is:

> "'The payment by the establishment receiving the benefit of the service is limited to the additional expense incurred by the employee during [the period] * * * he is engaged on the work of the establishment to which he is loaned, the salary of the employee remaining a charge against the appropriation of the establishment to which he belongs.'

"And also in the decision (6 C.G. Dec. 71), quoted from the syllabus:

> "'Where the performance of services by one establishment of the Government for another establishment does not involve the incurring of any extra expense or the increasing of the regular force and equipment, there is no basis for

> charging the appropriation of the establishment receiving the benefit of all such services.'
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> "Under existing decisions of the Comptroller General--except in a few instances specifically provided for by statute--one department can not undertake work for another if it involves increasing the personnel or facilities, nor can it receive reimbursement for the pay of its regular personnel even though such personnel are laborers or mechanics and paid at a daily or hourly rate of pay. The effect of these rulings is to prevent the free use by the Government of its own facilities for the reason that no department can afford to neglect its own work and use the time of its employees on work for another department." (Emphasis supplied.) Hearings on H. R. 10199 before the House Committee on Expenditures in the Executive Departments, 71st Cong. 3-5 (1930).

Representative French's testimony also indicated that H. R. 10199 was prepared by the Chief Coordinator of the United States (Hearings, supra, pp. 5-6) who, in commenting on H. R. 10199, stated as follows:

> "The Comptroller General in his decision, No. A-2272 of June 16, 1924, stated:
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> "'The performance of work by one department for another, etc., without reimbursing the whole cost of such work, as accurately as it may reasonably be ascertained, would contravene the requirements of law in that it would augment one appropriation at the expense of another.'
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> "This decision was followed by the General Accounting Office for several years. But beginning with 1926 the Comptroller General's decisions have departed from this ruling by requiring that the amount chargeable to the funds of an establishment of the Government for services performed therefor by another establishment to be limited to the additional expense actually incurred by reason of such service. This ruling in effect penalizes the performing department's appropriation for a part of the cost of the work and makes it loath to perform services for other departments and establishments for fear that its own work might be crippled thereby. This interpretation would be impossible if the proposed legislation were enacted. (Emphasis supplied.) (Hearings, supra, pp. 13-14.)

The House Committee reported an amended version of H. R. 10199 which, among other things, expanded the coverage of the proposed law to include intra-agency as well as inter-agency orders (no longer termed procurements). Further, the Committee bill expanded the activities that could be performed pursuant to such orders to include furnishing of supplies and equipment, but limited orders only to agencies that were in a position to supply the material or perform the work. It also provided that, except in emergencies, such work, service, or materials must be performed by another agency if, in the opinion of the Director of the Bureau of the Budget, it would cost less to do so than to have the work or material performed by or procured from a non-Government source. Other changes were also made, including a proposal that the law be an amendment to section 7 of the Fortification Act of May 21, 1920, 41 Stat. 613, rather than a separate law. However, reimbursement was still required to be based on "actual cost."

In commenting on the amended bill, the Committee stated:

"PURPOSE OF LEGISLATION

"The purpose of this bill is to permit the utilization of the materials, supplies, facilities, and personnel belonging to one department by another department or independent establishment which is not equipped to furnish the materials, work, or services for itself, and to provide a uniform procedure so far as practicable for all departments.

"Your committee also believes that very substantial economies can be realized by one department availing itself of the equipment and services of another department in proper cases. A free interchange of work as contemplated by this bill will enable all bureaus and activities of the Government to be utilized to their fullest and in many cases make it unnecessary for departments to set up duplicating and overlapping activities of its own.

* * * * *

"COST OF WORK

"Heretofore the cost of such services as have been performed by one department for another has frequently been paid for out of the appropriations for the department furnishing the materials and services. This is unfair to the department doing the work. All materials furnished and work done should be paid for by the department requiring such materials and services. Under the bill as

> amended working funds must be created by the Secretary of the Treasury upon request of department heads and adjustments made whereby the entire cost is borne by the department calling upon another department for materials and services. This will hold each department to strict accountability for its own expenditures and result in more satisfactory budgeting and accounting." (Emphasis supplied.) Report of the Committee on Expenditures in the Executive Departments on H. R. 10199, H. R. Rep. No. 2201, 71st Cong. 2-3 (1931).

While no further action was taken on H. R. 10199 in the 71st Congress, an almost identical provision was included as section 801 of H. R. 11597, 72d Congress, a bill to effect economies in the National Government. The report of the House Committee on Economy on H. R. 11597 (H. R. Rep. No. 1126, 72d Cong., 1st Sess. 15-16 (1932)) provides the same comments on the purpose of section 801 as were made about H. R. 10199 in H. R. Rep. No. 2201, 71st Cong., quoted supra. Thereafter, H. R. 11597 was incorporated as Part II of H. R. 11267, 72d Cong., the bill which became the Legislative Branch Appropriation Act for fiscal year 1933, June 30, 1932, Ch. 314, 47 Stat. 417. Section 601 of that Act is the provision for inter-agency transactions which had its origin in H. R. 10199, 71st Cong.

The one important dissimilarity between the two bills (H. R. 10199 as reported by the Committee on Expenditures and H. R. 11597) was that H. R. 11597 did not contain the requirement that the Government agency place its order with another Government agency (assuming the latter agreed) unless the Budget Bureau determined that the work or material could be more cheaply performed or procured otherwise. While the bill was under consideration by the House, Representative Williamson offered an amendment to section 801 of H. R. 11597 as follows:

> "'Provided, however, That if such work or services can be as conveniently or more cheaply performed by private agencies, such work shall be let by competitive bids to such private agencies.'" 75 Cong. Rec. 9349 (1932).

Mr. Williamson's amendment was thereafter adopted. 75 Cong. Rec. 9350 (1932). Thus, instead of requiring the placement of orders with a Government agency rather than a private source unless the work or material could be more cheaply performed privately, Congress required placement of orders with private agencies, when the work could be performed or the service provided more cheaply or as conveniently than by a Government agency.

While the law and its legislative history are silent as to what was meant by the term "actual cost" when computing reimbursements for orders for inter- and intra-departmental work or services, the legislative

history does indicate that by enactment of section 601 of the Economy Act, the Congress intended to effect savings for the Government as a whole by: (1) generally authorizing the performance of work or services or the furnishing of materials pursuant to inter- and intra-agency orders by an agency of Government in a position to perform the work or service; (2) diminishing the reluctance of other Government agencies to accept such orders by removing the limitation upon reimbursements imposed by prior decisions of this Office 1/; and (3) authorizing inter- and intra-departmental orders only when the work could be as cheaply or more conveniently performed within the Government as by a private source. Thus in determining the elements of actual cost under the Economy Act, it would seem that the only elements of cost that the Act requires to be included in computing reimbursements are those which accomplish these identified congressional goals. Whether any additional elements of cost should be included would depend upon the circumstances surrounding the transaction.

Insofar as cost is concerned, the last three congressional goals set forth above indicates an intent to have work performed at the least cost to the Government, but adds little in the way of aiding a determination of what are "actual costs" under 31 U.S.C. § 686. The Economy Act's overall goal is to effect economy in the Government as a whole. All that would be necessary to accomplish this would be to compute the additional costs to the agency performing the work or providing the service and permit it to execute the order when its additional costs are equal to or less than the cost of having the work or service performed or the material provided by a private source. To use a cost basis that included elements of cost that would be incurred by the agency (and hence the Government) regardless of whether the order for materials or work is placed within the Government or with a private source would distort the comparison required by 31 U.S.C. § 686. When a cost comparison between procurement from a private source and procurement from another Government agency is made on this basis--including in the cost of procurement within the Government elements of indirect cost which will be incurred regardless of where the order is placed--it is hard to conceive how economy would be effected by placing the order with the private source; in addition to the cost of the private procurement, the Government would then still incur all indirect costs not affected by receipt or non-receipt of the order. In such a situation the amount of money available for carrying out the various purposes for which appropriations are available is reduced and, in the end, while the total outlay by the Government

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1/ These decisions were viewed as penalizing the performing agency by forcing it to bear the cost of performing another agency's work and at the same time augmenting the appropriation of the requisitioning agency by freeing its funds for other work.

might not be increased, the total amount of goods or services acquired for the money available is reduced.

The Economy Act clearly requires the inclusion as actual cost of all direct costs attributable to the performance of a service or the furnishing of materials, regardless of whether expenditures by the performing agency were thereby increased. Otherwise, the performing agency would be penalized to the extent that its funds are used to finance the cost of performing another agency's work, while the requisitioning agency's appropriations are augmented to the extent that they now may be used for some other purpose.

For the same reasons, certain indirect costs are recoverable as actual cost. However, for the reasons given above, only those indirect costs which are funded out of the performing agency's currently available appropriations and which bear a significant relationship to the performing of the service or work or the furnishing of materials are recoverable. To be recoverable, indirect costs must be shown, either actually or by reasonable implication, to have benefited the requisitioning agency, and that they would not otherwise have been incurred by the performing agency. If an item of indirect cost does not bear a significant relationship to the service or work performed or the materials furnished, and is not funded from currently available appropriations, it should not be included as an element of actual cost for purposes of 31 U.S.C. § 686 (absent some other overriding consideration). Recovery in these circumstances would not restore to the performing agency amounts which it expended on the requisitioning agency's work which it would otherwise have expended on its own work and hence would not serve the statutory purpose of preventing the performing agency from being financially penalized for transactions under 31 U.S.C. § 686. Recovery for such items of indirect cost--normally small in relation to direct costs--would probably have minimal impact on the decision of the performing agency to agree to perform the work or services or furnish the material involved and thus would have minimal impact in accomplishing one of the goals Congress sought to be achieved in adopting the Economy Act.

Furthermore, recovery and retention of such indirect cost items by the performing agency would augment the performing agency's appropriation since, in fact, these cost items had not financed the service, work or material. Thus unless otherwise necessary to accomplish some recognizable goal or policy, billings under the Economy Act to requisitioning agencies should not include items of indirect cost which are not significantly related to costs incurred by the performing agency in executing the requisitioning agency's work and are not funded from currently available appropriations.

While the foregoing discussion indicates what the Economy Act requires as a minimum to be included in computation of costs for cost comparisons and reimbursement purposes, the law is not so rigid and

inflexible as to require a blanket rule for costing throughout the Government. It must be recognized that there is a wide diversity of activities performed by the Government, and the means chosen to perform them. Certainly neither the language of the Economy Act nor its legislative history requires uniform costing beyond what is practicable under the circumstances. This is not to say that costing is expected to be different in a substantial number of circumstances. We are merely recognizing that in some circumstances, other competing congressional goals, policies or interests might require recoveries beyond that necessary to effectuate the purposes of the Economy Act. 56 Comp. Gen. 275 (1977) is modified accordingly.

The cost comparison and reimbursement requirements under the Economy Act differ from those established administratively by OMB Circular A-76, as revised, August 30, 1967, for executive agencies to determine whether to initiate a commercial or industrial activity or to continue one in operation. OMB Circular A-76, in paragraph 4e, specifically provides that it does not apply to products or services obtained from other Federal agencies authorized by law to furnish them. Moreover, the Economy Act applies to purchases of materials or services which may not be the product of a Government commercial or industrial activity but may be part of basic agency operations. Further, under OMB Circular A-76, an agency may decide to initiate or continue a commercial or industrial activity for reasons other than cost.

The above bases for comparing or reimbursing costs under the Economy Act are hence not relevant to an agency determination, under the Circular, to initiate new starts or to continue existing Government commercial or industrial activities, since such determinations are based upon the criteria of the Circular. Under the cost comparison criteria of OMB Circular A-76, an activity may be undertaken by the agency if it has determined that procurement from a commercial source would result in higher cost to the Government. But that determination, and the determination to continue a Government commercial activity, are independent of a decision by an agency, under the Economy Act, to procure materials or services from a Government commercial or industrial activity. Conversely, the decision to continue a Government commercial or industrial activity cannot be dependent on whether other agencies may choose to call upon that activity under the Economy Act for materials or services.

With regard to the specific questions presented, authority to operate and manage the airports is vested by law in the FAA (see D. C. Code §§ 7-1302, 1401, 1404 (1973)). This function has been delegated within FAA to a division of that agency called Metropolitan Washington Airports. Funds are appropriated to FAA generally for "operations" and otherwise made available for construction (through appropriations for: "Facilities, Engineering and Development," "Facilities and Equipment," and "Research, Engineering and Development"). Funds are also specifically appropriated to the FAA for "Construction,

Metropolitan Washington Airports" and "operation and maintenance, Metropolitan Washington Airports." See, e.g., the Department of Transportation and Related Agencies Appropriation Act, 1977, Pub. L. No. 94-387, August 14, 1976, 90 Stat. 1173-1174. These funds are available only for the purpose for which appropriated and no other. 31 U.S.C. § 628 (1970); 37 Comp. Gen. 472 (1958).

The airports' activities are funded separately from other components of the FAA. There is no reason to distinguish the provision of their facilities to other components of the FAA or to the Department of Transportation under the Economy Act, from the provision of facilities to other departments or agencies of the Government. The same standards should control the determination of costs in both situations.

Moreover, the airports are operated as self-sustaining commercial entities with rate structures and concession arrangements established so as to assure the recovery of operating costs, and an appropriate return on the Government's investment during the useful life of the airport. Hearings on Department of Transportation and Related Agencies Appropriations for 1977 before a Subcommittee of the House Committee on Appropriations, 94th Cong., Part 4, pp. 618-620 (1976). The FAA director stated that over 98 percent of the airports revenue was from non-Government sources. This being the case, we see no reason for fees assessed to the Government as a user of services or facilities to be based on a different rate structure from fees charged non-Government users. To do so would be contrary to the goal that such activities be self-sustaining unless the additional costs were passed on to the non-Government users which would be inequitable. While the Economy Act requires recovery of "actual costs," as discussed above, the term has a flexible meaning and recognizes distinctions or differences in the nature of the performing agency, and the purposes or goals intended to be accomplished. Here the primary beneficiaries of the airports' operations are the airlines and passengers. Any benefit to the Government in operating such airports is incidental at best. In such a situation, fees collected from both Government and non-Government users should include depreciation and interest.

Finally, we do not object to the FAA proposal to deposit fees collected from within the Government for services provided at the airports into the Treasury as miscellaneous receipts. Section 601 of the Economy Act of 1932, as amended, permits the depositing of reimbursements to the credit of appropriations or funds against which charges have been made pursuant to any such order (except as otherwise provided). Nevertheless, in 56 Comp. Gen. 275, at 278-79, we said that reimbursements for indirect costs in transactions under 31 U.S.C. § 686 may be deposited in miscellaneous receipts. The same conclusion applies to reimbursements for direct costs. We suggested in 56 Comp. Gen. 275, at 279, that the deposit in miscellaneous

receipts of indirect cost recovery was justified at least in part because to do so would not impair the agency's ability to perform work for other agencies and yet would not reduce the amount available to it for its own activities. Although the deposit in miscellaneous receipts of reimbursements for direct costs would reduce the amount available to the performing agency, we see no compelling reason, on that account, not to allow the deposit in the agency's discretion.

One exception to the foregoing principles should be mentioned. Deposit of reimbursements to an appropriation or fund against which no charges had been made in executing an order is an unauthorized augmentation of the agency's appropriation. Such collections must be deposited into the general fund as miscellaneous receipts. Where depreciation is concerned, for example, since the appropriation which most reasonably might be said to have borne the cost is the one made for construction of the facility involved, and this is presumably no longer available for that purpose, this amount should be deposited in the Treasury as miscellaneous receipts.

Comptroller General
of the United States