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DECISION

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

FILE: B-194912 and B-195507 DATE: October 4, 1979

MATTER OF: Federal Facility Contributions to Capital Costs of Sewage Treatment Projects

ABC24

DIGEST: 1. Environmental Protection Agency has no authority to exclude from eligibility for a construction grant a percentage of the total costs of an otherwise acceptable project to upgrade a wastewater treatment facility equal to the percentage of service the facility would be required to provide to a major Federal facility. Section 202(a)(1) of the Federal Water Pollution Control Act as amended requires payment of full 75 percent of approved costs of the total project. Although justified as "saving" grant funds, EPA may not artificially reduce the total costs of a project which otherwise meets its standards solely to stretch available grant funds to cover additional projects.

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2. Department of Navy would normally have no authority to make up "shortfall" in construction funds due to EPA funding policy, described above, unless costs were amortized and shared equally as part of the rate by all users of sewer services. See B-189395, April 27, 1978. However, recent military construction authorization and appropriation acts specifically make available funds for Navy's share of treatment facility at Hampton Roads Sanitation District, Virginia, and at plant in Honolulu, Hawaii. Navy may pay these costs without requiring additional consideration for the Government as long as its contribution does not exceed 75 percent of the costs--the amount the locality would have received but for the EPA funding policy.

Appropriation Construction grants Wastewater treatment Appropriated funds Sewage disposal Sewage treatment Facility construction Federal contracts Government facilities

3. Sufficient money was appropriated to enable Navy to pay 100 percent of Navy's share of wastewater treatment projects at Hampton Roads Sanitation District and Honolulu. However, there is no evidence that Congress intended to give localities more construction assistance than the 75 percent they would have otherwise received but for EPA's funding policy. Therefore, Navy must negotiate to obtain an additional benefit for the Government commensurate with the extra 25 percent contribution for capital costs.

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4. City and County of Honolulu, Hawaii, supplies wastewater treatment for some Navy facilities, under contract. Upgraded system would also include other Navy facilities which presently have their own systems. Extension of service to additional facilities might afford adequate consideration for Government's payment of 100 percent Federal facility share of new plant costs.

We have received a number of requests from concerned Congressmen and from the Department of the Navy for a decision which would settle a long-standing controversy about the responsibility for funding the costs of constructing an upgraded sewage treatment plant in the Hampton Roads Sanitation District (HRSD), Virginia Beach, Virginia. Subsequently, we received a similar request from the Principal Deputy Assistant Secretary of the Navy (Logistics) and from two additional Members of the Congress to resolve the same question concerning the Honouliuli Wastewater Treatment and Disposal System, Honolulu, Hawaii (Honolulu). This decision responds to both requests.

The Navy has been receiving sewage disposal service at both locations pursuant to contracts which provide that the contractor is responsible for providing, at its own expense, all facilities necessary to provide such service. The Navy, in turn, has been paying the standard rate charged to all users of the system. 1/ As a result of Title III of the Federal Water Pollution Control Act as amended (FWPCA), 33 U.S.C. § 1151 et seq., it was necessary to improve and upgrade a great many municipal wastewater treatment systems. Section 2 of Pub. L. No. 92-500, October 18, 1972, (the FWPCA amendments of 1972, 86 Stat. 816) authorized a program of construction grants to cover 75 percent of the costs of upgrading projects approved by the Administrator of the Environmental Protection Agency (EPA).

The problem arises because in 1975, the EPA Administrator decided to exclude from grant participation any portion of a project which would serve a Federal facility. (Our first holding is concerned with the propriety of that determination.) The sewage service providers then turned to the Navy to make up the "shortfall" in the Federal funds.

1/ There are additional factors involved in the Honolulu situation which will be considered separately, infra, under that heading.

The question of the authority of Federal installations to make the requested capital contribution was first presented to this Office in 1977 by the Department of the Air Force. The Air Force, as was true of the Navy and other Department of Defense (DOD) components had no independent authority comparable to EPA's, to make construction grants to States and localities for improvements to wastewater treatment plants. The Air Force contended that the capital improvements in question could be financed only through a general rate increase applicable to all users without further consideration. It could not terminate or negotiate its existing utility contracts to make a lump-sum payment for these additional costs unless it received an additional benefit (consideration) over and above the improved sewage services which the contractor was required to provide under the contract anyway. We concurred in the Air Force position. B-189395, April 27, 1978

The Congress has attempted to break the funding impasse by specifically authorizing and appropriating funds for "sewer connections" in named locales, including the naval bases within the HRSD and in the Honolulu district. Nevertheless, the Navy claims that it still cannot pay the Navy's share of the upgraded sewage projects. It contends that a modification of its existing contract for sewer services would be required and that, in accordance with the above-mentioned Comptroller General decision to the Air Force and general contract principles, it cannot agree to such a modification without consideration. What the Navy is insisting on is a reduced rate which takes into account the capital contributions of the Navy. The contractors object because they say that that would discriminate against their non-Federal users by giving Navy preferential treatment in the rates. We are informed by the Navy that in the absence of agreement with HRSD, the appropriation for the NPWC, Norfolk, for municipal sewer connection has not been obligated. Meanwhile, the contractors contend that they are rapidly exhausting their resources. If the additional construction funds are not provided in the very near future, they will be forced to cut off service to the Navy. Their only alternative is to borrow the money and pass on the increased costs to all users which they feel would be inequitable.

For the reasons discussed below, we find that:

(1) EPA is not authorized to exclude a portion of an otherwise eligible project solely because that portion would serve a Federal facility; and

(2) There is no need for Navy to amend its contracts with the providers of sewer services in either area (and therefore no further consideration is needed) provided that the contribution merely replaces the amount that would have been provided by EPA but for its restrictive funding policy. Its authority to pay for 75 percent of the portion of the construction costs attributable

to the Navy's use of the sewer system is separate and independent of its authority to enter into sewer service arrangements. However, we do not believe that the Congress intended to subsidize providers for 100 percent of the costs of any portion of the services provided. Therefore, if Navy contributes 100 percent of the costs attributable to its percentage of use of the facility, it must receive a corresponding reduction in its service rates or some other adequate consideration.

EPA's Funding Policy

Section 202(a)(1) of the FWPCA, 33 U.S.C. § 1282(a)(1), provides that:

"The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, shall be 75 per centum of the cost of construction thereof (as approved by the Administrator). * * *"

EPA's implementing regulations, final regulations at 43 Fed. Reg. 44065 (1978) (40 CFR § 35.925-16) state:

"That the allowable step 2 or step 3 project costs do not include the proportional costs allocable to the treatment of wastes from major activities of the Federal Government. A 'major activity' incudes any Federal facility which contributes either (a) 250,000 gallons or more per day or (b) 5 percent or more of the total design flow of waste treatment works, whichever is less."

The Agency's Program Guidance Memorandum No. 62, December 29, 1975, subsequently retitled Program Requirements Memorandum No. 75-35, provides the following guidance for EPA grant funding determinations:

"As an example, in a $10,000,000 actual construction project for which the Federal facility share has been agreed upon as 20 percent of the total project cost, the allowable cost and construction grant funding would be as follows:

"Total joint project cost	$10,000,000
"Federal facility share	2,000,000 (20%)
"Maximum allowable cost	$ 8,000,000
"Grant	0.75 (75%)
"EPA grant funding	$ 6,000,000"

Consistent with our usual policy, we requested the Administrator's comments regarding the matters before us, including his authority for EPA's Federal facility funding policy. In a reply, dated July 3, 1979, the Director of EPA's Municipal Construction Division stated the following:

> "In accordance with Section 202(a)(1) of the Act, the Administrator has determined that only that portion of the treatment works, based upon volume, serving residential, commercial and industrial users will be eligible for grant participation. Major Federal facility users located outside the Washington, D.C. Beltway, are excluded from grant participation (40 CFR 35.925-16).
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> "For budget and State allotment purposes, under Section 205 of the Act, the States and EPA estimate the cost of constructing all needed publically [sic] owned treatment works. This data, and subsequent grant allotments to the States, do not include any major Federal facility needs.
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> "Prior to the enactment of PL 92-500, construction grants for municipal wastewater treatment works could include Federal needs where the requirement for the project was due in part to a Federal institution or Federal construction activity which resulted in an influx of federally connected personnel and, in turn, increased the applicant's requirement for wastewater treatment works. The policy was based upon Section 8(c) of PL 84-660 and promulgated at 40 CFR 35.815-2 and 35.830.0.
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> "The enactment of PL 92-500 brought about a change in the Federal facility funding policy. A special funding provision for Federal facilities, similar to Section 8(c) of PL 84-660, is not found in Section 205 of PL 92-500. The new provisions of PL 92-500 pertaining to regional planning, user charges, industrial cost recovery and State allotment do not allow for a preferential funding

policy for any specific user of a municipal wastewater treatment system, such as a major Federal facility.

* * * * *

"The Environmental Protection Agency (EPA) determined, in 1975, that the EPA funds allotted to the individual States under the construction grants program, authorized by the Federal Water Pollution Control Act (the Act), would not be used to construct or improve the portion of a municipal wastewater treatment works servicing a major Federal facility. This policy, promulgated by regulation at 40 CFR 35.925-16, is authorized by Sections 202(a), 204 and 313 of the Act, is supported by other statutes which require that funds appropriated for each department or agency must be used solely for the purposes of that department or agency, and was established in lieu of defining a major Federal facility to be an industrial user, as authorized by Section 502(18) of the Act. If a Federal facility had been defined to be an industrial user (Standard Industrial Classification Division J, Major Group 97), the capital cost recovery provisions of Section 204(b)(1)(B) of the Act would have been applicable.

"In June and November of 1975, the Department of Defense (DOD) requested the Office of Management and Budget (OMB) to review EPA's policy regarding Federal agency participation in municipal wastewater treatment works. OMB responded in support of the EPA policy: 'Therefore, we believe that the current funding system should continue, whereby the facilities to treat DOD wastewater will be financed by appropriations specifically provided by the Congress. While this timing problem and the lack of complete certainty about appropriaotions [sic] does not make it a simple process to join a municipal project, nevertheless, the use of EPA funds to provide the Federal share of a given facility will result in fewer new wastewater treatment facilities in the States.'

"Subsequent DOD implementing memoranda, and assurances to EPA, on the point were that 'the DOD share of joint facilities will be appropriated through normal processes, just as if the installation had gone it alone.'

* * * * *

"The continuing reluctance on the part of some major Federal facilities to adhere to EPA policy and regulations, OMB decisions and agreements, and DOD implementing

memorandum is having a severe, adverse impact on water quality, contrary to the provisions of the Federal Water Pollution Control Act and Executive Order 12088. In some cases, this reluctance continues in spite of the fact that the Federal facility capital share of a municipal treatment works has been appropriated by the Congress for that specific purpose."

Subsequently, a meeting was held with EPA officials, including the cognizant EPA Assistant General Counsel. From the discussion, it appears that EPA bases its authority to reduce the project by the Federal facility share and then authorize a 75 percent grant for the remainder, on the broad approval authority of the FWPCA in section 202(a)(1).

Title II of the Act provides for Federal grants to State, local and regional agencies for the construction of waste treatment works from funds allocated to each State under section 205 of the Act. (33 U.S.C. § 1285). Section 202(a)(1) states that for grants made from funds authorized in fiscal year 1972 and thereafter, the grant amount shall be 75 percent of the cost of the construction project, which is to be approved by the Administrator of EPA. Under section 203(a), 33 U.S.C. § 1283(a), a grant applicant submits to the Administrator for his approval, plans, specifications, and estimates for each proposed project. Approval "shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project." Section 204 (33 U.S.C. § 1284) describes the conditions and limitations which the Administrator must take into consideration in making determinations prior to grant approval. There is no condition or limitation pertaining to Federal facilities which would be users of proposed treatment works.

In Manatee County, Florida v. Train, 583 F.2d 179, 183 (5th Cir. 1978), the U.S. Court of Appeals affirmed a district court order to EPA to increase the county's Federal grant from 33 percent to 75 percent of the project's cost of construction. In doing so the court stated that--

"* * * § 1281(g)(1) says that the Administrator is 'authorized' to make grants for construction of publicly owned treatment works. Section 1283(a) requires applicants for a grant to submit plans 'to the Administrator for his approval,' and § 1284 details the factors which the Administrator is to examine before approving the project. Thus, the Administrator has some discretion in initially approving a state project. It is at this stage that the EPA should prevent projects that are 'impossible' or are otherwise inconsistent with the Act's purpose of improving water quality.

> "Once the Administrator approves the project, however, the percentage amount of the federal share is set by law, without any discretion left in the Administrator. * * *"

In 53 Comp. Gen. 547 (1974), in connection with implementation of Pub. L. No. 92-500, we answered the question, "Does EPA have any flexibility as to grant percentages?", as follows:

> "Having reviewed the statute and its legislative history, we cannot agree with EPA. First, the plain language of the statute clearly mandates that the grant 'shall be' 75 percent of the cost of construction. Second, the Conference Report at page 110 (SCP 293) clearly states that the Federal grant 'shall be 75 percentum of the cost of construction in every case.'" [Italic supplied.] Third, the requirement of 75 percent Federal funding in all cases was recognized by the President in his veto message of October 17, 1972 (SCP 137, 138), and by the former EPA Administrator in a letter dated October 11, 1972, to the Office of Management and Budget recommending enactment of the then bill (SCP 143, 152). Thus, while EPA has put forth several reasons why it believes it may be in the best interests of the Federal Government, of the State in which the project is to be placed and of the grantee for the Federal share of the grant to be less than 75 percent of the project cost, it is our opinion that EPA does not have the authority to make any grants in a lesser amount."

Our current review of the statute and its legislative history reveals no congressional intention to reduce a 75 percent grant for a proposed treatment project because it would serve a Federal facility. Taking the example given in PRM No. 75-35 of a $10 million construction project with an agreed Federal facility share of 20 percent, the grant applicant received $6 million, or 60 percent of the $10 million cost, instead of $7.5 million, 75 percent of the total cost. We understand that consistent with PRM No. 75-35, a sewer district in circumstances similar to that given in the example would ordinarily request a $6 million grant and not $7.5 million. This, however, provides no proper basis for considering that there are two projects, one costing $8 million and another $2 million (20 percent Federal facility use) when in fact only one facility costing $10 million will be built. The approval of a 75 percent grant on an $8 million cost basis, although the plant project which is otherwise unobjectionable will cost $10 million to construct, is an attempt to circumvent the requirement for a 75 percent grant for the approved cost of construction. While such an approach has been justified on the basis that it "saves" EPA grant funds, it is not authorized by the Act. In this respect, the comments made

on the floor of the House of Representatives by the Honorable John D. Dingell about the conference report on S. 2770, which was enacted as Pub. L. No. 92-500, are pertinent:

> "[I] t should be emphasized, as the conferees have on page 110 of their report, that section 202(a) of the bill does not give EPA discretion to provide less than the full 75 percent Federal share for waste treatment works that are 'approved by the Administrator.' If funds are not adequate for this purpose, then EPA has an obligation to tell Congress and request sufficient funds for this purpose." 118 Cong. Rec. 33758 (1972).

Accordingly, we are of the opinion that there is no proper basis in the Act for limiting EPA approval of proposed wastewater treatment plants to that portion of the construction cost not encompassing or attributable to Federal facility use. The Administrator, in approving 75 percent construction grants, must do so for the total otherwise unobjectionable plant construction cost. This means that under the Act, a Federal facility is responsible like other users in the particular district or locality, only for a portion of the 25 percent local share for which there is no Federal grant.

Although, as mentioned earlier, the Congress has attempted to relieve the funding impasse by specifically authorizing and appropriating military construction funds to permit a Federal facility to share in the cost of waste treatment works construction at designated sites, we do not consider that the provision in the FWPCA requiring a 75 percent Federal share for grants to upgrade such treatment works has been amended or repealed. We believe that the congressional sanction of the use of military construction appropriations to compensate for the problems caused by EPA's funding policy is a temporary expedient. Although the legislative history is sparse on this point, there is nothing to suggest an intent to repeal or modify the existing requirements for full 75 percent participation in grants made pursuant to section 202(a)(1) of the FWPCA. See T.V.A. v. Hill, 437 U.S. 153 (1978).

While we sympathize with EPA's desire to stretch its available grant funds to cover as many new treatment plants as possible, this cannot be done by shifting a part of its funding responsibility to other Federal agencies. We therefore recommend that EPA amend its regulations to eliminate the exclusion of project costs attributable to major Federal facility use.

By letter of today, we are advising the Administrator of EPA of our recommendations.

This decision contains recommendation for corrective action to be taken. Therefore, we are furnishing copies to the Senate Committees

on Governmental Affairs and Appropriations and the House Committees on Government Operations and Appropriations in accordance with section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1976), which requires the submission of written statements by the agency to the Committees concerning the action taken with respect to our recommendation.

Military Construction Appropriation for HRSD

Section 201 of the Military Construction Authorization Act, 1978, Pub. L. No. 95-82, August 1, 1977, 91 Stat. 358, 363, authorizes $4,150,000 in construction funds for the "Navy Public Works Center, Norfolk, Virginia." S. Rep. No. 95-125, 95th Cong., 1st Sess. 44 (1977) on S. 1474 which was enacted as Pub. L. No. 95-82, refers to this authorization for the Public Works Center as being for "Municipal Sewer connection." The project data sheet submitted by the Navy (DD form 1391c) in explanation of the authorization request, described the project as follows:

> "Municipal Sewer Connection. The Norfolk Naval Base Complex presently conveys its sewage and industrial waste to the Hampton Roads Sanitation District (HRSD) collection system with the majority of the wastewater treated at the District's Army Base Treatment Plant. This plant only provides primary treatment prior to discharge of effluent to the Elizabeth River. The HRSD must upgrade its treatment facilities to a minimum of secondary treatment to meet water quality standards. This project provides funds for the Navy's proportionate share of the cost for modification to the Army Base Treatment Plant as specified by EPA."

We are informed by the Navy that in the absence of agreement with HRSD, the appropriation for the NPWC, Norfolk municipal sewer connection has not been obligated. As mentioned earlier, Navy relies on our decision, Department of Air Force-Sewage Utility Contracts, B-189395, April 27, 1978, as precluding renegotiation of its contract with HRSD to permit it to contribute the Federal share of the construction costs excluded by EPA without some additional consideration or benefit, such as a lower services rate based on the Navy's contribution to HRSD's capital costs. HRSD will not accept this proposal. It feels that it is entitled to 75 percent of its construction costs, regardless of which Federal pocket it comes from. It thus regards the Navy contribution as a supplementary grant, for which no further consideration is required.

Ordinarily, we would not regard the $4,150,000 appropriated to Navy for construction within the HRSD as grant funds. Authority to make grants must be specifically provided in the legislation and

should not be assumed. In this case, however, the events giving rise to the making of this appropriation (see discussion of congressional intent in next section) tends to support HRSD's characterization of a 75 percent contribution from the Navy as a supplementary grant. We therefore do not think that our decision, B-189395, supra, is applicable in the present circumstances. In that decision, the Air Force had not obtained specific authorizations and appropriations to make the requested capital contributions. The only authority it would have had to use its Operation and Maintenance funds for that purpose would have been a provision in its utility contracts requiring all users to contribute to the costs of upgraded services. Since modification of its existing contracts to provide for such a contribution would have been necessary, the Air Force properly applied ordinary contract principles and declined to agree to such a modification without obtaining additional benefits for the Government.

In the instant case, no modification of the existing contract is necessary. The Navy has been given independent authority by the Congress to make the requested capital contribution and the necessary funds to implement it. It need not draw on O&M funds available to pay service charges to fund these capital costs; the appropriation was made to its military construction account and would be available even if no service contract were presently in effect.

As we understand it, HRSD is asking only for the EPA "shortfall;" i.e., 75 percent of the costs of the project attributable to Navy use of the facility. The remaining 25 percent will be funded in the same manner as the 25 percent non-Federal share for the rest of the project. The non-Federal share of the costs will be passed on proportionately to all users, including the Navy, as part of the service rate. If Navy contributes only the Federal share which would have been contributed by EPA but for its funding policy, we see no basis for Navy's allegations that the utility rate discriminates against a Federal installation because it doesn't recognize its capital contribution. Had EPA furnished the full 75 percent Federal share, Navy would not claim that the rates were discriminatory. The present appropriation merely provides another funding source for part of the same Federal contribution. There is no windfall to the facility and no corresponding drain on Federal funds, viewed as a single source. We therefore believe that Navy is free to use its appropriation to cover 75 percent of the costs attributable to the Navy of the sewage treatment project at HRSD.

Military Construction Appropriation for Honolulu

Section 201 of the Military Construction Authorization Act, 1977, Pub. L. No. 94-431, September 30, 1976, 90 Stat. 1349, 1352, authorized

$12,836,000 for Naval Air Station (NAS), Barbers Point, Hawaii. The Military Construction Project Data form DD 1391, stated in pertinent part as follows:

> "Municipal Sewer Connection. Present on-base sewage treatment facilities at NAS Barbers Point and at Iroquois Point Housing Area provided only primary treatment with chlorination prior to discharge in a shallow water outfall in violation of existing water quality standards. This item constructs collection lines, pump stations and includes the connection charge to connect the Navy's facilities into the $90 million Honoliuli [sic] Regional System * * *. The existing treatment plants will be demolished."

The form lists a connection charge of $9,039,000 which includes a prorated portion of the Honuliuli sewer treatment plant.

The Military Construction Appropriation Act, 1977, Pub. L. No. 94-367, July 16, 1976, 90 Stat. 993, made an appropriation of $549,935,000 for the Navy, "as currently authorized in military public works or military construction Acts * * * to remain available until expended."

Navy contract No. N62742-69-C-0020 provides for sewer service for certain naval facilities already included in the present Honolulu system. With respect to these services, the issues are similar to those involved in the HRSD situation, with one important exception. According to the Principal Deputy Assistant Secretary of the Navy, Honolulu is insisting that the Navy contribute 100 percent (rather than 75 percent) of the Navy's share of the capital costs and "has refused to consider any basis for charges other than the user charges provided in Ordinance 4611."

The Navy is willing to make the 100 percent payment but has been attempting, unsuccessfully, to negotiate a separate user charge schedule that reflects all the costs associated with the operation and maintenance of the Navy's portion of the system. It does not wish to contribute to the non-Federal share of the costs of construction and of operation and maintenance of the remainder of the system. It regards this special rate as reasonable consideration for its 100 percent contribution. Without this rate adjustment, the Navy believes it would be subjected to discrimination because it would be paying more money for its sewer service than any other customer.

We do not think that the requirement to participate in the ordinance user charges discriminates against the Government, per se, even though a portion of the charges involves a capital contribution

for the non-Federal share of the project costs. While the Navy evidently regards a reduction in its service rate as the most acceptable consideration, other compensating benefits which do not involve a reduction in rates could be negotiated as well. For example, we note that the Navy wishes the Honolulu plant to serve several Navy facilities which are not part of the current system, and which are not covered in its existing contract with Honolulu. Extension of service to these additional facilities might also provide the additional consideration necessary to support a 100 percent Government contribution.

Although it is not entirely clear from the legislative language and its history, we do not think that the Congress intended the appropriation for the Honolulu district to do more than compensate for the shortfall resulting from EPA's funding policies. It is true that there are more dollars earmarked for the Honolulu treatment plant than are required to pay only 75 percent of the Navy's share of the costs. It is also true that neither the Navy budget submission nor the Committee reports themselves refer to the EPA funding policy. We are relying instead on the history of this funding authorization -- the fact that prior to EPA's announced funding policy, there were no independent appropriations made for a Federal facility's share of the costs of upgrading sewer treatment works to meet FWPCA standards, plus the fact that the Office of Management and Budget by letter of December 12, 1975 advised DOD that the problems caused by the EPA grant funding policy "are already on their way toward solutions." Navy was encouraged to seek specific appropriations for each wastewater treatment facility project affected by the policy where the lack of funding was having an adverse effect on service to Navy installations.

We are reluctant, in the absence of any evidence in the legislative history, to conclude that the Congress intended, through the mechanism of a military construction appropriation, to alter so significantly the cost sharing percentages established in existing law or to create an entirely new "grant" program with 100 percent Federal funding for wastewater treatment plants. Therefore, we conclude that any contribution of capital costs by the Navy, over and above the 75 percent share which the Government would have assumed but for the EPA funding policy, must be offset by a corresponding benefit to the Government.

In summary, while we do not believe that EPA's funding policy is authorized by law, the Congress has chosen to make up the shortfall in construction grant support of wastewater treatment facilities by specifically appropriating funds to cover the Navy's share of the costs. If Navy contributes no more than 75 percent of the costs attributable to its use of a treatment system, no further consideration to offset this contribution is necessary. If it is required to or chooses to contribute more than 75 percent of the costs, it should

insist on an additional benefit to the Government. The exact nature of such consideration is a matter for negotiation between the parties.

Comptroller General
of the United States