The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of:	Department of the Air Force--Reimbursement of Industrial Fund Agency for Damage to Vehicle
File:	B-221462
Date:	September 29, 1986

DIGEST

Rule that a Federal agency or entity does not pay inter- or intra-agency claims for damage to public property does not apply in the case of a reimbursable or revolving fund. Air Force Industrial Fund activity may therefore be reimbursed for damage to vehicles which it loaned to another Air Force unit for use on a project unrelated to the Fund's purpose.

DECISION

The Acting Deputy Assistant Comptroller for Accounting and Finance, Department of the Air Force, has requested our decision on whether the San Antonio Real Property Maintenance Agency (SARPMA) should be reimbursed for the cost of repairs to two of its vehicles damaged while on loan to another Air Force unit. As explained below, we conclude that reimbursement in this case is authorized.

FACTS

SARPMA is an administrative subdivision of the Air Force Industrial Fund established by the Secretary of Defense under the authority of 10 U.S.C. § 2208 (1982). It loaned two of its pick-up trucks to a base-level unit at Lackland Air Force Base, called the Prime Base Engineering Emergency Force (BEEF) team, which needed them for a project unrelated to SARPMA's mission. There was no formal agreement and no provision to reimburse SARPMA for use of the vehicles. The vehicles were damaged while in the custody of the BEEF team. SARPMA sought to be reimbursed for the repair costs ($650.07) from appropriations

for the project on which the trucks had been used. In view of the traditional prohibition against inter- or intra-agency tort liability, the Office of the Staff Judge Advocate, Air Force Accounting and Finance Center, considered the matter sufficiently doubtful to warrant this decision.

DISCUSSION

The Air Force Industrial Fund, technically termed a "working capital fund," is a type of revolving fund. Initially capitalized by Congress, it provides services generally on a reimbursable basis. 10 U.S.C. § 2208(c). SARPMA provides real property maintenance services, its primary customers being military bases. The issue in this case arises because loaning the vehicles to the BEEF team was outside the scope of the services SARPMA normally provides and thus not covered by its standard reimbursement procedures.

Reimbursement to an Air Force Industrial Fund is based on a rate which is stabilized for each fiscal year.[1/] Repair of Fund property is generally classified as an indirect cost[2/] and factored into the rate. Thus, if SARPMA cannot be reimbursed for the damage in this case, the repair cost will be allocated among and borne by SARPMA's customers.

It has long been the rule that "where a Federal agency damages property of another Federal agency, funds available to the first may not be used to pay claims for damages by the second." 46 Comp. Gen. 586, 587 (1966). The rule is recognized in Air Force regulations (AFR 112-1, para. 18-10). The prohibition applies equally to transactions between elements of the same department or agency.

The prohibition is based primarily on the concept that "property of the various agencies * * * is not the property of separate entities but rather of the Government as

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1/ Department of Defense Regulation 7410.4-R, ch. 9, sec. E (April 1982).

2/ Id., ch. 10, sec. I.6.

a single entity, and there can be no reimbursement by the Government for damages to or loss of its own property." 46 Comp. Gen., supra, at 587. In cases involving the loan of personal property, a further reason for the prohibition is that repair of the damaged property upon its return to the lending agency will benefit primarily the lending agency, and thus is not within the purposes for which the appropriations of the borrowing agency were made. E.g., 30 Comp. Gen. 295, 296 (1951). A major exception is where reimbursement for damages has been provided for in an agreement under the Economy Act (31 U.S.C. § 1535) or similar statutory authority. 30 Comp. Gen. 295, supra.

It is our opinion, however, that even in the absence of an Economy Act or similar agreement, the prohibition should not apply where the fund that would be charged with the cost of repair if reimbursement were not permitted is a reimbursable or revolving fund.

In 3 Comp. Gen. 74 (1923), we considered whether the Department of the Interior should reimburse the Reclamation Fund for the use and depreciation of supplies and equipment purchased and charged to the Reclamation Fund, which the Department had used to conduct investigations funded under another appropriation. In holding that the Reclamation Fund should be reimbursed, we said:

> "The general rule is that where a branch of the service permits the use of equipment by another there is no authority to demand a return or compensation based on the use alone. [citation omitted.] This applies equally with respect to interbureau matters; however, the rule is predicated on appropriations not reimbursable. The reclamation fund is reimbursable, and the use of equipment purchased therefrom is on a somewhat different basis, the equipment being an asset which should not be permitted to be depreciated from use on other than objects for which the fund was created." 3 Comp. Gen. at 75-75.

What we said in 3 Comp. Gen. 74 with respect to depreciation applies equally, in our view, to the repair costs in this case. SARPMA's customers should not bear the costs resulting from use of the vehicles "on other than objects for which the fund was created."

Accordingly, we conclude that SARPMA should be reimbursed from the appropriate Lackland account. The voucher submitted with the request for decision in this case may therefore, if otherwise correct, be certified for payment.

for Comptroller General
of the United States