



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Reimbursements to U.S. Army Corps of Engineers Civil Works  
Revolving Fund for Costs of Keeping Dredges Idle

**File:** B-257064

**Date:** April 3, 1995

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### DIGEST

The U.S. Army Corps of Engineers may charge operating and maintenance costs of dredges held idle to make dredging work available to contractors under section 106 of the 1993 Energy and Water Development Appropriation Act to its Operation and Maintenance, General appropriation. A finance and accounting officer's question of the propriety of the method used to charge these costs raises an issue of the Corp's internal accounting policy, not of the legal availability of the O&M, General appropriation.

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### DECISION

The Finance and Accounting Officer, Portland District, U.S. Army Corps of Engineers ("the Corps") has asked for an opinion on whether he may approve a voucher to charge the Corps' Operation and Maintenance, General ("O&M, General") appropriation for certain "idle time" costs for two Corps-owned dredges. For the reasons stated below, we conclude the Corps may charge the "idle time" costs to a specific allocation for those costs within its O&M, General appropriation.

#### Background

The Corps is responsible for making improvements to the rivers and harbors of the United States. 33 U.S.C. § 540. These improvements include maintaining the appropriate depths of river and harbor channels. See, 33 U.S.C. § 562. To maintain proper channel depths, the Corps maintains a fleet of dredges financed out of the Civil Works Revolving Fund.

As with its other civil works functions, the Corps first pays the costs of channel maintenance operations out of its Civil Works Revolving Fund, which is later reimbursed out of appropriations made to finance the costs of the projects. 33 U.S.C. § 576. In general, the Corps reimburses its revolving fund for dredging work by charging allotments established for dredging projects within its O&M, General appropriation. The Corps calculates the amount to charge for any project by multiplying a daily rate for dredge operations by the number of days that the dredge works on a project. The Corps

calculates the daily rate for each dredge by estimating the annual operating cost of the dredge, and allocating that cost over the expected number of days that the dredge will operate during the year.

Section 106 of the Energy and Water Development Appropriations Act, 1993 directed as follows:

"In fiscal year 1993, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with government-owned dredges in fiscal year 1992."

"Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when the industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements."

Pub. L. 102-377 § 106, 106 Stat. 1315, 1326.<sup>1</sup>

On January 5, 1993, the Corps issued a memorandum establishing the fiscal year 1993 dredge operating schedule. The memorandum stated that, as in past years, the Corps would compute the daily rate for dredging operations based on a 230 day operating schedule. However, as a result of section 106, the Corps calculated that certain dredges would be idle for 50 of the normal 230 day operating schedule. Although idled, the Corps continued to incur the normal operating and maintenance costs for its dredges. To account for those costs, the January 5, 1993, memorandum directed that the daily rate for those idle periods would be charged to an allotment within the O&M, General appropriation. The Corps established this allotment to record and finance the costs of standby time associated with making work available to contractors under section 106.

Under the terms of the memorandum, the finance and accounting officer for the Portland District of the Corps was asked to process a transfer of \$1,153,775 from the O&M, General appropriation to the Civil Works Revolving Fund. The purpose of the transfer was to reimburse the Fund for the idle time for two dredges, the Essayons and Yaquina. The finance and accounting officer objected to this transaction. In doing so, he pointed out that, under the existing accounting guidance, the Corps normally would have absorbed these "idle time" costs through an increase in the daily rate charged for using dredges. The finance and accounting officer then sought our ruling on whether he could process the transaction.

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<sup>1</sup>Similar provisions have been included in the Energy and Water Development Appropriations Acts for fiscal years 1994 and 1995.

## Analysis

The issue here is a narrow one: May the Corps treat section 106 as a discrete project for purposes of accounting for the costs charged to its O&M, General appropriation, or must it account for such costs by adjusting the daily dredge operations rate charged to its O&M, General appropriations for each authorized dredging project? We think the choice, so long as reasonable and consistent with applicable principles of appropriation law, is for the Corps to make. Chevron U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837 (1984).

Our analysis begins with the requirement that "[a]ppropriations shall be applied only to the objects for which the appropriations were made." 31 U.S.C. § 1301(a). Here, the Corps proposes to make specific direct charges to the O&M, General appropriation for the "idle time" caused when dredging work is done by contractors. Although the finance and accounting officer objects to the form of these transactions, he acknowledges that recovering the idle time costs through increased daily rates (as he proposes) will result in the O&M, General appropriation reimbursing the Civil Works Revolving Fund for the same \$1,153,775 that the Corps proposes to charge directly using unadjusted daily rates.

We agree that the O&M, General appropriation is generally available to pay this expense under section 1301(a). O&M, General is a no-year appropriation that is available "[f]or expenses necessary for the preservation, operation, and maintenance, and care of existing river, harbor, flood control, and related works . . . ." Pub. L. No. 102-377, 106 Stat. 1515, 1323 (1992). The costs of maintaining government owned dredges used to clear river and harbor channels falls within this purpose.

The Corps does not view the standby time required by section 106 as normal support of the O&M, General funded dredging projects. Thus, rather than adjust the daily rate charged for authorized projects to reflect the statutorily required idle time, the Corps captured these costs by establishing a separate allotment in its O&M, General appropriation. In effect, the Corps treated the requirements of section 106 as a discrete project. In this context, we think that the issue here involves the Corps' internal accounting policy, not the legal availability of the O&M, General appropriation.<sup>2</sup> In any event, this means of accounting for the costs associated with section 106, plus the daily

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<sup>2</sup>The Corps' internal directives cited by the Finance and Accounting Officer do not prevent the Corps from adopting the accounting treatment it did for section 106. In fact, the Corps' directives specifically contemplate that increases to daily rates to absorb idle time caused by performing work by contract could become prohibitive, and that alternative accounting treatments would be considered at that time. Engineer Regulation 37-2-10, Change 66 (Oct. 1, 1991).

rate charged projects funded under the O&M, General or other appropriation accounts,<sup>3</sup> adequately captures the costs associated with the Corp's dredging operations.

While certainly not the only way to account for these costs, we cannot view this decision as unreasonable. The Senate Report discussion of section 106 specifically asked the Corps to report on the costs of maintaining Corps hopper dredges idle to make work available to contractors. S. Rept. No. 344, 102d Cong. 2d Sess. 59 (1982). In any case, the Corp's internal decision on how to account for its costs does not itself affect our conclusion that the amounts at issue here may be charged to the O&M, General appropriation.

Accordingly, under 31 U.S.C. § 1301(a), the finance and accounting officer may process the \$1,153,775 in reimbursements from the O&M, General appropriation to the Civil Works Revolving Fund.

/s/ James F. Hinchman  
for Comptroller General  
of the United States

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<sup>3</sup>The record reflects that about 2% of the Corp's dredge work in fiscal years 1993 through 1995 is for non-civil works projects (usually clearing channels around Navy facilities) that are reimbursed from other appropriations.