



Decision

Matter of: Postal Regulatory Commission—Amounts Appropriated by Transfer from the Postal Service Fund

File: B-327122

Date: November 30, 2015

DIGEST

By statute, amounts in the Postal Service Fund are available without fiscal year limitation and are not subject to general budget limitations. Amounts appropriated by transfer from the Postal Service Fund to the Postal Regulatory Commission remain no-year funds that do not revert to the Postal Service Fund at the end of the fiscal year. These funds are not subject to general budget limitations, such as governmentwide rescissions. These funds, if not already obligated, remain available in subsequent fiscal years to fund the Commission's operations. If, however, the Commission does not receive an appropriation and does not have sufficient unobligated no-year funds to continue operations, the Commission would experience a funding gap.

DECISION

The Postal Regulatory Commission (Commission) requests a decision under 31 U.S.C. § 3529 as to whether amounts appropriated by transfer from the Postal Service Fund to the Postal Regulatory Commission are no-year funds that do not revert to the Postal Service Fund at the end of the fiscal year. Letter from General Counsel, Postal Regulatory Commission, to General Counsel, GAO (June 19, 2015) (Request Letter). The Commission also asks whether its appropriations are exempt from governmentwide rescissions, and whether its operations would be affected if an annual appropriations act or continuing resolution applicable to the Commission were not enacted at the beginning of a fiscal year. *Id.*, at 2.

Our practice when rendering opinions is to obtain the views of the relevant agency to establish a factual record and the agency's legal position on the subject matter of the request. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at www.gao.gov/products/GAO-06-1064P. In its request, the Commission provides

factual information as well as its legal views regarding the availability of the amounts appropriated by transfer.

BACKGROUND

The Postal Regulatory Commission is an independent establishment within the executive branch that exercises regulatory oversight of the United States Postal Service. 39 U.S.C. § 501; Request Letter, at 2. The Commission is funded with amounts that have been appropriated by transfer from the Postal Service Fund. 39 U.S.C. § 504(d); see, e.g., Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113 235, div. E, title V, 128 Stat. 2130, 2368 (Dec. 16, 2014) (“For necessary expenses of the Postal Regulatory Commission . . . \$14,700,000, to be derived by transfer from the Postal Service Fund . . .”). The Postal Service Fund is a revolving fund established within the United States Treasury. 39 U.S.C. § 2003(a). Amounts contained in the Postal Service Fund are available to the Postal Service without fiscal year limitation. *Id.*

The Commission notes that in a previous decision, we concluded that amounts appropriated by transfer from the Postal Service Fund to the U.S. Postal Service Office of Inspector General (USPS OIG) remain available without fiscal year limitation, and do not revert to the Postal Service Fund at the end of the fiscal year. B-317878, Mar. 3, 2009. Additionally, we concluded that governmentwide rescissions do not apply to USPS OIG appropriations. *Id.* The Commission asks whether such conclusions would also apply to the amounts appropriated by transfer from the Postal Service Fund to the Commission.

DISCUSSION

In our 2009 decision, we found that amounts appropriated to the USPS OIG “by transfer from the Postal Service Fund” retained the no-year characteristic of the Postal Service Fund. B-317878. Congress’s use of the term “transfer” was critical to our determination because, unless Congress provides otherwise, appropriations are available only for the fiscal year for which the funds are appropriated. *Id.*, at 3. However, when an amount is transferred from one account to another, that amount is subject to the same limitations provided by the law appropriating the amount. 31 U.S.C. § 1532; B-317878, at 4. Consequently, unless statutory authority provides otherwise, appropriated funds do not lose their time character when they are transferred from one appropriation to another. B-317878, at 4. Because amounts in the Postal Service Fund are available without fiscal year limitation, we found that such amounts remained no-year funds when Congress enacts a transfer from that fund to the USPS OIG. *Id.*

Similarly, when Congress appropriates funds to the Commission “by transfer from the Postal Service Fund,” such amounts also remain no-year funds. B-317878, at 4; see 31 U.S.C. §§ 1552-1553. As such, any amounts transferred from the Postal Service Fund to the Commission that remain unobligated or unexpended at the end

of the fiscal year remain in the Commission's account and do not revert to the Postal Service Fund. See B-317878, at 4.

We also concluded in our 2009 decision that a governmentwide rescission would not apply to the amounts appropriated by transfer to the USPS OIG.¹ B-317878, at 6. In doing so, we noted that the Postal Service Fund is statutorily exempt "from any general budget limitation imposed by statute on expenditures," and explained that a governmentwide rescission is a general budget limitation. 39 U.S.C. § 2009a; B-317878, at 6.

We reach the same conclusion here. The Commission's funds are appropriated by transfer from the Postal Service Fund, and as such, the Commission's funds are "subject to the same limitations provided by the law appropriating the amount." 31 U.S.C. § 1532; B-317878, at 4. Since a governmentwide rescission is a general budget limitation, such a rescission, absent specific authority in the rescission providing otherwise, would be inapplicable to the Postal Service Fund, and thus also inapplicable to the amounts appropriated by transfer from the Postal Service Fund to the Commission.² See B-317878, at 6.

The Commission also asks whether its operations would be affected if an annual appropriation or continuing resolution applicable to the Commission were not enacted. Request Letter, at 2. Congress may provide new budget authority to agencies through the passage of annual appropriations acts, which permit agencies to incur the obligations necessary to maintain operations. When one or more of the annual appropriations acts or other budget authority, such as a continuing resolution, are not enacted, a funding gap, or lapse in appropriations, may result, and agencies may lack sufficient budget authority to continue to incur obligations. Funding gaps

¹ The term "rescission" generally refers to "[l]egislation enacted by Congress that cancels the availability of budget authority previously enacted before the authority would otherwise expire." GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 85. A governmentwide rescission generally applies to all agencies and all appropriations within a particular act, or all appropriated amounts in a fiscal year, absent specific statutory authority providing otherwise. B-317878, at 5.

² While the USPS OIG is a component of the USPS, the Commission is an independent establishment within the executive branch. 39 U.S.C. § 501. This distinction is not relevant for the purposes of the language exempting the Postal Service Fund from general budget limitations. The source of the Commission's appropriation—the Postal Service Fund—is what is relevant here.

occur most commonly at the beginning of a fiscal year when new appropriations, or a continuing resolution, have not yet been enacted.³

Here, Congress has appropriated amounts to the Commission in annual appropriations acts “to be derived by transfer from the Postal Service Fund.” See, e.g., Pub. L. No. 113-235, 128 Stat. at 2368; Pub. L. No. 113 76, div. E, title V, 128 Stat. 5, 221 (Jan. 17, 2014). As indicated, affirmative legislative action is required to transfer the funds from the Postal Service Fund to the Commission. Accordingly, without such affirmative legislative action, there is no transfer of funds to the Commission.

As discussed, the amounts appropriated to the Commission by transfer from the Postal Service Fund are no-year funds that do not expire at the end of the fiscal year. These funds, if not already obligated, remain available in subsequent fiscal years to fund the Commission’s operations. If, however, the Commission does not receive an appropriation and does not have sufficient unobligated no-year funds to continue operations, the Commission would experience a funding gap. The Commission would be required to engage in an orderly shutdown and cease incurring new obligations in order to avoid violating the Antideficiency Act.⁴

CONCLUSION

Amounts appropriated by transfer from the Postal Service Fund to the Postal Regulatory Commission remain no-year funds that do not revert to the Postal Service Fund at the end of the fiscal year. These funds are not subject to general budget limitations, such as governmentwide rescissions. These funds, if not already obligated, remain available in subsequent fiscal years to fund the Commission’s operations. If, however, the Commission does not receive an appropriation and does not have sufficient unobligated no-year funds to continue operations, the Commission would experience a funding gap.



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³ For a general discussion of funding gaps, see GAO, *Principles of Federal Appropriations Law*, Vol. II, 3rd ed., ch. 6, § C.6, GAO-06-382SP (Washington, D.C., Feb. 2006).

⁴ The Antideficiency Act prohibits agencies from incurring obligations or making expenditures in excess of available appropriations unless authorized by law. 31 U.S.C. § 1341(a)(1)(A).