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

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Dear Mr. Chairman:

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On March 28, 1972, Senator Daniel K. Inouye, then Chairman of the Subcommittee, requested that we evaluate the District of Columbia's response to our letter of March 13 regarding transactions which we believe violate the Anti-Deficiency Act. He requested that we review this data and advise him as to whether it was a valid answer to the conclusions reached in our letter.

We have reviewed the District's response and reaffirm our opinion that the Anti-Deficiency Act has been violated by the District of Columbia Government.

In the enclosure to this letter, we discuss this violation and the general situation in the District regarding fund control.

Although we do not believe that overobligations of apportionments can be absolved by plans for corrective action, we fully agree with the District that the basic solution to its problems must be a new and improved accounting system and compliance with appropriate regulations issued under the Anti-Deficiency Act.

In February 1972 we approved a statement of accounting principles and standards submitted to us by the District. This statement provides a blueprint for the development of a satisfactory system of fund control in the District. We have assigned three staff members to assist the District in developing its new system.

More recently, the District has issued instructions for budget execution and accounting system changes. These instructions are designed to insure compliance with the Anti-Deficiency Act and have been reported to staff members of District congressional committees and to an official of the Office of Management and Budget.

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In a letter dated July 21, 1972, the Commissioner of the District of Columbia informed us that the District did not intend to violate the provisions of the act and that the District government and GAO differed in their interpretation of the act. The Commissioner's letter discussed the instructions that had been issued to insure compliance with the act and stated that such instructions were now being enforced.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after we have obtained your agreement or you have made public announcement concerning its contents.

Sincerely yours,



Acting Comptroller General
of the United States

Enclosure

The Honorable Birch Bayh, Chairman
Subcommittee on the District of Columbia
Committee on Appropriations 3 200
United States Senate

GENERAL ACCOUNTING OFFICE REPORT ON
VIOLATION OF THE ANTI-DEFICIENCY ACT
DISTRICT OF COLUMBIA GOVERNMENT

By letter dated February 8, 1972, the Chairman of the Subcommittee on the District of Columbia, Senate Committee on Appropriations, asked GAO whether the District of Columbia had violated the Anti-Deficiency Act in connection with its fiscal year 1971 appropriations or allotments. To respond to this request, we compared the obligations shown in the District's financial report for fiscal year 1971 with the cumulative apportionments and reapportionments for each operating expense appropriation for that fiscal year. In our letter dated March 13, 1972, we advised the Chairman that in 18 instances obligations exceeded the amount of the cumulative individual apportionments of the particular appropriation to operating units.

We said that overobligation of apportionments constituted a violation of the Anti-Deficiency Act (31 U.S.C. 665) and noted that the District had not reported a violation of the act to the President, through the Office of Management and Budget, or to the Congress.

DISTRICT RESPONSE

In a letter dated March 17, 1972, the District advised the Chairman that the overobligations stated in our report were based on information which did not accurately disclose the financial condition of the District accounts and balances at the time they were noted, mainly because the information in the accounting pipeline had not been recorded in the central accounting records. The District stated that in some instances the overobligations cited in our letter were due to differences in interpretation of accounting procedures, as well as to posting errors. The District concluded that it had complied with the Anti-Deficiency Act, except for a few open accounts which it was still reviewing.

The interpretation behind the District response is that the Anti-Deficiency Act is not violated unless an overobligation of an apportionment still exists at the time the

appropriation lapses for expenditure, or 2 years subsequent to the fiscal year for which it was available for obligation.

THE ANTI-DEFICIENCY ACT

The Anti-Deficiency Act is the permanent legislation through which the Congress enforces its power of the purse over Federal affairs. Basically, the act prohibits expenditures or obligations under any appropriation in excess of the amount available and forbids the acceptance of voluntary services. It also requires that violations be reported to the President, through the Director of the Office of Management and Budget, and to the Congress.

Two provisions of the Anti-Deficiency Act that bear most directly on the District's violation are:

- No officer or employee of the United States shall authorize or create any obligation or make any expenditure in excess of an apportionment or a reapportionment, or in excess of the amount permitted by regulations prescribed under the act.
- The Commissioner shall prescribe, by regulation, a system of administrative control which shall be designed to (a) restrict obligations or expenditures against each appropriation to the amount of the apportionments made for each appropriation and (b) enable such officer to fix responsibility for creating any obligation or making any expenditure in excess of an apportionment.

As stated in our letter of March 13, 1972, the Commissioner had not prescribed by regulation a system of administrative control--an omission which we believe evidences a disregard for the act.

In the absence of such regulations, there is no basis for the fixing of responsibility on individual officers and employees for creating obligations in excess of an appropriation, apportionment, or allotment. However, there still remains a District responsibility under the act to maintain adequate control over obligations and expenditures of apportioned appropriations. The apportioning requirement of the Anti-Deficiency Act encompasses the accounting for

expenditures and obligations in the agency's official accounting records. Without such accounting the act would be meaningless.

Therefore it is our view that when the District accumulated obligations in its official accounting records up to the full amount of an apportionment and authorized additional obligations without analysis or investigation, it departed from the apportionment procedure established to prevent obligations in excess of appropriations and thus violated the Anti-Deficiency Act.

THE GENERAL SITUATION AT THE DISTRICT
AT THE TIME OF OUR INITIAL REVIEW

The original request of the Subcommittee and our report dated March 13, 1972, were limited to the District's fiscal year 1971 funds and did not extend into the support for, or the reliability of, the obligated amounts shown in its financial reports. The District's fund control, we believe, had deteriorated to a point where a broader discussion is warranted.

The District's financial report for the fiscal year ended June 30, 1971, was prepared from its central accounting records about September 30, 1971. The specific statement in that report, from which we obtained the amounts we reported as obligations, contains the following certification.

"I certify that Statement E and F of this Annual Report reflect the balances of appropriations and funds under the control of this Agency and allocated to other agencies, and is supported by certification and records evidencing obligations, as of June 30, 1971, in accordance with Section 1311 of Public Law 663, approved August 26, 1954, as amended by Section 210 of Public Law 79, approved July 8, 1959."¹

¹Section 1311 provides that "Any statement of obligation of funds furnished by any agency of the Government to the Congress or any committee thereof shall include only such amounts as may be valid obligations ***."

A similar certification appears on District financial reports for earlier fiscal years. These certifications leave no question as to whether the District's central accounting records are the records for controlling the apportionments of funds appropriated to the District.

The situation we reported for fiscal year 1971 funds was also true for fiscal year 1970 funds. The District's financial report as of June 30, 1971, showed overobligations in 11 accounts for fiscal year 1970, overexpended apportionments in 8 of these accounts, and an overobligation of the General Operating Expense appropriation by about \$70,000.

The results of recent internal audits highlight the District's problems.

- A District internal audit report dated March 29, 1972, stated that as of January 31, 1972, the records disclosed an overobligation of \$283,401 in the D.C. Teachers College apportionment of the fiscal year 1971 appropriations. The report recommended that, for a variety of reasons, obligations recorded in fiscal years 1970 and 1971 accounts should be adjusted by (1) canceling some obligations because of differences between the amount obligated and the amount paid and (2) transferring obligations among fiscal years 1970, 1971, and 1972. The report showed that, after these adjustments are made, the fiscal year 1970 account should show an overobligation of \$522,642 and the fiscal year 1971 account should show an overobligation of \$9,528. We did not examine the propriety of these adjustments.
- The Office of Municipal Audits recently undertook an audit of the records of the D.C. Public Schools to establish, among other things, an accurate statement of the allotments and expenditures for fiscal year 1971. A preliminary status report on this audit, dated March 31, 1972, stated that fiscal year 1971 expenditures were understated by approximately \$647,000. An official from the Office of Municipal Audits informed us that the \$647,000 also represented an understatement of fiscal year 1971 obligations. The report concluded that, due to the lack of audit trails--primarily in connection with coding of payroll

costs in fiscal years 1970 and 1971--the auditors would be unable to determine actual unobligated balances which could be certified as accurate.

A more disturbing finding, in connection with a separate audit we made of the expenditures by D.C. Public Schools for fiscal year 1971, is that obligations totaling at least \$169,000 for goods and services ordered and received in fiscal year 1971 were charged against and paid from fiscal year 1972 appropriated funds. The documents representing about \$152,000 of this amount had originally been dated in fiscal year 1971 but were changed to show fiscal year 1972.

STATUS OF THE 18 CASES AT THE TIME
OF OUR FOLLOWUP REVIEW

The District's letter to the Subcommittee, dated March 17, 1972, stated that the amounts shown in our March 1972 report did not accurately disclose the financial condition of the apportionment accounts, primarily because of accounting transactions that had not been posted to the central accounting records and because of differences in interpretation of accounting procedures.

The District's letter was not specific regarding the unposted documents, so we requested the Director, Office of Budget and Financial Management, to provide us with the status, at March 17, 1972, of the 18 accounts in question and the documentation to support the elimination of the overobligations reported by us.

The Director, in a letter dated April 1, 1972, provided us with balances as of March 20, 1972. He did not provide us with a balance for the Metropolitan Police Department, so we obtained that balance, as of March 21, 1972, from the D.C. Accounting Office.

This data showed that all but one of the 18 accounts still showed overobligations. Changes had occurred in all 18 accounts; the overobligations were increased in eight cases, reduced in nine cases, and eliminated in one case. (See schedule A.) Pending adjustments, cited by the Director in his letter, will eliminate the overobligations in three other cases, unless some future transactions are offsetting.

For the remaining 14 accounts, the Director furnished us no specific documentation on transactions in the pipeline, unrecorded reimbursements, or posting errors, as referred to in the District's letter dated March 17, 1972.

The case in which the overobligation was eliminated relates to the Department of General Services. An examination of the information furnished us shows that the transaction (dated January 10, 1972) was in the pipeline and was based on appropriate accounting information.

One of the three cases in which pending adjustments will eliminate an overobligation relates to the District of Columbia Council. We have examined the documentation provided and are satisfied that the adjustment is a correction of a posting error.

Two other cases in which pending adjustments will eliminate overobligation are the D.C. Bail Agency and the Youth Development Service. Our examination of the documentation relating to the D.C. Bail Agency showed that a pending adjustment of \$37,000 was based on the Director's recollection that 14 temporary employees had performed work for the Superior Court during a 5-month period. He said that the adjustment should be about \$50,000 but that \$37,000 was the amount used because it was all that was necessary to eliminate the overobligation.¹

Our examination of the documentation relating to the Youth Development Service showed that the pending adjustment was based on the Administrative Officer's recollection that costs for personal services, that should have been charged to an Office of Economic Opportunity grant, were charged to the appropriation. He said that the amount of \$27,000 was used because it was the amount necessary to eliminate the overobligation.

¹A \$2,000 adjustment was pending for printing costs incurred by the D.C. Bail Agency for the Superior Court. The total printing costs was actually \$2,982.45.

Two basic explanations which the District offered in its March 17 letter for the overobligations in several of the remaining 14 accounts were:

- Emergency use of funds in connection with the Mayday demonstrations.
- Apportionments which were intended to be allotments.

The District stated that several instances of overobligations cited in our report related to costs incurred during the emergency involving the April and May 1971 massive Mayday demonstrations in the Capital. It further stated that:

"The Anti-Deficiency Act clearly recognizes that an appropriation or apportionment may be exceeded in cases of emergency involving the safety of human life or the protection of property."

We disagree with the District's interpretation of the act. Although the act permits, in the case of emergencies, an apportionment which indicates a necessity for a deficiency or supplemental estimate, we find nothing in the act that authorizes obligations in excess of an apportionment or a reapportionment. The Mayday demonstrations were scheduled well in advance, and we are inclined to believe that the Budget Officer had sufficient time to prepare the document reapportioning the necessary funds and to immediately report the facts to the Congress.

Regarding the apportionments which the District contends to be allotments, the District states that no violations occurred in the cases of the Office of the Director of Human Resources, Narcotic Treatment Administration, Health Services, Social Services, and Vocational Rehabilitation Administration because (1) these written apportionments and reapportionments approved by the Budget Office were not intended to be considered apportionment controls after the establishment of the Department of Human Resources and (2) the funds available and obligations incurred for the Department as a whole showed no overobligation. The Anti-Deficiency Act requires that apportionments and reapportionments be in writing.

We requested the Director, Office of Budget and Financial Management, to furnish us the documents which reapportioned the funds in question to the Department of Human

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Resources. He replied that an overall apportionment was not made because it would require changes in accounting.

RECENT EFFORTS BY THE DISTRICT
TO STRENGTHEN ACCOUNTING AND BUDGETING

The District prepared a statement of accounting principles, which we approved on February 18, 1972, to provide a blueprint for their development of a satisfactory accounting system.

In April 1972 the Commissioner established the Office of Budget and Financial Management (OBFM) as part of the Executive Office, for the purpose of directing and coordinating the District's fiscal and financial responsibilities. These responsibilities include those related to budget preparations and execution and to the development of accounting policies and systems.

In June 1972 OBFM issued interim instructions for budget execution and accounting system changes. The interim instructions were to be effective until such time as the revised accounting system is adopted and implemented by the District.

The instructions, effective July 1, 1972, contain several measures designed to insure compliance with the Anti-Deficiency Act. The instructions provide for the preparation of a monthly report which projects quarterly and full-year obligations for each agency and thereby enable OBFM to identify potential surpluses or deficits and to take action to bring agency accounts into balance before overobligations occur. The instructions provide also that agency heads are responsible for the administrative control and the prevention of overobligation of funds.

The contents of these regulations were highlighted in letters sent to staff members of the House and Senate District Committees and the House and Senate Appropriation Subcommittees, and an official in the Office of Management and Budget.

CONCLUSION

We reaffirm the opinion expressed in our report to the Subcommittee on March 13, 1972, that the District of

Columbia Government has violated the Anti-Deficiency Act. That this violation did not result from some isolated instance of oversight or error, but from a disregard for the act, is evidenced by (1) the failure to issue the regulations required under the act, (2) the certification of the District financial reports disclosing overobligations of apportionments of both 1971 and 1970 appropriations, (3) the reliance, in many cases, on documents and pending adjustments to eliminate overobligations over 8 months after the close of the fiscal year, and (4) the alteration of dates on a number of documents involving goods and services ordered for the school system in fiscal year 1971 so that the obligations could be charged against fiscal year 1972 funds.

On the other hand, the District appears to have a new appreciation that stronger controls and more accurate information are needed to manage its fiscal affairs. The development of an acceptable statement of accounting principles was an important step in this direction. More recent actions, such as the reorganization of the budgeting and accounting functions and the issuance of interim regulations relating to control of funds, indicate that a serious effort is underway.

COMMENTS BY THE COMMISSIONER OF THE
DISTRICT OF COLUMBIA

The Commissioner of the District of Columbia, commenting on a draft of this report by letter dated July 21, 1972, informed us that:

"I would like to state categorically that there has been no desire or intent to disregard or violate the provisions of the Act. It is evident that there have been differences of interpretation about the Act between the city government and the GAO. Some of these differences have gone to the level of government at which the Act was applicable and the circumstances under which the reporting provisions of the Act were applicable."

The Commissioner's letter referred to the issuance of interim instructions for budget execution and accounting system changes and stated that:

"The measures they contain to insure compliance with the Anti-Deficiency Act have been issued with my full support and approval and are being enforced."

The Commissioner's letter pointed out that the newly established Office of Municipal Audit and Inspection should enhance his control over all agencies of the District Government and stated that:

"Although there have been differences of interpretation, there are no differences between the General Accounting Office and the city government with respect to objectives. The dialogue that we have just concluded has been extremely valuable in identifying our needs and in developing our program of fiscal management improvement. We are now prepared to implement it, and with the help of the GAO will do so."

SCHEDULE A

DISTRICT OF COLUMBIA GOVERNMENT
 CHANGES IN OVEROBLIGATED BALANCES IN
 FISCAL YEAR 1971 APPORTIONMENTS

Agency	Obligations in excess of apportionments per GAO letter of 3-13-72(-)	Net adjust- ments prior to 3-20-72		Account balance 3-20-72	Pending adjustments 3-20-72		Balances after pending adjustments
		No support provided	Support provided		No support provided	Support provided	
D.C. Council	\$ -3,912	\$ 1,782		\$ -2,130	\$1,274	\$ 2,455	\$ 1,599
Dept. of General Services	-148,649	-466,386	\$897,427	282,392			282,392
Board of Parole	-25,915	-2,625		-28,540			-28,540
Board of Appeals and Review	-3,278	299		-2,979			-2,979
Human Relations Commission	-2,384	-2,552		-4,936			-4,936
Board of Elections	-66,582	-32,166		-98,748			-98,748
Youth Development Services	-69,380	41,622		-27,758	27,800		42
D.C. Public Schools	-194,595	186,986		-7,609			-7,609
D.C. Teachers Col- lege	-250,334	-31,102		-281,436			-281,436
Director of Human Resources	-140,447	31,761		-108,686			-108,686
Narcotics Treatment Administration	-597,159	-157,703		-754,862			-754,862
Health Services Ad- ministration	-962,711	901,843		-60,868			-60,868
Social Services Ad- ministration	-1,110,617	710,722		-399,895			-399,895
Vocational Reha- bilitation Admin- istration	-5,916	5,656		-260			-260
Juvenile Court	-68,816	-108,985		-177,801			-177,801
D.C. Bail Agency	-37,236	-639		-37,875	39,000		1,125
Metropolitan Police Dept.	-1,432,892	-207,545		-1,640,437 ^a			-1,640,437
Dept. of Correc- tions	-56,485	27,936		-28,549			-28,549

^aBalance as of March 21, 1972.

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