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Report to Congressional Requesters

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ACQUISITIONS

August 1987

INTERAGENCY AGREEMENTS

Customs-Coast Guard Agreement for U.S.-Bahamas Drug Task Force Was Proper



154377

U.S. Department of Justice
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**DATA CENTER AND
CLEARINGHOUSE
FOR DRUGS AND CRIME**



GAO/AFMD-87-69

Accounting and Financial
Management Division

B-228826

August 31, 1987

The Honorable Dennis DeConcini
Chairman
The Honorable Pete V. Domenici
Ranking Minority Member
Subcommittee on Treasury, Postal
Service, and General Government
Committee on Appropriations
United States Senate

The Honorable Earl Hutto
Chairman
The Honorable Robert W. Davis
Ranking Minority Member
Subcommittee on Coast Guard and
Navigation
Committee on Merchant Marine and Fisheries
House of Representatives

We received requests from your respective offices dated May 12, 1987, and June 8, 1987, asking us to review a reimbursable interagency agreement between the Coast Guard and the Customs Service. The agreement—in the amount of \$8 million—called for the Coast Guard to obtain and operate helicopters for the U.S.-Bahamas Drug Interdiction Task Force and also to provide enhanced communications operations to the task force.

As agreed with your offices, this report discusses (1) the facts regarding the agreement and the roles of the respective agencies and (2) the legal basis for the agreement and its associated billings and whether any federal laws or regulations were violated.

Based on our review, we determined that:

- The agreement entered into by the Commandant of the Coast Guard and the Commissioner of the Customs Service was proper and did not contravene any legal requirements concerning the use of the funds involved.
- The Coast Guard met the requirements of the Economy Act (31 U.S.C. 1535 and 1536) and followed established Department of the Treasury procedures in billing the Customs Service under the agreement.

- While not impacting on the legality of the agreement, the Customs Service did not follow its internal procedures for processing interagency agreements and did not promptly establish an obligation on its accounting records for the amount of the agreement as required by the General Accounting Office's (GAO) Policy and Procedures Manual for Guidance of Federal Agencies.

Objectives, Scope, and Methodology

Our primary objectives were to (1) document the circumstances surrounding the agreement between the Customs Service and the Coast Guard and (2) determine the legality of the agreement and any associated billings.

In conducting our review, we discussed the events and procedures relating to this agreement with the Commandant of the Coast Guard, the Commissioner of the Customs Service, and the Deputy Commissioner of Treasury's Financial Management Service, as well as other cognizant officials at each agency. We reviewed those aspects of the Coast Guard and Customs Service accounting systems and systems of internal controls that would have an effect on processing the interagency transaction. We also reviewed recent reports each agency filed under the Federal Managers' Financial Integrity Act of 1982 (31 U.S.C. 3512 (b) and (c)). In addition, we reviewed pertinent federal laws and regulations regarding the agreement in question and the related billings under the agreement.

We performed our work from May 1987 through August 1987 at the headquarters of Customs and the Coast Guard and at Treasury's Financial Management Service in Washington, D.C. We conducted our work in accordance with generally accepted government auditing standards.

Circumstances Surrounding the Interagency Agreement

The U.S.-Bahamas Drug Interdiction Task Force was created by section 3301 of the National Drug Interdiction Improvement Act of 1986 (Public Law 99-570, October 27, 1986, 100 Stat. 3207-98). The task force is comprised of the Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, the head of the National Narcotics Border Interdiction System, and the Government of the Bahamas. Section 3301(a)(2) authorized the appropriation of \$9 million for three pursuit helicopters for use primarily for the task force's operations and \$1 million to enhance task force communications.

Three days later, the Omnibus Drug Supplemental Appropriations Act of 1987 was enacted (Public Law 99-591, October 30, 1986, 100 Stat. 3341-356). This act appropriated to the Customs Service an additional \$93 million for the "Operation and Maintenance, Air Interdiction Program," of which up to \$10 million was made available for the U.S.-Bahamas Task Force. The appropriations act did not specify how the \$10 million was to be spent.

In December 1986, the task force members met to discuss their mission and, subsequently, on February 11, 1987, Customs and the Coast Guard entered into an interagency agreement¹ whereby the Coast Guard would provide aircraft and communications capabilities to the task force on a reimbursable basis. The agreement called for Customs to reimburse the Coast Guard \$8 million—\$7 million for at least three helicopters and associated costs for use by the task force and \$1 million for a secure communications system for the operations of the task force. The money was to come from the \$10 million made available to Customs by the Omnibus Drug Supplemental Appropriations Act of 1987.

Customs had initially planned to purchase three new helicopters, thereby providing the task force 24-hour air coverage from one location within the Bahamas. However, the agreement between Customs and the Coast Guard did not require that new helicopters be purchased. Therefore, the Coast Guard is permitted by the agreement to use the \$7 million to retrofit existing helicopters to meet the task force's mission. The Coast Guard plans to supply nine retrofitted helicopters to the task force, which will result in 24-hour air coverage from three locations in the Bahamas. According to Coast Guard officials, the funds in the agreement will not be sufficient to fully operate the aircraft and such costs as personnel and training will have to be paid out of the Coast Guard's existing appropriations. Coast Guard officials also stated that they will have to use their own appropriations to ensure future operation and maintenance of these helicopters.

¹Interagency agreements, similar to the one entered into between Customs and the Coast Guard, are used extensively to conduct a wide variety of government operations. For example, agreements are used to rent space in buildings, purchase equipment, etc. Many agencies use Treasury's On-Line Payment and Collection System (OPAC) to process such interagency transactions. According to Treasury estimates, the OPAC system alone processes about 2,000 to 3,000 of these transactions each month totaling between \$2 billion and \$4 billion. Coast Guard and Customs officials estimated that in fiscal year 1987, they entered into 421 and 130 interagency agreements, respectively, for a total value of \$665 million.

The Honorable Dennis DeConcini, Chairman, Subcommittee on Treasury, Postal Service, and General Government, Senate Appropriations Committee, was informed by both the Commandant of the Coast Guard and the Commissioner of Customs in early January 1987 that the two agencies had negotiated an agreement to use a portion of the \$10 million which had been appropriated to Customs to support the task force. According to subcommittee staff, the subcommittee intended that the appropriated funds be used only by the Customs Service to procure three helicopters to carry out the task force's mission. In a March 5, 1987, hearing before the subcommittee, the Commissioner of Customs discussed the agreement. At that time, Chairman DeConcini questioned whether the agreement allowing the Coast Guard to spend the funds required congressional approval.

On April 2, 1987, the Coast Guard billed Customs the full \$8 million under the agreement. Shortly thereafter, the Coast Guard adjusted the billing to reflect only those services it could provide during fiscal year 1987. By April 29, 1987, Customs had not paid the adjusted balance, and on that day Customs reversed the transaction. Subsequently, however, the Congress specifically authorized that about \$4.1 million be transferred from Customs to the Coast Guard. On July 31, 1987, Customs prepared the necessary forms to initiate the transfer, which was completed on August 17, 1987. At the time this report was ready to be issued, the agreement was still in effect, and Customs had established an obligation for about \$3.9 million (the portion of the funds in the original \$8 million agreement that have not been transferred by congressional action). A detailed chronology of these events is included in appendixes I and II.

Legal Basis for the Agreement

In reviewing the actions taken by Customs and the Coast Guard, we concluded that the agreement was valid and did not contravene any legal requirements for Customs' use of the funds.

Customs' officials stated that the agreement was entered under the provisions of the Economy Act (31 U.S.C. 1535 and 1536). This act authorizes an agency to provide an item or service requested by another agency on a reimbursable basis when specific conditions are met. Agreements entered into under the Economy Act do not require congressional approval. We found that the conditions for Economy Act agreements were fully met, as follows:

- The requesting agency (Customs) had funds available to spend directly on the item or service.

Billing Transaction Was Proper

In addition to determining that the agreement was authorized by law, we also found that the related billings under the agreement were authorized by the Economy Act and other federal regulations.

The Economy Act allows the agency filling an interagency order to request payments in advance for any part of the estimated cost. The agreement between Customs and the Coast Guard did not specify the basis for billing. Under the Economy Act, the Coast Guard is permitted to bill Customs in advance for the "ceiling" amount of the agreement—in this case, \$8 million. On April 2, 1987, the Coast Guard, using the OPAC system, submitted its bill to Customs for the full \$8 million.

The OPAC system, as discussed in footnote 1, is frequently used to process interagency transactions. Since the Coast Guard and Customs were both subscribers to the OPAC system, it was appropriate for the Coast Guard to use the system to process its bill.

The OPAC system is governed by regulations contained in the Treasury Financial Manual (1 TFM 6-10000) and instructions contained in a users manual. The Coast Guard complied with prescribed procedures in processing its bill and, although not required to, gave Customs advance notice that a bill was being prepared.

OPAC procedures also allow agencies to charge back to the billing agency improper bills. Treasury officials stated that, while there is no written criteria for what constitutes an improper bill under OPAC, examples of improper bills would include

- billings in excess of the reimbursable agreement,
- billings for advance payments when the agreement called for billings based on actual costs incurred, or
- billings submitted to the wrong agency.

As discussed previously, bills submitted by the Coast Guard under the agreement were charged back by Customs. However, based on our review, the bills were not improper from a legal standpoint or according to Treasury's criteria.

Customs Did Not Follow All Procedures

While not impacting on the legality of the agreement or the associated billings by the Coast Guard, we noted several procedural and control problems which we discussed with Customs' officials. The Customs Service has written procedures which specify the information to be

included in interagency agreements in order to provide adequate management control over the agreements and related billings. The agreement in question did not detail the items to be procured, include a date by which the agreement was to be completed, or specify how bills were to be submitted—all requirements of Customs' procedures.

We also noted that after the agreement was signed by the Commissioner on February 11, 1987, an additional internal Customs' document needed to obligate funds for the agreement was not prepared nor was the agreement forwarded to Customs' National Finance Center (NFC) in Indianapolis, Indiana, for processing. Therefore, when Coast Guard submitted its first bill on April 2, 1987, Customs' NFC was unaware that the agreement existed.

Further, after receiving the first bill and obtaining a copy of the agreement from the Coast Guard, Customs did not obligate the funds. The Comptroller General's accounting principles and standards in GAO's Policy and Procedures Manual for Guidance of Federal Agencies (title 7 GAO 16.1) require agencies to promptly record obligations as charges against applicable appropriations so that requirements for fund control are met, essential management information is provided, and required reports are prepared.

These measures are necessary for the following reasons:

- Failure to record an obligation can lead to overobligation of funds, which is specifically prohibited by the Anti-Deficiency Act (31 U.S.C. 1341).
- Agencies depend on the information recorded in the financial records to determine whether funding ceilings have been exceeded. If an obligation is not recorded, this vital control is negated.

We discussed with Customs officials the need to promptly record all obligations. On July 1, 1987, a Customs official told us Customs would record the obligation and immediately issued instructions to NFC to establish it. The obligation was recorded on July 8, 1987.

Observations

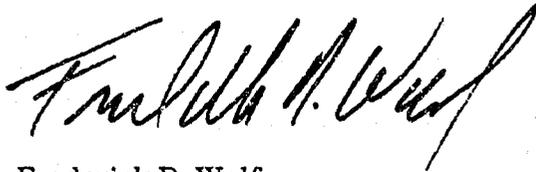
The agreement and associated billings by the Coast Guard met the requirements of law as well as Treasury regulations. These types of agreements are commonplace in the government, and the agreement between the Coast Guard and Customs did not contravene any legal

requirements concerning the use of the funds involved. While we identified procedural problems at Customs in processing the Coast Guard's billings under the agreement, the billings were legally proper and met Treasury's requirements.

Agency Comments

We obtained official oral comments from the Customs Service and the Coast Guard on a draft of this report. Officials from both agencies agreed with the contents of our report.

Unless you publicly announce its contents earlier, we will not distribute this report until 30 days from the date it is issued. At that time, we will send copies to the Secretary of the Treasury, Commandant of the Coast Guard, Commissioner of Customs, and other interested parties. We will also make copies available to others upon request.



Frederick D. Wolf
Director

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Abbreviations

GAO	General Accounting Office
NFC	National Finance Center
OLM	Office of Logistics Management
OPAC	On-Line Payment and Collection System

Appendix I
Chronology of Events Related to the
February 1987 Agreement Between the Coast
Guard and the Customs Service

January 7 and 8, 1987

The Commissioner, Customs, and Commandant, Coast Guard, reach a verbal agreement to enter an interagency agreement that would reimburse Coast Guard for upgraded task force helicopter operations and communications. Within a day or two of the verbal agreement, the Commissioner, Customs, notifies the Honorable Dennis DeConcini, Chairman, Subcommittee on Treasury, Postal Service, and General Government, Senate Appropriations Committee, of the agreement.

January 9, 1987

The Commissioner, Customs, writes the Commandant, Coast Guard, stating that \$8 million would be transferred from Customs to Coast Guard. The letter further indicates that \$7 million was for acquisition, operation, and maintenance of helicopters to be used in drug interdiction efforts in the Bahamas and \$1 million was for the design, development, and installation of the communications system for the task force.

January 12, 1987

The Commandant, Coast Guard, writes to the Assistant Secretary of State for International Narcotics Matters applauding Customs' \$8 million transfer agreement and recommending the National Drug Policy Board be apprised of the agreement.

January to Early
February 1987

Customs' budget staff is in contact with Coast Guard staff to develop the agreement. Several drafts are prepared.

During this period, the Coast Guard deploys one of its own helicopters for task force missions.

February 1987

The Commissioner, Customs, signs a memorandum of agreement which contains a clause that the agreement would be void if there were subsequent congressional directions to terminate the agreement. This agreement is dated February 5, 1987.

February 10, 1987

The Commandant, Coast Guard, sends a memo to the Commissioner, Customs, indicating the February 5, 1987, agreement is unacceptable to the Coast Guard since it would put the Coast Guard in the position of having to obligate funds without assurances of being reimbursed. The Commandant offers to reinstate an agreement which does not contain the restrictive language and encloses two signed copies for the Commissioner to complete.

Chronology of Events Related to the February 1987 Agreement Between the Coast Guard and the Customs Service

October 27, 1986

The U.S.-Bahamas Drug Interdiction Task Force is created by section 3301 of the National Drug Interdiction Improvement Act of 1986. Members include the Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, the head of the National Narcotics Border Interdiction System, and the Government of the Bahamas. The act authorized appropriations of \$9 million for three helicopters and \$1 million for enhanced communications.

October 30, 1986

The Omnibus Drug Supplemental Appropriations Act of 1987 (Public Law 99-591) provides Customs additional funds in its "Operations and Maintenance, Air Interdiction Program" account and up to \$10 million of this is made available for the U.S.-Bahamas Task Force.

December 19, 1986

The Aviation Operations Subcommittee of the task force meets and reaches an agreement on an air operation concept for the task force. Attending are representatives from the Customs Service, the Drug Enforcement Agency, the Coast Guard, and the Air Force.

December 24, 1986

The Commissioner, Customs Service, sends a letter to the Commandant, Coast Guard, discussing the agreements reached at the December 19 meeting. The letter also states Customs' intention to purchase three commercially available helicopters to be dedicated to the task force mission.

January 2, 1987

The Commandant, Coast Guard, sends a letter to the Commissioner, Customs, emphasizing that the funds Customs plans to use to purchase helicopters were for the task force mission and not Customs' mission. The Commandant recommends the task force determine how the \$10 million should be expended.

January 5, 1987

The Commandant, Coast Guard, sends a letter to the Assistant Secretary of State for International Narcotics Matters expressing concern about Customs' impending purchase of helicopters. The Commandant recommends no money be spent until the National Drug Policy Board acts. The letter also reiterates that nothing in the legislation requires that funds be spent for Customs assets.

Appendix I
Chronology of Events Related to the
February 1987 Agreement Between the Coast
Guard and the Customs Service

Late March 1987

Coast Guard staff calls Customs' budget office and asks when the Coast Guard will be getting the reimbursable dollars. The budget office directs all calls to Customs' financial management staff.

April 2, 1987

The Coast Guard bills Customs through Treasury's On-Line Payment and Collection System (OPAC) for \$8 million. A complete chargeback of the transaction was effected by the end of the month. (See appendix II for a discussion of the billing transaction.)

April 22, 1987

The Commandant, Coast Guard, writes to the Commissioner, Customs, stating that he shares the same concerns raised by the Commissioner in his March 27, 1987, letter. The Commandant discusses Coast Guard plans to use \$4.4 million of the funds available under the interagency agreement in fiscal year 1987 but is not specific about future plans to use the remaining funds.

Chairman DeConcini writes the Commissioner, Customs, expressing reluctance to approve the reimbursement of \$7 million to the Coast Guard in accordance with the interagency agreement. The letter states that it was the Congress' intention that the \$9 million be spent by Customs on helicopters to support the task force. The letter notes that Customs should not give up part of its funding to support the Coast Guard's initiative in the task force, nor should Customs expect the Coast Guard to fund Customs' operations in the task force or elsewhere.

May 6, 1987

The Commissioner, Customs, meets with Chairman DeConcini and discusses the task force efforts and provides the Chairman a copy of the Coast Guard's plan (April 22 letter) for providing helicopters and communications support.

May 27, 1987

Chairman DeConcini offers an amendment to transfer the funds the Coast Guard requested for fiscal year 1987 rather than have Customs reimburse the Coast Guard in 1987 under the terms of the interagency agreement. The amendment specifies that \$4,120,000 would be transferred from the Customs Service to the Coast Guard as part of the Supplemental Appropriations Act of 1987 (Public Law 100-71, July 11, 1987, 101 Stat. 431).

Appendix I
Chronology of Events Related to the
February 1987 Agreement Between the Coast
Guard and the Customs Service

February 11, 1987

A revised reimbursable agreement is signed after removing clauses contained in the February 5, 1987, agreement which caused the Coast Guard concern.

February 20, 1987

The Commissioner, Customs, writes Chairman DeConcini providing information on the use of fiscal year 1987 Customs air interdiction resources. The letter includes the \$9 million for three aircraft and \$1 million for communications for the U.S.-Bahamas Task Force.

March 4, 1987

Chairman DeConcini writes the Commissioner, Customs, indicating his understanding that the Coast Guard would be getting surplus helicopters to support the task force. He, therefore, sees no need for Customs to transfer funds to the Coast Guard and also indicates that he hopes the Commissioner will proceed with the purchase of additional Customs helicopters or with any other plans the Commissioner may have to use the money for the U.S.-Bahamas Task Force.

March 5, 1987

During Senate subcommittee hearings, the transfer of funds is discussed.

March 13, 1987

The Commissioner, Customs, writes the Senate subcommittee that Customs has agreed, after considerable negotiation with the Coast Guard, to let the Coast Guard provide the helicopter support for the task force and that Customs has agreed to reimburse the Coast Guard up to \$7 million for the helicopters and \$1 million for communications.

March 27, 1987

The Commissioner, Customs, writes the Commandant, Coast Guard, stating Customs has continuing responsibility for the funds appropriated. The Commissioner also notes that Chairman DeConcini still expects Customs to use the funds to purchase helicopters. (We believe this statement was based on the events of March 4 and 5, 1987.) The letter does not discuss whether Customs should cancel the agreement. The letter also asks for a status report including information on types and numbers of helicopters acquired and time frames for deployment.

Chronology of \$8 Million Billing Transaction Between the Coast Guard and the Customs Service

February 11, 1987

A Memorandum of Agreement is signed by the Commissioner, Customs, and the Commandant, Coast Guard. (See appendix I.) The Customs Service's financial obligation is limited to \$8 million. The Customs Service does not obligate the funds in its accounting records.

April 2, 1987

The Coast Guard bills the Customs Service through Treasury's OPAC system for \$8 million. This charge is routed to Customs' National Finance Center (NFC) in Indianapolis, Indiana. The electronic bill states that the charge was a reimbursement for operation of drug interdiction pursuit helicopters and secure communications for operation of the U.S.-Bahamas Drug Interdiction Task Force.

April 8, 1987

The Coast Guard processes a credit billing through the OPAC system to NFC for \$3,591,967. The electronic bill states that the credit was made to "reflect the actual charges to date." The combination of transactions on April 2 and April 8 result in a net charge to Customs of \$4,408,033.

April 9, 1987

NFC staff asks the Coast Guard for supporting documents.

April 10, 1987

The Coast Guard telefaxes a copy of the Memorandum of Agreement and supporting legislation to NFC.

April 13 Through 21, 1987

NFC contacts the Office of Logistics Management (OLM) at Customs' headquarters in Washington, D.C., to obtain a copy of the CF 236. The CF 236 (which should have accompanied the copy of the Memorandum of Agreement) is a form used by Customs to document interagency agreements and authorize NFC to establish an obligation. OLM advises NFC that the CF 236 had not yet been prepared. At this time, the transaction was being treated routinely since it is not unusual for NFC to receive billings before receiving the contractual documents nor was it unusual to receive billings through OPAC before receiving certifications from a Customs official authorizing payment. Customs' Financial Management and Program Analysis office issues instructions to NFC that no billing should be accepted without the prior review and certification of Customs' Assistant Commissioner for Enforcement.

**Appendix I
Chronology of Events Related to the
February 1987 Agreement Between the Coast
Guard and the Customs Service**

July 11, 1987

The Supplemental Appropriations Act is passed.

Appendix II
Chronology of \$8 Million Billing Transaction
Between the Coast Guard and the
Customs Service

July 24, 1987

Customs' Financial Management and Program Analysis office asks NFC to prepare the necessary documents to transfer approximately \$4.1 million to Coast Guard under the authority contained in the Supplemental Appropriations Act of 1987 (Public Law 100-71).

July 31, 1987

NFC prepares the transfer documents and mails them to Treasury's Financial Management Service for processing.

August 17, 1987

The transfer is complete.

Appendix II
Chronology of \$8 Million Billing Transaction
Between the Coast Guard and the
Customs Service

April 23, 1987	NFC advises Customs headquarters that an OPAC transaction occurred. The Financial Management and Program Analysis office advises the Acting Comptroller to discuss the transaction with the Coast Guard Comptroller.
April 24, 1987	NFC advises the Coast Guard that it wishes to reverse the net billing. The Coast Guard raises objections and says it cannot agree without the Commandant's approval. The Coast Guard suggests that the Commissioner, Customs, discuss the issue with the Commandant, Coast Guard.
April 24 Through 28, 1987	Customs' Acting Comptroller discusses the OPAC transactions with the Coast Guard Comptroller, but they are unable to resolve the disagreement.
April 27, 1987	The Coast Guard Comptroller calls Customs' Acting Comptroller stating that the Commandant, Coast Guard, is out of the country.
April 29, 1987	NFC reverses the net transaction through OPAC.
April 30, 1987	Senate subcommittee staff requests that Treasury's Financial Management Service, which operates the OPAC system, review the transactions. The Service determines that the Coast Guard billing transactions were not erroneous. Customs also tells the Service that Customs had charged back the transaction the previous day.
July 1, 1987	Customs' Acting Comptroller advises GAO that the \$8 million will be obligated.
July 2, 1987	Customs' Financial Management and Program Analysis office notifies NFC to establish the \$8 million obligation.
July 8, 1987	NFC obligates the \$8 million. No funds are disbursed, but the obligation is subsequently reduced when approximately \$4.1 million is transferred to the Coast Guard.