

May 18, 2000
L-2000-15

TO : Kenneth P. Boehne
Chief Financial Officer

FROM : Steven A. Bartholow
General Counsel

SUBJECT : Appropriation for Funds Transfer to Employees' Compensation Fund

This is in reply to your memorandum of April 28, 2000, requesting my advice as to the method for reimbursement of workers' compensation and medical benefits paid to employees of the Railroad Retirement Board by the Department of Labor (DOL) from the Employees' Compensation Fund.

The Employees' Compensation Fund, established in the Treasury of the United States is the source for payment of compensation and other benefits to Federal employees as authorized by the Federal Employees' Compensation Act (5 U.S.C. § 8101 et. seq.) or other statute. The Employees' Compensation Fund is administered by DOL. See 5 U.S.C. § 8147(a). Section 8147(b) provides in part:

(b) Before August 15 of each year, the Secretary shall furnish to each agency and instrumentality of the United States having an employee who is or may be entitled to compensation benefits * * * a statement showing the total cost of benefits and other payments made from the Employees' Compensation Fund during the preceding July 1 through June 30 expense period * * *. Each agency and instrumentality shall include in its annual budget estimates for the fiscal year beginning in the next calendar year a request for an appropriation in an amount equal to the costs. Sums appropriated pursuant to the request shall be deposited in the Treasury to the credit of the Fund within 30 days after they are available.* * *

The obligation for payment of workers' compensation benefits under the Federal Employees' Compensation Act is that of the Employees' Compensation Fund. Under the reimbursement scheme set forth in section 8147(b), agencies became obligated to reimburse the Fund not at the time payments are made from the Fund, but rather upon enactment of an appropriation providing for reimbursement of the amount provided in statements submitted to the agencies by the Department of Labor prior to August 15 of the fiscal year next preceding the fiscal year prior to the year in which the appropriation is enacted. Accordingly, in response to your question, it is my opinion that section 8147(b) contemplates that the cost of the benefits paid to Board employees by the Department of Labor from the Employees' Compensation Fund in a particular 12 month period beginning July 1 and ending June 30 is to be reimbursed to the Fund from funds appropriated for such purpose in the second fiscal year following the end of such twelve month period. For example, the cost for benefits paid to Board employees through June 2000, as reported to the Board by DOL in August 2000, will be properly payable from the enacted appropriation for fiscal year 2002.