

3 November 1947

*Legal Des (Law)  
Memo 2*

MEMORANDUM FOR THE EXECUTIVE BOARD

Subject: Property Accountability  
OGC Has Reviewed

1. In addition to concurring generally in the memorandum of 28 October from the Chief, Services Branch on the above subject, I should like to comment on a more strictly legal aspect of the situation.

2. The agency rules setting the property controls are promulgated under a Section (31 U.S.C. 90) authorizing the heads of departments to make and enforce regulations to carry out the provisions of Sections 80-92 of Title 31. This reference to the earlier Sections forces such agency regulations to serve certain purposes. The basic purpose is to insure enforcement of pecuniary liability for loss accruing by fault of an employee. This liability was formerly determined by GAO. Section 80 authorizes administrative officers of the departments to certify to GAO, for debiting on the proper account, charges determined by the department. By Section 90, such a certificate shall state that the charges were found upon fair hearing, and a certificate then would be effective as if found by GAO in accounting. These certificates in lieu of property returns do not affect other property returns, such as those required by GAO Reg. 100 (31 U.S.C. 91). Finally, Section 93 of Title 31 provides that GAO shall superintend the recovery of all debts finally certified by it to be due to the United States.

3. The Sections discussed above emphasize the basic fact that ultimate control over property is acquired only by the ability to inflict liability for negligent or willful loss. They further emphasize that although the administrative determinations, such as surveys, are performed by the agencies, GAO has final review and makes final certification. Therefore, in effect, the administrative processes must satisfy GAO requirements. These requirements appear to be based on a balancing of interest.

4. From a property control point of view, the perfect system would be to have each individual accountable and responsible for property under his control. Obviously, such a

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system would be so cumbersome and expensive as to outweigh any saving to the Government. On the other hand, complete centralization of accountability and the resulting separation of accounting from the physical control of property leads to inevitable looseness of control and difficulty in proving the chain of responsibility necessary to impose pecuniary liability. The present system is in the nature of a middle ground where the accountable records are maintained closely enough in location and staff organization to maintain a reasonably accurate control and to furnish a ready record for use as evidence in cases of loss or damage.

5. As I believe you have been informed, GAO is surveying the different systems now used by Government agencies and is leaning towards a tightening up of the controls. On an informal review of the system now used by this Agency, they expressed their approval as the type of system they hope to have adopted by the Government as a whole.

~~LAWRENCE R. HOUSTON~~  
General Counsel