



COMPTROLLER GENERAL OF THE UNITED STATES
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B-209508

July 19, 1983

The Honorable Charles McC. Mathias, Jr.
Vice Chairman, Joint Committee on Printing
Congress of the United States

Dear Mr. Chairman:

In a letter dated October 8, 1982, you asked our opinion on the propriety of the Navy Publications and Printing Service providing printing services, on a reimbursable basis, to the Navy's Resale Service and the Navy Motion Picture Exchange Service, each a nonappropriated fund instrumentality (NAFI). You stated that the Joint Committee on Printing "has long held the position that the Federal Government's printing funds and facilities should not be employed to support such nonappropriated fund activities, even though they may be reimbursable." You indicated, however, that the Navy has continually used its printing facilities to provide services for NAFIs.^{1/} We have been informed by a member of the Joint Committee staff that the services with which the Committee is concerned consist primarily of printing and wrapping advertising circulars for the exchanges.

For the reasons indicated below, we conclude that the Navy Publications and Printing Service may not lawfully continue to provide the described printing services to NAFIs.

Although NAFIs are Government instrumentalities, in many instances we have treated them as if they were not parts of the Federal Government. For example, we have ruled that debts owed to NAFIs are not debts due the United States and therefore there is no authority to set off amounts due a military exchange against the salary of a civilian Government employee. 43 Comp. Gen. 431 (1963). In that decision we referred to the concept of NAFIs being treated as instrumentalities of the Government for some purposes but not for all purposes. Id. at 434.

^{1/} In a memorandum submitted to the Committee, a copy of which you enclosed in your letter, the Navy justifies this practice by citing Department of the Navy regulations. These regulations are promulgated under authority of sections 5031 and 6011 of Title 10 of the United States Code and grant the Secretary of the Navy authority to administer the Navy and to issue regulations. They also contain authority for the Navy Publications and Printing Service to produce or procure publications for NAFIs. The dispositive issue here, however, is not whether these regulations grant authority for the Navy Publications and Printing Service to provide services for NAFIs but whether this practice is in accord with Title 44 of the United States Code, which governs public printing and binding.

We have also held that NAFIs may not use Government transportation request forms to procure transportation for their civilian employees. 49 Comp. Gen. 578 (1970). In our decision, we cautioned against "enlarging the scope and number of legal inferences that can safely be drawn from [NAFIs'] instrumentality status." Id. at 580. We also indicated our belief that routine NAFI travel "cannot be considered as travel on public business * * *." Id. In 50 Comp. Gen. 748 (1971) we extended this principle and ruled that civilian employees of NAFIs were not eligible for discount fares made available to the Government by commercial airlines. In that decision we referred to NAFI travel as "nonofficial business." Id. at 749. Also see B-168541, February 8, 1972.

Further, we have decided that the obtaining of goods and services from a NAFI by the Army is tantamount to obtaining them from a nongovernmental, commercial source. 58 Comp. Gen. 94 (1978). We based this conclusion on our observations that NAFIs are financially independent, that obligations of NAFIs are not obligations of the United States, that NAFIs are not subject to the requirements of the Defense Acquisition Regulation, and that NAFI accounts are not subject to settlement by this Office. Id. at 97-98.

Similarly, our reading of Title 44 of the United States Code now leads us to conclude that NAFIs are not subject to its provisions and that Government printing facilities in general may not do printing work for NAFIs. The wording of Title 44 reveals a congressional intent that Government printing facilities carry out printing which is official Government business. Section 501 of the Title provides that unless otherwise authorized by the Joint Committee on Printing, printing and binding for "every executive department, independent office, and establishment of the Government" be done at the Government Printing Office or at an authorized field printing plant. ^{2/} Sections 1102 and 1108 of the Title restrict the kind of printing that is authorized. Section 1102 prohibits the printing of any matter unless it is authorized by law and is "necessary to the public business." Section 1118 prohibits the printing of a book or document "not having to do with the ordinary business transactions" of the requesting agency.

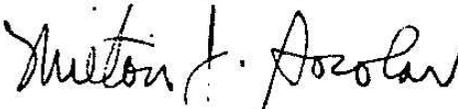
The Government Printing and Binding Regulations, published by the Joint Committee, also indicate that Government printing

^{2/} The Navy Publications and Printing Service is such a field printing plant.

facilities should be used only for official business. Paragraph 29 states that printed matter "shall not contain matter which is unnecessary in the transaction of the public business * * *." Paragraph 37 provides that: "No work of a private or commercial nature may be accomplished at any Government plant even though the Government is reimbursed therefor."

In our opinion, the activities carried out by post exchanges and similar NAFIs are in the nature of commercial operations rather than official Government business. We do not believe that producing advertising circulars and similar publications for NAFIs is the type of printing that the Congress intended to be carried out at Government printing facilities under Title 44. We therefore conclude that the Navy Publication and Printing Service may not lawfully continue to provide printing services to the Navy's Resale Service, the Navy Motion Picture Exchange, and similar commercially-oriented NAFIs.

Sincerely yours,

for 
Comptroller General
of the United States

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