

B-218989-O.M.

June 18, 1962

COMP. GEN.  
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Director, Civil Accounting and Auditing Division

Returned. Section 3736, Revised Statutes, 41 U.S.C. 34, prohibits the acquisition of land in the absence of a law authorizing such purchase. In applying this statute it has been held that the authority to purchase land on account of the United States need not be conferred by express provision of statute but the purchase may be implied depending upon the facts and circumstances involved. See B-34805, June 15, 1943; B-115456, July 16, 1953.

Authority for the Coast Guard to acquire land is provided in its enabling legislation 41 U.S.C. 92(f). This section was designed to give the Coast Guard authority generally to acquire land or interests in land within the limits of appropriations made therefor. Thus, the question to be decided is whether the appropriation "2010201 Operating Expenses, Coast Guard," contained in the Treasury Department Appropriation Act, 1961, 74 Stat. 285, is properly chargeable with the sum of \$15,000 deposited with the Clerk of the District Court of the United States for the District of Connecticut as just compensation for the acquisition of 15 acres of land through condemnation.

The language of this appropriation does not contain any specific authorization for the purchase of land; and we find nothing therein or in its legislative history to warrant a determination that the Congress intended to make the appropriation available for that purpose. Moreover, the fact that in the budget estimates submitted to the Congress for this appropriation there was included an item of \$250,000 for "land and structures" may not of itself be considered to make the appropriation available for the purchase of land, since the lump-sum actually appropriated was in a lesser amount than the appropriation estimate making the itemized estimate of \$250,000 of little value in determining the intent of the Congress with reference to this item. Consequently, it is our view that this appropriation is not available for the acquisition of land and that the payment of \$15,000 constitutes an improper charge thereunder in contravention of 41 U.S.C. 14.

On the other hand, the appropriation "20X0240 Acquisition, Construction, and Improvements, Coast Guard," contained in the cited 1961 Treasury Department Appropriation Act, is available "For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft \* \* \*." While this appropriation does not specifically provide for the purchase of land, it does provide broadly for the acquisition of shore facilities which, as you suggest, properly could include the purchase of land.

In view thereof and having regard for the reported willingness on the part of the Coast Guard to transfer the charge of \$15,000 from the Operating Expenses appropriation to the appropriation for Acquisition, Construction, and Improvements, appropriate action should be taken to request the Coast Guard to effect such adjustment promptly. If the adjustment is not accomplished by the Coast Guard, an exception should be stated against the expenditure in the accounts of the authorized certifying officer involved. We believe the question of reporting this matter to the Congress should be reserved pending further developments. The questions presented are answered accordingly.

FRANK H. WEITZEL

Assistant Comptroller General  
of the United States

Attachments