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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-197541

AGC 00156

DATE: March 10, 1980

[REQUEST FOR]

MATTER OF: Customs Service *[REIMBURSEMENT FOR ADDITIONAL PERSONNEL AT MIAMI INTERNATIONAL AIRPORT]*

DIGEST: While there are delays in clearing Customs at Miami International Airport, there is no authority for Customs Service to accept funds from airport, airlines, or Dade County, Florida, to hire and compensate additional personnel for inspectional services during regular business hours. In absence of clear congressional mandate to contrary, monies for administering regular Customs services must come from Customs appropriations. Reimbursement from outside sources for services on behalf of general public would constitute augmentation of Customs appropriations.

SEN 00314

This decision is rendered at the request dated January 18, 1980, of the Honorable Lawton Chiles, Chairman, Subcommittee on Treasury, Postal Service and General Government, Senate Committee on Appropriations. The issue is whether current law permits the Customs Service to use funds received from outside sources to provide for additional Customs inspectors to perform clearance functions during regular business hours. Our decision is that such funds may not be used for that purpose.

DLG 4052

DLG 1053

The request states that ~~have~~ problems existed for a number of years at the Miami International Airport with regard to long delays in clearing international passengers through the Immigration and Customs area. An alternative that has been suggested by the Miami Airport Authority as well as business and community leaders in Dade County, Florida, is that the airport or airlines reimburse the Treasury in order to permit Customs to hire additional staff. In this connection the Chief Counsel, United States Customs Service, has expressed the view that Customs may not accept reimbursement from Dade County for additional personnel beginning in April when phase 1 of a new Customs facility is opened until the second and final phase of the facility is completed. However, other authorities have stated such reimbursement is legal.

Title V of the Independent Offices Appropriation Act of 1952, 31 U.S.C. § 483a, was enacted to allow Federal agencies to

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recoup costs from identifiable "special beneficiaries" where the services rendered inured to the benefit of special recipients, not the general public/New England Power Co. v. Federal Power Commission, 467 F.2d 425 (D.C. Cir., 1972), affirmed 415 U.S. 345 (1974). In 48 Comp. Gen. 24 (1968) we held that the statute, which is known as the "User Charges Statute", is very broad and that Customs could recover costs from airlines for preclearance of passengers in Canada. We held that such costs could be recovered to the extent that they are in excess of costs that would be incurred if all the Customs operations involved were performed in the United States. We also stated that the charges collected from the airlines for the services rendered could be deposited as a refund to the Customs appropriation for pay of employees in accordance with the provisions of 19 U.S.C. § 1524 with the understanding that the appropriation committees of the Congress be advised. In addition our Office held in 48 Comp. Gen. 262 (1968) that the Treasury could accept reimbursement from a private carrier for services provided at a port of entry on the Canadian border after regular hours of business. In the first case the services were for the sole benefit and convenience of a limited number of passengers and their carrier. In the second case the services were for the sole benefit of a private carrier. In both cases there were reimbursements which, in accordance with 19 U.S.C. § 1524, supra, could be deposited to the appropriation for pay of Customs employees.

In the present case, however, the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for aircraft arriving in the United States and to assign such Customs personnel as he may deem necessary. 49 U.S.C. § 1509 (1976). Miami has been designated as such a port. Therefore, the Secretary is required to furnish Customs employees at Miami International Airport to serve the general public to the same extent during regular business hours as he is required to furnish employees to serve the general public at other United States ports of entry for aircraft/

We note that ~~C~~ Congress has specifically authorized Customs to collect funds from the parties in interest for the additional expenses incurred by Customs when its employees perform services for such parties at night or on Sundays and holidays/ 19 U.S.C. § 1451 (1976). ~~We further note that~~ Customs is authorized to collect fees for specified special services during

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normal working hours. An example of this would be the charge for weighing, gauging, or measuring merchandise when that information is not disclosed by an invoice. See 19 U.S.C. § 1494 (1976). However, in this case there is nothing to indicate that any special services would be performed for any individual passenger or airline. Also, we are not aware of any statute that permits Customs to be reimbursed for the compensation of additional personnel at crowded airports during regular hours of business.

Since the Congress has appropriated monies to provide for the salary of Customs inspectors to perform clearance functions during regular business hours and has authorized the collection of fees only for certain special services, as noted above, the collection of funds for clearance services performed during regular business hours on behalf of the general public would constitute an augmentation of the appropriations made by the Congress for performing such services. See 55 Comp. Gen. 1293 (1976), and the cases cited therein.

Accordingly, there is no authority to permit the Customs Service to use reimbursable funds collected from the airport, the airlines, or Dade County to provide for Customs inspectors to perform their clearance duty at the Miami International Airport during regular business hours.



Comptroller General
of the United States