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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: National Mediation Board--Use of Appropriated Funds to Install Telephone Lines at Private Residences

File: B-247857

Date: August 25, 1992

DIGEST

National Mediation Board may use appropriated funds to install dedicated telephone lines in the residences of mediators. Although normally prohibited by 31 U.S.C. § 1348, when telephone service installation in a private residence is of restricted use or when there are numerous safeguards and the service is deemed essential, we have held the prohibition to be inapplicable. The Board has demonstrated the essential nature of the computer data transmission service and will prevent private misuse by installing dedicated telephone lines.

DECISION

This decision responds to a request from the Executive Director of the National Mediation Board (Board) regarding the propriety of using appropriated funds to pay the costs of installing telephone lines for computer data transmission between mediators' residences and the Board's main office in Washington, D.C. As explained in further detail below, we would not object to the use of appropriated funds for installation of "dedicated" telephone lines in private residences under the circumstances presented by this case.

BACKGROUND

The Board's primary responsibility is to mediate labor disputes in the air carrier and rail industries. See Budget of the United States Government, Fiscal Year 1992, App. 1-1003. According to the Director, the Board employs 58 employees, of which 16 are mediators strategically located throughout the country whose official work is performed at their residences when not travelling. The Board has no field offices. Thus, the Board recently implemented an agency-wide electronic mail/communications system and supplied all mediators and Board members with lap-top computers and modems. Under the new E-mail system all mediators must access the main Washington, D.C. office in order to file case reports and perform contract

comparisons. Mediators are currently paying for regular telephone links and associated monthly charges between their homes and the D.C. offices. The Board would like to install "dedicated" telephone lines in the mediator's residences. The "dedicated" lines would directly link mediators exclusively to the Washington E-mail system.

ANALYSIS

The use of appropriated funds to install telephones or provide telephone services in private residences is prohibited by 31 U.S.C. § 1348(a)(1):

"Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences."

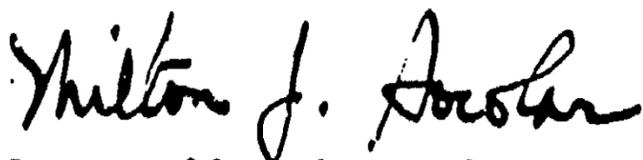
We have invoked this general statutory prohibition in many instances. 35 Comp. Gen. 28 (1955); 15 Comp. Gen. 885 (1936); B-130288, Feb. 27, 1957.

Although we have strictly applied the statute, in recent years we have identified certain instances where the prohibition is not applicable. First, when a telephone is installed in government-owned quarters serving both as a residence and as an office, we have concluded that the prohibition does not apply. See, e.g., 53 Comp. Gen. 195 (1973) (installation of telephone in Army barracks).

The second general circumstance in which we have recognized the inapplicability of the statutory prohibition is when the telephone service is one of restricted use or involves adequate safeguards and the separate service is essential. For example, in 65 Comp. Gen. 835 (1986), telephone lines were installed in the residences of IRS criminal investigators who were supplied portable computers to communicate with the district office computer system. We held that the costs were allowable because the Internal Revenue Service (IRS) adequately demonstrated that the installation of the dedicated line was essential and that the telephone service fell within the second exception, provided the IRS established sufficient safeguards to prevent misuse or abuse of the telephone lines. See also B-223837, Jan. 23, 1987 (installation of telephones in residences of high level NRC officials); 32 Comp. Gen. 431

(1953) (installation of special telephone in the residence of the Pearl Harbor Fire Marshall),¹

We conclude that the Board's situation falls within the second category and the statute is inapplicable. The Board has demonstrated that installation of dedicated lines to allow mediators access across the United States to central Washington D.C. offices is essential to support the Board's mission. The Board has also explained that the dedicated lines to be installed would be capable of dialing only the main Washington office's E-mail system and could not be used to access other systems. We consider this a sufficient safeguard to prevent private misuse of telephone lines. We note that other safeguards include subjecting the communications to periodic audit and providing direct billing to the government. See generally 65 Comp. Gen. at 838.



Acting Comptroller General
of the United States

¹Congress recently provided agencies participating in the Federal Flexiplace Project specific statutory authority to use appropriated funds to install telephones in private residences. Treasury, Postal Service, and General Government Appropriations Act Fiscal Year 1992, Public Law 102-141, § 625, 105 Stat. 873 (1991). Section 625 provides that "any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated by this or any other Act to install telephone lines, necessary equipment, and to pay monthly charges, in any private residence" However, the head of such department must certify that adequate safeguards are provided to prevent private misuse and that the service is necessary for the direct support of the agency's mission. Id. For more details regarding Flexiplace, see Guidelines for Pilot Flexible Workplace Arrangements, President's Council on Management Improvement, January 1990.