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289



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Subsidized Parking for Employees of U.S. Mint
File: B-248247
Date: March 15, 1993

DIGEST

1. The Bureau of the Mint has authority to reimburse the General Services Administration for a line item charge for parking included in an invoice for the rental of office space.
2. The Bureau of the Mint, authorized by the General Services Administration (GSA) to acquire, by lease, employee parking at a commercial facility, may use appropriated funds to pay for the parking. GSA, however, is encouraged to scrutinize more closely agencies' requests for parking to ensure the parking is necessary to maintain efficient agency operations.

DECISION

A certifying officer for the Bureau of the Mint has requested our opinion regarding the propriety of paying for employee parking in Washington, D.C. at two locations: the Mint's Third Street office, and in a commercial parking garage near the Mint's K Street office. For reasons discussed below, we conclude that the Mint may pay for the parking.

BACKGROUND

The Mint's Third Street location is leased as office space from GSA. GSA's invoice for this space includes a separate line item charge for 6,900 square feet of parking space.

Generally, when an agency requires office space, it requests GSA to acquire the necessary accommodations, and the GSA Administrator will lease space under authority of the Federal Property and Administrative Services Act. See 40 U.S.C. § 490(h)(1), which allows the Administrator to enter into lease agreements for periods not in excess of 20 years "on such terms as he deems to be in the interest of the United States and necessary for the accommodation of federal agencies" See also, e.g., 63 Comp. Gen. 270, 271 (1984). The agency will use its appropriated funds to reimburse GSA the costs of the space. The

PUBLISHED DECISION
72 Comp. Gen. _____

Treasury, Postal Service and General Government Appropriations Act for Fiscal Year 1993 provides that "[a]ppropriations available to any department or agency during the current fiscal year . . . , including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services. . . ." Pub. L. 102-393, § 608, 106 Stat. 1729, 1767.

The Mint's K Street lease does not include parking. In 1987, pursuant to Federal Property Management Regulation 101-17.202.2, the Mint requested and received approval from GSA to lease eight parking spaces for employees permanently assigned to this location. Under that approval, the Mint leases three spaces in a nearby commercial garage and partially subsidizes the employee cost of parking there. According to the Mint, the three spaces are used by an executive employee, a graphic artist who works long hours and transports bulky materials, and a carpool.

The Federal Property and Administrative Services Act permits the GSA Administrator to delegate to the heads of other federal agencies any authority vested in the Administrator by the Act, and to designate and authorize any executive agency to perform for itself any function vested in the Administrator by the Act. 40 U.S.C. § 486(d), (e). With regard to the lease of parking space, the Federal Property Management Regulations promulgated by the Administrator provide that "[i]f no suitable government-controlled facilities are available, an agency may use its own procurement authority to acquire parking by service contract." 41 C.F.R. § 101-17.202-2(a) (Temp. Reg. No. D-76), 56 Fed. Reg. 42173 (1991). In a July 9, 1992 letter to us, a GSA Associate General Counsel indicated that the effect of the regulation is to authorize the agency to perform for itself, using its own procurement authority, a function of the Administrator. See 40 U.S.C. § 486(e).

DISCUSSION

Third Street

Parking at the Third Street location is leased from GSA as part of a lease for office space. In a 1976 decision, we concluded that agencies may use their appropriations to reimburse GSA for parking space acquired as part of an office space lease. In 55 Comp. Gen. 897 (1976), we advised the Veterans Administration (VA) that its appropriations were available to pay a charge assessed by GSA for parking

271

spaces for VA employees.¹ As we stated in that decision, one of the major purposes of the Public Buildings Amendments of 1972, Pub. L. No. 92-313, 86 Stat. 219, was the creation of the Federal Buildings Fund to finance real property management and related GSA activities. User charges assessed by GSA under 41 U.S.C. § 400(j) help finance the fund. Since appropriations acts have routinely included the provision, noted above in section 608 of Pub. L. No. 102-393, that agency appropriations may be used to pay GSA charges, we found in 55 Comp. Gen. 897 that agency appropriations are available to pay GSA charges for leased space including parking space made available to agency employees.

K Street

As a general proposition, commercial parking is considered a personal expense of the employee. See, e.g., 63 Comp. Gen. at 272, stating that "it is the employee's responsibility to furnish transportation to and from the place of employment or duty," and noting the general rule that federal employees "pay for their own parking in commercial facilities." Expenses considered personal in nature are not payable from appropriated funds absent specific statutory authority. 68 Comp. Gen. 502, 505 (1989).

GSA did not lease the 3 parking spaces at issue at the Mint's K Street location. Rather, the Mint requested authority from GSA to lease these spaces itself from a commercial facility.

GSA's Associate General Counsel stated in his July 9, 1992, letter that in the past, before granting an agency's request for such authority, GSA required the agency to certify that the parking was needed to employ and retain personnel and to avoid a significant impairment of agency operational efficiency. He indicated that although GSA no longer requires such certification, GSA, nevertheless, still endorses the significant impairment standard; noting that "GSA assumes that agencies themselves use the same standard before requesting parking space," he said that GSA defers to the agency's determination of significant impairment.

The Mint asserts, and GSA confirms, that the Mint acquired the 3 spaces at its K Street location in accordance with

¹Cf. American Fed. of Government Employees v. Freeman, 498 F. Supp. 651 (D.D.C. 1980) (addressing the validity of a GSA regulation requiring federal employees to pay for parking provided by GSA and other federal agencies).

GSA's authorization. Although, as noted above, we start with the proposition that if an employee chooses to commute to work by private vehicle, the government is under no obligation to provide or subsidize the employee's parking (63 Comp. Gen. at 272), we have approved the use of appropriated funds for employee parking where an agency finds that such facilities are necessary to avoid a significant impairment of the agency's operating efficiency. 63 Comp. Gen. at 271; 55 Comp. Gen. 1197 (1976); 49 Comp. Gen. 476, 480 (1970). Accordingly, so long as the Mint has made the requisite finding, we will not object to the use of the Mint's appropriations to pay for this parking.

Nevertheless, in view of the broad authority granted agencies by temporary regulation No. D-76 amending 41 C.F.R. § 101.17.202-2(a), we recommend that GSA review the use of this authority to pay for employee parking in commercial facilities. We suggest that as part of this review GSA examine whether agencies have implemented the regulation uniformly in accordance with GSA's intention and whether additional guidance to agencies is needed.

Milton J. Rowles
for Comptroller General
of the United States