



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

118902

OFFICE OF GENERAL COUNSEL

B-204049

July 1, 1982

The Honorable Robert P. Nimmo  
Administrator of Veterans Affairs

Dear Mr. Nimmo:

This is in response to a request for an advance decision requested by Dr. Donald L. Custis, while he served as the Acting Administrator of Veterans Affairs, concerning his authority to refund parking fees to employees of the Veterans Administration (VA). Dr. Custis inquired about such authority in light of the district court's decision in American Federation of Government Employees, AFL-CIO v. \_\_\_\_\_, 498 F. Supp. 651 (D.D.C. 1980), which held that President Carter's paid parking program for Federal employees, an energy conservation measure, was implemented without congressional approval in violation of the Energy Policy and Conservation Act, 42 U.S.C. § 6201 et seq. In connection with its decision, the district court subsequently directed restitution of all monies Federal employees paid to the Government as parking fees under the program, but stayed payment of the refunds pending appeal of its decision. In light of the fact that the Administrator of Veterans Affairs is authorized, independent of the President's program, to collect parking fees at VA centers, Dr. Custis wished to know whether he could lawfully refund fees collected from VA employees. Dr. Custis's concern was that VA employees not be treated differently in the event that refunds were ordered for the rest of the Government.

Subsequent to Dr. Custis's submission, the court of appeals reversed the district court decision. American Federation of Government Employees, AFL-CIO v. \_\_\_\_\_, 669 F.2d 815 (D.C. Cir. 1981). Consequently, Federal employees at other agencies are not entitled to, and will not be receiving parking fee refunds. Therefore, we believe that Dr. Custis's question of whether or not the Administrator has authority to make similar refunds at VA is moot. However, we note that Dr. Custis's submission correctly stated our previous rulings that refunds can be made from the Treasury only when fees were erroneously or unlawfully collected and deposited.

Accordingly, no further consideration will be given to this matter.

Sincerely yours,

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel