

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

194



B-103967

JUL 7 1972

Dear Mr. Weisberger:

By communication dated May 16, 1972, the Assistant Director for Legislative Reference transmitted a copy of a General Services Administration draft bill entitled: "A BILL To amend the Public Buildings Act of 1959, as amended, to authorize the acquisition by the General Services Administration, of options to purchase property, and for other purposes," and requested our views and recommendations thereon.

The proposed bill would amend section 12 of the Public Buildings Act of 1959 (73 Stat. 482, 40 U.S.C. 611) as amended, to authorize the acquisition by GSA of options to purchase property, and for other purposes. Subsections (e) and (f) of the proposed legislation would authorize the GSA Administrator to acquire and pay fair and reasonable compensation for purchase options for real property whenever he deems such options suitable and likely to be needed for purposes of the Public Buildings Act of 1959. Under existing authority, GSA cannot pay for a purchase option; it can accept an option if there is no additional cost to the Government.

This is the first time GSA has formally proposed legislation that would permit it to obtain options to purchase real property; however, a bill, S. 2900, which would have provided similar authority, was introduced by Senator Gurney in September 1969, but no action was taken on this bill.

Various Federal agencies now have, or have had, authority to pay for purchase options. Among these is the Department of Agriculture, authorized by 7 U.S.C. 428a to utilize purchase options of no more than one dollar unless otherwise provided in appropriations or other law. Title 10 U.S.C. 2677 allows the Secretary of a military department to acquire purchase options and pay for them from funds available for real property activities in amounts not to exceed five percent of the appraised fair market value of the properties.

The Comptroller General in decision 36 Comp. Gen. 48, dated July 18, 1956, ruled that the Post Office Department, under then existing legislation, had authority to acquire purchase options. In addition, the Department of the Interior, under 16 U.S.C. 460j-10b, may enter into contracts and expend funds for options to acquire lands or interests therein.

In testimony before the Senate Subcommittee on Public Buildings and Grounds on September 4, 1969, GSA stated that it did not have the required

rh

B-103967

specific authority to pay for options for the purchase of real property, but that it was seriously considering including such a bill in its legislative program. A subcommittee member stated that it would make sense for GSA to secure this authority and that it would give GSA the flexibility it ought to have.

According to GSA, the authority contained in its proposed draft bill would enable it to affect substantial savings in the cost of real property to be acquired as sites for public buildings by fixing prices to be paid and limiting the speculation in properties included in announced public building sites.

Whether the resultant flexibility provided for in the proposed bill would actually result in savings depends, we believe, largely upon the judicious use of this added authority by GSA and, therefore, is a matter for congressional determination.

Our reviews of Department of Defense activities have disclosed no problems with respect to that agency's administration of its authority to acquire options to purchase real property. We note that the draft bill does not provide for a limitation on the amount GSA may pay for an option and suggest that a limitation along the lines of that applicable to the military departments might be appropriate.

Sincerely yours,

R.F.KELLER

Deputy Comptroller General
of the United States

The Honorable Caspar W. Weinberger, Director
Office of Management and Budget