

01586

**DECISION**



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

**FILE: B-158712**

**DATE: March 7, 1977**

**MATTER OF: Availability of Funds Appropriated to Judicial Branch  
of the Government for General Services Administration  
Interagency Motor Pool Vehicles**

**DIGEST: Appropriations of judicial branch of Government are avail-  
able to reimburse GSA for passenger motor vehicles assigned  
to judicial branch from GSA Interagency Motor Pool, as  
requirement of 31 U.S.C. § 638a that appropriations may  
not be expended to purchase or hire passenger motor ve-  
hicles, unless specifically authorized in appropriation or  
other law, is satisfied for assignments in question by sec-  
tion 211 of Federal Property and Administrative Services  
Act of 1949, as amended. 40 U.S.C. § 491.**

This is in response to a request from the Director, Adminis-  
trative Office of the United States Courts, that we determine whether  
funds appropriated to the judicial branch of the Government are  
available to reimburse the General Services Administration (GSA)  
for the use of GSA Interagency Motor Pool passenger motor vehicles  
on permanent assignment to the judiciary for local transportation  
in conducting official business at or around official duty stations.

Generally, the use of appropriated funds for purchase or hire  
of passenger motor vehicles by Federal agencies is limited by  
31 U.S.C. § 638a(a) (1970), which provides:

"(a) Unless specifically authorized by the appro-  
priation concerned or other law, no appropriation shall  
be expended to purchase or hire passenger motor vehicles  
for any branch of the Government other than those for  
the use of the President of the United States, the  
secretaries to the President, or the heads of the ex-  
ecutive departments enumerated in section 101 of  
Title 5."

The Director recognizes that 31 U.S.C. § 638a(a) is applicable  
to the judicial branch and that specific authorization in either an  
appropriation or other law is a prerequisite to the hire or pur-  
chase of any passenger motor vehicle by the Administrative Office  
of the United States Courts for use by an officer or employee of

B-158712

the judicial branch of the Government. He concedes that there is no such specific authority in the Judiciary Appropriation Act, 1977, Pub. L. No. 94-362, approved July 14, 1976, 90 Stat. 952-955, or in any other act relating exclusively to the judicial branch. Rather, he believes that section 211 of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 491 (1970), provides the authority necessary to allow the judicial branch to expend its appropriations for this purpose.

The Director suggests that the specific authority required under 31 U.S.C. § 638a(a) is contained in subsection 211(d), 40 U.S.C. § 491(d), which provides in part:

"(d) The General Supply Fund provided for in section 756 of this title shall be available for use by or under the direction and control of the Administrator for paying all elements of cost (including the purchase or rental price of motor vehicles and other related equipment and supplies) incident to the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems for transportation of property or passengers, and to the furnishing of such motor vehicles and equipment and related services pursuant to subsection (b) of this section. Payments by requisitioning agencies so served shall be at prices fixed by the Administrator at levels which will recover so far as practicable all such elements of cost \* \* \*."

The Director contends that the first sentence of the above-quoted language satisfies the requirement of 31 U.S.C. § 638a(a) by giving the General Supply Fund (Fund) specific statutory authority to purchase or hire motor vehicles. The second sentence, in his view, provides specific authority to agencies requisitioning motor vehicles from GSA to expend their appropriations to reimburse the Fund for that purpose.

Alternatively, the Director maintains that 31 U.S.C. § 638a(a) applies exclusively to the purchase or hire of passenger motor vehicles directly from commercial sources. In transactions entered into pursuant to section 211, only GSA purchases or hires passenger motor vehicles from commercial sources, while the requisitioning agency obtains the vehicle from GSA. Consequently, the Director argues, the requisitioning agency is not subject to the restrictions of 31 U.S.C. § 638a(a). In addition, the Director notes that section 602(c) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 474 (Supp. V, 1975), provides in part:

B-158712

"The authority conferred by this Act shall be in addition and paramount to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith \* \* \*."

On the basis of this analysis, the Director concludes that appropriations of the judiciary may be used to obtain passenger motor vehicles by permanent assignment from the GSA Interagency Motor Pool.

We agree that section 211 of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 491 (1970) provides the judiciary with authority to obtain passenger motor vehicles from the GSA Interagency Motor Pool. In this regard, section 211(b) requires the Administrator of GSA to:

"\* \* \* (1) consolidate, take over, acquire, or arrange for the operation by any executive agency of, motor vehicles and other related equipment and supplies for the purpose of establishing motor vehicle pools and systems to serve the needs of executive agencies; and (2) provide for the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems for transportation of property or passengers, and for furnishing such motor vehicles and related services to executive agencies \* \* \*."

The subsection further states:

"The Administrator shall, so far as is practicable, provide any of the services specified in this subsection to any Federal agency \* \* \*."

The term "Federal agency," as used in the section, is defined in 40 U.S.C. § 472(b) to include establishments of the judicial branch of the Government. Thus section 211 authorizes GSA to furnish passenger motor vehicles to agencies of the judicial branch. Furthermore, as quoted above, section 211(d) of the Act requires payment by requisitioning agencies for passenger motor vehicles furnished under subsection (b) at prices fixed by the Administrator. Accordingly, we agree with the Director that this subsection provides the judiciary with authority to use its appropriations

B-159712

to reimburse GSA for vehicles furnished by the GSA Interagency Motor Pool to agencies of the judicial branch. (Cf. B-159633, May 20, 1974, and B-114827, October 20, 1974, wherein we held that the prohibition of 40 U.S.C. § 34 (1970), against execution of contracts without appropriations for rental of any building in the District of Columbia, does not bar rental agreements authorized by or entered into through GSA.)

ACTING Comptroller General  
of the United States