

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

FILE: B-182745

DATE: June 19, 1975

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MATTER OF: Use of Government Vehicles

DIGEST:

Although hiring of vehicles for home to work transportation for Government employees is generally prohibited by 31 U.S.C. § 638a (1970), prohibition does not preclude such action where, as a temporary emergency measure, it is in Government interest to transport certain Social Security Administration employees to work during public transportation strike.

This decision is in response to a request by the Commissioner of Social Security for our opinion on the propriety of the rental of buses by the Social Security Administration (Administration) for the purpose of transporting employees from predetermined pick-up points to their offices at the Western Program Center (Center), San Francisco, California, during a public transportation strike. The Commissioner has also requested our opinion regarding the liability of the certifying officer for payments made to the bus company.

On July 1, 1974, the San Francisco, California area experienced a public transportation strike which had a crippling effect on the operations of the Center since many employees lived across the bay and relied upon public transportation as a means of commuting to and from work. To reach San Francisco from these areas it is necessary to cross the Oakland Bay Bridge which is approximately 10 miles long.

The Center receives approximately 13 percent of the national weekly Social Security claims receipts. When the total work force is on hand, approximately 88 percent of the weekly receipts are completed. On the first day of the strike approximately 96 employees from across the bay were absent from their duty station. The Administration determined that transporting these employees to the Center was essential to the processing of claims of Social Security recipients dependent upon weekly payments from the Administration. Therefore, in order to provide a temporary means of transportation for such employees until they had adequate time to obtain other means of

transportation, the Center contracted with Gateway Bus Lines to transport such employees from predetermined pick-up points in Oakland, Berkley, and Richmond. On the first day of the transportation program, the number of absent employees was only 16. The program was in effect from July 2 until July 19, 1974 at a cost of \$5,136.00. Three separate invoices were submitted for certification and payment. The first two invoices, each for \$2,025.00, were certified and paid. Upon submission of the third invoice for \$1,086.00, the certifying officer questioned the legality of the program and refused to certify the invoice.

By letter dated November 22, 1974, the Commissioner of Social Security has requested our advice as to the legality of payments made to Gateway Bus Lines in view of the fact that the temporary transportation program appears to violate the statutory prohibition against the leasing or hiring of vehicles by the Government for the transportation of employees between their domiciles and places of employment. In this connection 31 U.S.C. § 638a (1970) provides:

"(a) Purchase or hire of vehicles.

Unless specifically authorized by the appropriation 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 executive departments enumerated in section 101 of Title 5.

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"(c) Maximum purchase price of vehicles; determination of completely equipped vehicle; purchase of additional systems and equipment; use for official purposes; penalties.

Unless otherwise specifically provided, no appropriation available for any department shall be expended--

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"(2) for the maintenance, operation, and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes; and 'official purposes' shall not include the transportation of officers and employees between their domiciles and places of employment.


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"Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft, or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month, and shall be suspended for a longer period or summarily removed from office if circumstances warrant."

The above provision specifically recognized the well established rule that a Government employee must bear the cost of daily travel between his home and place of employment. However, in construing this general prohibition of the use of Government vehicles for home to work transportation, this Office has recognized that its primary purpose is to prevent the use of Government vehicles for the personal convenience of the employee. We have long held that use of a Government vehicle does not violate the intent of the above statute where use of the vehicle is deemed to be in the interest of the Government. We have also held that the control over the use of Government vehicles is primarily a matter of administrative discretion to be exercised by the agency concerned within the framework of applicable laws. Use of Government Vehicles, B-178342, April 15, 1975, 54 Comp. Gen. ___ and 25 Comp. Gen. 844 (1946).

In the circumstances it is clear that the transportation program was a temporary emergency measure. Accordingly, we believe the Administration could exercise some discretion in effecting such a temporary emergency measure involving a Government interest which transcends considerations of personal convenience. However, we recommend that in the future, if similar temporary emergency measures are necessary, all employees benefiting from the transportation program be charged fares commensurate with those charged by common carriers for such services.

Accordingly, the third and final invoice from Gateway Bus Lines may be certified for payment and there is no liability on the part of the certifying officer in connection with her certification of the first two vouchers processed.


Deputy Comptroller General
of the United States