



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

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JAN 5 1973

Mr. Delbert Shedd  
Treasurer, AFGE Local 3024  
908 So. 20th Street  
Birmingham, Alabama 35205

Dear Mr. Shedd:

Reference is made to your letter of December 5, 1972, inquiring concerning the policy of the Federal Government on providing parking spaces to its employees. The basic policy of the Government with respect to parking of its employees is that "ordinarily, it is the responsibility of the employee to furnish his own transportation to and from his place of employment or duty, and if he chooses to use his private automobile for such purpose, the Government is under no obligation to provide a parking space therefor." 43 Comp. Gen. 131, 132 (1963).

However, although the Government is under this general policy not required to provide parking facilities for employees, it may do so in its discretion. There follows a brief review of the circumstances in which parking may be provided employees.

Provision of parking facilities for Federal establishments is, in general, the responsibility of the General Services Administration (GSA). The Administrator of General Services can "to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service," procure services "for the use of executive agencies in the proper discharge of their responsibilities." 40 U.S.C. 481 (a). The determination whether parking facilities are to be provided under this authority and, if so, whether and to what extent they should be allocated to employees, is made by GSA on a case-by-case basis in accordance with guidelines set forth in GSA Order FRS 7090.2G, "Vehicle Parking Facilities," April 10, 1970. In making these determinations, GSA is to take into account the following factors:

- (1) The availability and capability of public transportation, and the proportion of employees likely to use it;
- (2) the average number of persons per automobile;

- (3) the availability of on-and off-street parking, both public and private, in the vicinity;
- (4) the degree of traffic congestion;
- (5) the character of the area in question, (for example, whether it is the core, or central employment area, of a city, the "ring" surrounding the central core, or the "outer ring" extending into the suburbs;
- (6) the intention of the Government not to compete with privately owned parking facilities but rather to be a "good neighbor" by providing a reasonable amount of parking spaces.  
FBS 7030.2C-8e.

If, having weighed the foregoing considerations, GSA determines that a need exists for parking facilities for employees, it is empowered to provide such facilities "to the extent feasible." FBS 7030.2C-8e(3)(d).

In addition to the above-described method whereby GSA decides whether to provide parking for employees, agency heads may on their own determine that parking facilities for employees of their respective agencies are required at specific locations "in order to avoid significant impairment of the operating efficiency" of such agencies and request GSA to lease parking facilities on a reimbursable basis. FBS 7030.2C-10c. See also 49 Comp. Gen. 476 (1970). In making such a determination, the head of an agency may take into account such factors as:

- (1) Daily hours of employment;
- (2) the amount of overtime work likely to be necessary, number of persons employed during overtime periods and the adequacy of public transportation during regular and overtime periods;
- (3) frequency of public transportation during peak periods;
- (4) the cost of public transportation;
- (5) the location of the residences of the majority of employees in relation to their places of employment and the estimated time required for travel between home and work;
- (6) the amount of parking available in the area, and the possible impact of increased demand on cost and availability of such existing parking if Government parking is not provided;

- (7) any other relevant factors including those "involving the safety of employees using public transportation." FBS 7030.2C-10c(1) through (6). See also 41 CFR 101-19.111-2(a) prescribing policy for furnishing of parking by GSA at existing facilities; and 41 CFR 101-18.107(c) and 101-20.102(b) concerning authority of agencies in certain circumstances to procure parking facilities themselves.

Application of the above-described policies on a case-by-case basis by GSA and the various agencies presumably accounts for the fact that, as you point out, some agencies furnish parking facilities for employees while others do not. In this connection you question whether, with respect to some of the agencies which provide parking for employees, it is true that "the parking comes with the lease and the Government is not paying for the space." When GSA invites bids or solicits offers for the leasing of space, it must ask for alternate proposals from prospective lessors, one proposal to include a specified number of parking spaces and the other not. FBS 7030.2C-9b. If the rent including parking would be no more than the rent without parking (and the offer is otherwise acceptable), then GSA may lease the space with the parking facilities. FBS 7030.2C-10a. Likewise when local ordinances or zoning laws require that off-street parking be provided by a lessor for tenants of his building, and when the effect of such ordinances is that the cost of parking is included in the rent for the desired space because the space cannot be rented without it, GSA may rent such space with the accompanying parking facilities. FBS 7030.2C-10b. In both these cases, parking in effect "comes with the lease," and, although it may not be strictly accurate to say that the Government is not paying anything for parking in these circumstances (since lessors will presumably set rents at a level which will allow them at least to recover their costs), it is true that the cost to the Government of leases under such circumstances is no more with parking included than without.

Finally, you ask whether any action is being taken "to equalize or to treat all employees the same." The Office of Management and Budget (OMB) has recently reviewed the entire matter of provision of parking facilities for Federal employees, and has concluded that "the Government should not assume a share of [its employees'] commuting expense by providing free or subsidized parking for a select group of employees when others who pay for commercial parking or use public transportation do not receive a similar benefit." OMB has therefore proposed, with respect to all Federal employee parking facilities under the jurisdiction of the executive branch (except the District of Columbia Government and

B-168096

the United States Postal Service), that employees allowed to utilize those facilities be required to reimburse the Government, at rates to be determined by GSA.

This Office has no knowledge whether the GMS proposal concerning parking will ultimately go into effect. Moreover, we would caution that it is at this point only a proposal and as such, even if ultimately adopted, may be substantially modified. If adopted in its present form, it would require substantial revision of the provisions of GSA Order PBS 7030.2C described above.

We hope that the foregoing information is helpful to you.

Sincerely yours,

John W. Moore

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