



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

B-168627

MAY 26 1970

Dear Mr. Chairman:

Your letter of December 10, 1969, advises that you are considering taking the lead in organizing a two-week seminar for general publication maritime writers to provide them with the necessary background information to enable them to give the public a clear understanding of maritime matters. The seminar is to be sponsored by the Maritime Administration and perhaps the industry, and to be held at the United States Merchant Marine Academy at Kings Point. You request our opinion as to whether there are any legal bars, financial or otherwise, which may prevent the Maritime Administration and Kings Point from participating in such a project.

We enclose for your information a copy of a letter from the Maritime Administration dated March 23, 1970, with two enclosures expressing the views of the Administration.

We are not aware of any specific statutory authority for the Maritime Administration to sponsor a seminar such as that proposed. Hence, the propriety of such sponsorship by the Maritime Administration would appear to depend upon the legal availability of the Administration's appropriations for the expenses which would be borne by the Administration in connection therewith.

It is apparently contemplated that the seminar will be held at the United States Merchant Marine Academy at Kings Point, New York, and utilize the services of at least some of the personnel of the Academy. Such a seminar would also involve transportation costs for the attending newsmen and industry representatives as well as for Maritime Administration (Maritime) personnel participating therein who are not stationed at the Academy; the feeding and housing of participants, both governmental and nongovernmental; salaries of the governmental personnel involved; giving notice of the intended seminar; preparing, printing, and issuing necessary instructions, lectures, and other written material for use in the seminar, and other incidental expenses.

Insofar as the use of the physical facilities of the Academy for the seminar are concerned, we have held generally that the head of a Government department or agency has authority to grant to a private individual or business a revocable license to use Government property,

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subject to termination at any time at the will of the Government, provided that such use does not injure the property in question and serves some purpose useful or beneficial to the Government. See 44 Comp. Gen. 824 (1965); 38 id. 36 (1958); 36 id. 561 (1957); 25 id. 909 (1946); B-57383, February 25, 1947. See also 34 Op. Atty. Gen. 320 (1924); 30 id. 470 (1915); 22 id. 240 (1898). The Attorney General has stated that the question as to whether the granting of such a license in any given case is beneficial to the Government is for the exercise of the judgment of the official with the power to grant, rather than a question of law to be determined in advance by the law officers of the Government. 30 Op. Atty. Gen. 470, 482 (1915).

Hence, subject to the conditions set forth in the preceding paragraph there would appear to be no objection to the Maritime Administration granting to an appropriate group a "nontransferable, non-exclusive, revocable license" to use specified portions of the Merchant Marine Academy at Kings Point for purposes of the seminar.

As to the direct costs of the seminar, the appropriation which provides annual funds for operations of the Academy and pays the salaries of instructors assigned thereto--"Maritime Training," Maritime Administration, Department of Commerce Appropriation Act, 1970, approved December 24, 1969, Pub. L. 91-153, 83 Stat. 417--provides in pertinent part as follows:

"For training cadets as officers of the Merchant Marine at the Merchant Marine Academy at Kings Point, New York; not to exceed \$2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; and uniform and textbook allowances for cadet midshipmen, at an average yearly cost of not to exceed \$475 per cadet; \$6,164,000 \* \* \*."

We concur with the view expressed by Maritime's Acting General Counsel that this appropriation is not available for payment of any direct expenses attributable to the seminar, which is totally unrelated to the training of cadets.

Maritime's Acting General Counsel cites our decision of November 29, 1961, B-147552, wherein we approved use of Maritime's "Research and Development" appropriation to pay part of the costs of a conference proposed by the University of California, concerning cargo handling

research. However, this decision was predicated upon the fact that the conference was related to research in which the Administration was actively engaged and the information to be obtained from the conference proceedings would be of value to the Administration in its research, and was information which the Administration could have contracted for under a research contract with the University. Also influencing our decision in the cited instance was the fact that the conference would not have been held if three Federal agencies had not underwritten the total cost thereof and that immediate approval was necessary. However, even in that instance, we advised Maritime that if such procedure were to be used generally to secure research data, the matter should be fully disclosed to the Congress prior to such general use. This distinction is further expounded in our decision of December 13, 1965, B-158037, 45 Comp. Gen. 333 (1965), to the Veterans Administration denying authority to use its appropriations to sponsor a membership in the Third International Congress of Nephrology. In the latter decision, we advised the Veterans Administration that since the Third International Congress was not to be held for several months, it was our view that before its appropriations were used to purchase the membership the matter should be fully disclosed to the Congress and funds specifically requested for such purpose and the acquiescence of the Congress obtained. In any event, it appears that the seminar here in question does not relate to research and development, and hence, the Maritime Administration's appropriation for "Research and Development" is not available for any of the expenses thereof.

The only other appropriation of the Maritime Administration which might possibly be construed as being available for the expenses of a seminar--"Salaries and Expenses," Maritime Administration, Department of Commerce Appropriation Act, 1970, supra--reads in pertinent part as follows:

"For expenses necessary for carrying into effect the Merchant Marine Act, 1936, and other laws administered by the Maritime Administration \* \* \*."

Maritime's Acting General Counsel states that providing information to the public regarding the authority and activities of the Maritime Administration is clearly necessary to carrying into effect the laws administered by the Maritime Administration, and points out that the Administration has long had a Public Information Office for that purpose. He reasons from that fact that the Administration is authorized to use

a reasonable amount of the cited appropriation to provide newsmen with background information necessary to enable them to inform the public of the activities of the Maritime Administration. Most agencies have some sort of public information office, and no question has been raised as to the propriety thereof. However, such offices generally operate by calling news conferences at no cost to the Government other than the salary of the employee involved or by issuing news releases at the nominal cost of producing such releases. There is a great difference between such activity and the proposed two-week seminar, both in the nature of the activity and the cost thereof.

In connection with use of the "Salaries and Expenses" appropriation for the proposed seminar, Maritime's Acting General Counsel cites our decision of December 1, 1934, A-58569, to the Farm Credit Administration, 14 Comp. Gen. 427 (1934), wherein we held that (quoting from page 428):

"The dissemination of information regarding the purpose and scope of a new Federal statute to interested citizens may be regarded as an expense of administering the act, the reasonable cost of which would constitute a proper charge against funds made available for the administration thereof.

"Whether the dissemination of appropriate information concerning the operation of the act in question should be by means of sending out printed matter and circular letters, or by means of sending out employees, is within the administrative discretion of the Governor of the Farm Credit Administration, and the proceeds of fees and the \$50,000 fund referred to are available for the expenses thereof if otherwise legal and proper. It is to be understood, of course, that such information will be furnished by either method only if and when necessary to accomplish the purposes of the law."

However, in the cited case, the Farm Credit Administration merely proposed "to employ five or six persons to visit, as occasion arises, different localities throughout the United States in order to render this service to interested persons, \* \* \*" (furnish information concerning the then new Farm Credit Union Act to persons interested in forming a Federal credit union under that act). This again is greatly

different from the proposed two-week seminar. Also, emphasis was placed upon the fact that the legislation involved was new and it was necessary to inform interested persons of the details thereof in order that the purpose of such legislation (that is, the forming of Federal credit unions), might be effected; and it was stipulated that such information could be furnished only if and when necessary to accomplish the purposes of the law. We believe that the ship-building and shipping industries, which are principally interested in the Maritime Administration, are aware of the provisions of law under which the Administration operates and furnishing information concerning such law to newsmen through a two-week seminar does not appear to be "necessary" to accomplish the purposes of the law. Hence, we do not consider the cited decision as affording authority to the Maritime Administration to conduct such a seminar.

There is also for consideration Public Resolution No. 2, 74th Congress, approved February 2, 1935, ch. 4, 49 Stat. 19, 31 U.S.C. 551, which reads as follows:

"Unless specifically provided by law, no moneys from funds appropriated for any purpose shall be used for the purpose of lodging, feeding, conveying, or furnishing transportation to, any conventions or other form of assemblage or gathering to be held in the District of Columbia or elsewhere. This section shall not be construed to prohibit the payment of expenses of any officer or employee of the Government in the discharge of his official duties."

In our decision of February 25, 1935, A-60134, 14 Comp. Gen. 638 (1935), construing the quoted provision of law, we held that the Federal Housing Administration could not pay the expenses of meetings of private citizens who were cooperating with the Administration in a campaign to encourage repair and modernization of real estate. See also 14 Comp. Gen. 851 (1935), wherein we ruled that the same provision of law prohibited the American Battle Monuments Commission from paying the costs of transportation of participants in dedication ceremonies to and from monument sites or the costs of light refreshments for such participants.

Thus, it would appear that 31 U.S.C. 551 would prohibit the expenditure of Maritime Administration's "Salaries and Expenses" appropriation for "lodging, feeding, conveying, or furnishing transportation to" any nonfederal participants in the proposed seminar, although it would not appear to prohibit paying from such appropriation the expenses of any of Maritime's personnel (paid from that appropriation) attending such a seminar if such attendance were administratively determined to be in the discharge of official duties. See 17 Comp. Gen. 838 (1938); 22 Comp. Gen. 315 (1942); 26 Comp. Gen. 53 (1946); cf. 16 Comp. Gen. 839 (1937).

In view of the fact that so little of the expenses which would be incurred in sponsoring such a seminar are properly payable from Maritime's existing appropriations, it is our view that the matter should be presented to the Congress and specific authority obtained by the Maritime Administration to sponsor such a seminar.

Sincerely yours,

(SIGNED) ELMER B. STAATS

Comptroller General  
of the United States

Enclosures

The Honorable Thomas N. Downing, Chairman  
Special Subcommittee on Maritime Education  
and Training  
Committee on Merchant Marine and Fisheries  
House of Representatives