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## UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON 25, D.C.

January 24, 1961

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B-147516-U.M.  
DEFENSE ACCOUNTING AND  
AUDITING DIVISION**The Comptroller General**

The Air Force has used appropriated funds to pay for various types of work where it appears that the cost should have been paid from nonappropriated funds.

10 U.S.C. 9779(c) provides that no money appropriated for the support of the Air Force may be spent for base gardens or Air Force exchanges. However, this does not prevent Air Force exchanges from using public buildings or public transportation that, in the opinion of the Secretary, are not needed for other purposes.

Department of Defense Directive 1330.2 dated January 19, 1953, revised August 31, 1956, provides that morale, welfare, and recreation activities selling goods or services (including exchanges, clubs, officers' messes (open), etc.), except those required by statute to sell at cost price, will be self-sustaining with respect to expenses for civilian employees, purchase of operating equipment, and maintenance of the interior of the space occupied.

Paragraph 209026, Air Force Manual 172-1, dated April 1, 1957, provides that exchanges, officers' and noncommissioned officers' open messes, cafeterias, bowling alleys, swimming pool, theaters, etc., selling goods or services at other than cost, will be self-sustaining with respect to civilian employees, purchase of operating equipment, and maintenance service in excess of normal requirements.

Description of the cases in question are contained in exhibits A and B.

Advice is requested as to whether these expenditures are properly payable from appropriated funds.

(Signed) I. Zuckerman

I. Zuckerman  
Assistant Director

**Attachments**

Exhibits A-1, 2, 3

B-1, 2, 3

Contracts AF 45(614)-745  
AF 22(601)-395  
AF 19(617)-1425  
AF 08(614)-1601  
AF 41(603)-1097  
AF 45(602)-496

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Director, Defense Accounting and Auditing Division

Returned. Your memorandum raises the question generally as to whether appropriated funds may be used for the support of morale, welfare, and recreation activities of the armed services. The specific cases in question involve the use of the "Operation and Maintenance" appropriation of the Air Force for the modification, alteration, and/or repair of buildings or facilities used by officers and noncommissioned officers' open messes, base exchanges, and an exchange cafeteria. One of the cases submitted (Exhibit A-3) charges the above-mentioned appropriation for the installation of automatic pinspotters in a building used as a bowling alley. This equipment was not purchased but was leased from the contractor and the lease payments would be financed from non-appropriated funds.

Under the provisions of 10 U. S. C. 121 the President is authorized to prescribe regulations to carry out his functions with respect to the management and operations of the armed forces of the United States. The provisions in 5 U. S. C. 171a(b) constitute the Secretary of Defense as the principal assistant to the President in matters relating to the Department of Defense with direction, authority and control over the

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Department of Defense. Thus by statute the authority to direct and manage the Department of Defense and the armed forces is placed in the Secretary of Defense subject to the direction and control of the President. This authority would include the right to prescribe programs within the armed forces, promoting morale, welfare, and recreation activities, and to support these programs with appropriated funds. Department of Defense Directive No. 1330.2, as revised August 31, 1956, provides the policy of the Department regarding the funding of morale, welfare and recreation facilities. Air Force Regulation No. 170-4 dated November 7, 1955, as revised by Air Force Regulation No. 170-4A dated July 1, 1958, issued in conformance with the above Department of Defense Directive sets forth the policy of the Department of the Air Force as being one to provide a well-rounded morale, welfare, and recreational program and that the programs and facilities should be provided, operated and maintained through financial support tendered by the Federal Government. The regulation further states that, although nonappropriated funds are authorized, appropriated funds will be used to construct, repair, modify, rehabilitate, and maintain morale, welfare and recreation facilities and to provide collateral equipment for them. Air Force Regulation No. 34-67 dated July 8, 1960, implements Air Force Regulation No. 170-4 and provides in detail the circumstances when appropriated funds and nonappropriated funds will be used for the construction, repair, modification, etc., of facilities utilized for morale, welfare, and recreation purposes.

The use of public buildings by exchanges was first recognized in a permanent provision inserted in the Army appropriation act for the fiscal year 1893, 27 Stat. 178. These provisions now appear in 10 U. S. C. 9779 insofar as they apply to the Air Force. Also, as early as 1903 the Congress authorized appropriated funds of the Army to be used for construction, equipment and maintenance of suitable buildings at military posts and stations for the conduct of post exchange activities. While specific authorizations for the repair and maintenance of facilities and structures used for morale, welfare and recreation activities have not been included in more current appropriations of the armed services, the general authorization for the use of appropriated funds for the repair and maintenance of facilities within the military departments apparently has been regarded as embracing facilities used by these activities. In this connection, see "A Report to the Committee on Appropriations, United States House of Representatives, on an Inquiry into Commissary Store and Exchange Operations, Department of Defense, Surveys and Investigations Staff, November 1957," starting on page 569 of the hearings of that Committee on the Department of Defense Appropriations for 1959, volume containing Advanced Research Projects Agency, etc.

The formal recognition given the morale, welfare and recreation activities by the Department of Defense and the Department of the Air Force in the promulgation of regulations constituting such programs

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and activities as a necessary and integral part of the armed services and the past recognition given these activities by the Congress in the annual appropriation acts would authorize expenditures from appropriated funds of necessary expenses for the repair, modification and maintenance of buildings and facilities used for morale, welfare, and recreation purposes. Also, the Air Force regulations specifically authorize the use of appropriated funds for the provision of collateral equipment in buildings and facilities used by these activities. Collateral equipment is defined in Air Force Regulation No. 170-4 as equipment built into the facilities and that which is permanently installed by means other than with hand tools such as screw drivers, hammers, and/or pliers. This definition of collateral equipment would appear to embrace the equipment installed in the bowling alleys under the contract contained in Exhibit A-3 with your memorandum.

For the reasons stated above, the expenses under the contracts contained in the exhibits with your memorandum need not be questioned insofar as they are funded from appropriated moneys.

FRANK H. WEITZEL  
Assistant Comptroller General  
of the United States

Attachments