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

B-153771

June 12, 1964

Dear Senator Eastland:

This is in reply to your letter of March 19, 1964, concerning the disposition of two airplanes offered for sale by the General Services Administration (GSA) on behalf of the Federal Aviation Agency (FAA), owner of the airplanes. You state that the Mississippi Civil Defense Agency has a need for one of the airplanes and you ask in effect, that we look into the matter and advise you whether procedures followed in this case were proper or whether one of the airplanes should have been donated to the Mississippi Civil Defense Agency under the donable property program.

In a report concerning the matter, FAA advised us that it obtained the airplanes in 1960 as excess property from the Department of the Air Force through GSA. At the time of acquisition, FAA states that it had an urgent and bona fide need for high performance twin-engine turbo prop aircraft for research and development project work and to provide flight training for FAA inspectors. Following acquisition of the airplanes, the engines and propellers on one of the airplanes were updated and an engine and a propeller were obtained as spares. This airplane then was used for research and development work but because of undesirable flight characteristics and critical parts support problems, the airplane was later removed from service.

It is reported that FAA was aware that a number of modifications would be required to adapt the airplanes for use by FAA, however, it was found that the cost of the required modifications was considerably greater than was originally anticipated and it was finally concluded that it was not economically feasible to modify the aircraft to accomplish the flight missions for which they were originally acquired. Following such decision, it is reported that FAA's aircraft planning program was adjusted to provide the flight capability for which this type of aircraft was needed through equipment already in the FAA fleet and aircraft included in its fiscal year 1964 program plans, and disposal action to have the two airplanes sold and the proceeds of the sale applied toward the purchase price of the new airplanes was then initiated as indicated in your letter.

We now have been advised that all bids received were rejected since further study by FAA has resulted in a determination that it has a need to retain the two airplanes.

Pursuant to your request and with reference to your understanding that in many cases receipts are returned to the owning agency for use on other programs and activities, we have examined the regulations issued by GSA concerning transactions authorized by section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)).

Section 202(c) of the act (40 U.S.C. 483(c)) requires that each agency make reassignments of property among activities within the agency when such property is no longer required for the purposes of the appropriation from which it was purchased. Consequently, since an activity within the same agency is eligible and, in fact, required to utilize property needed by it but no longer needed by the activity for which originally acquired, we believe that the application of receipts from the sale of such property to a different program or activity of the same agency is entirely consistent with the requirements of section 202(c). It must be kept in mind, however, that such receipts may be applied only toward the purchase price of similar equipment. See 34 Comp. Gen. 452. We find no requirement in the act or any indication in its legislative history that an agency having property that is eligible for disposition under section 201(c) must first offer such property for donation to eligible donees under other provisions of the act.

Accordingly, it is our view that the procedures prescribed in the applicable GSA regulations are fully in accord with the spirit and intent of the act.

While regulations issued by the Department of Defense permit eligible donees to acquire property that properly could be disposed of under section 201(c), we find nothing in the act that requires that the donation programs be given precedence over disposal action authorized by section 201(c).

Sincerely yours,

Joseph Campbell

Comptroller General
of the United States

The Honorable James O. Eastland
United States Senate