UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

Nov. 6, 1964

ACCOUNTING AND REPORTING DIVISION

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Released

The Comptroller General

A draft report questioning the propriety of the expenditure of appropriated funds by the National Aeronautics and Space Administration (NASA) to lease parking spaces for private automobiles of Government employees was submitted to the Administrator, NASA, for comments on May 28, 1964. (Copy attached.)

In commenting on our draft report, NASA has raised certain legal questions on which your decision is herewith requested.

NASA AUTHORITY TO FURNISH EMPLOYEE PARKING

Our review of leasing by NASA disclosed that its field installations had entered into five leases to provide parking spaces for employees' privately owned automobiles at Houston, Texas; Huntsville, Alabama; Bladensburg, Maryland; and Santa Monica, California. In our draft report we pointed out, in consonance with the Comptroller General's decision (B-152020, dated August 5, 1963), that Government employees ordinarily have the responsibility to furnish their own transportation to and from their place of employment or duty, and if they choose to use their private automobiles for such purpose, the Government is under no obligation to provide parking space therefor.

In reply to our draft report NASA advised us that our suggested corrective actions had been complied with in that all the parking lot leases in question had been terminated and a survey of comparable leases at all NASA installations not covered by our review had been initiated. (Copy attached.)

However, NASA stated also that:

" ... it is by no means wholly clear that NASA is without authority to furnish employees parking spaces, in view of section 203 (b)(3) of the National Aeronautics and Space Act of 1958, as amended, which provides, in part, as follows:

> 'In the performance of its functions the Administration is authorized — (3) to acquire (by purchase, lease, condemnation, or otherwise) ... operate and maintain laboratories, research and testing sites, and facilities ... quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property ... or any interest therein, as the Administrator deems necessary within and outside the continental United States ... and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of the employees of the Administration at its installations ...'"

We believe that NASA's broad interpretation of its authority to provide for the welfare of employees is unreasonable and goes beyond the intent of the Congress.

In view of NASA's stated opinion, your decision is requested as to whether the National Aeronautics and Space Administration has specific authority to lease parking spaces for the privately owned automobiles of Government employees within the meaning of the above cited act.

COLLECTION OF FEES FOR PARKING ON GOVERNMENT-LEASED PROPERTY

In connection with this same review, we noted also that NASA's Western Operations Office at Santa Monica, California, had permitted the Employees' Welfare Association to collect parking fees from Government employees who parked on the NASA leased lots and to retain such fees without depositing them into Miscellaneous Receipts of the Treasury in compliance with 31 U.S.C. 484, which provides:

> "The gross amount of all moneys received from whatever source for the use of the United States *** shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. ***"

In commenting on this point, NASA advised that the City of Santa Monica agreed to allow NASA employees to park on a municipally owned parking lot for a fixed monthly fee regardless of the number of cars parking. The Employees' Welfare Association charged each employee utilizing parking space $2 per month regardless of whether they parked on the Government-leased lots or the city lot. NASA contended that

the $2 monthly fee was not payment for any particular designated space but that all collections from all members were intended to be used for such payments as the Association would be obligated to pay to the City of Santa Monica for parking privileges at the city lot.

The facts disclosed by our review do not agree with the details related to us by NASA.

Each of the employees of the Western Operations Office who utilized parking space was assigned to a specific lot--either the municipal lot or one of the three Government-leased lots. Our review disclosed that the City of Santa Monica is paid 50 cents per week for each car parking on the city lot rather than a fixed fee regardless of the number of cars parking.

It appears to us that the parking fees collected from those employees who park on the Government-leased lots are derived from the use of Government property and are received "for the use of the United States" within the meaning of 31 U.S.C. 484, and therefore are required to be deposited into the Treasury. NASA contends that 31 U.S.C. 484 does not apply because the employee parking fees are collected by the Employees' Welfare Association, an organization which is not acting in the capacity of an officer of the United States Government. Our review showed that on March 31, 1964, there was a balance of $513.80 as a result of charging all employees at the 50-cent rate whereas payment by the Association to the City of Santa Monica covered only the specific number of cars parking on the city lot. NASA advised us that such balances are disposed of periodically by not charging the employees for rentals of parking space for one month and thereby reducing their effective parking costs.

Notwithstanding the Association's method of disposing of excess collections, it would appear that fees have been collected from employees for the specific privilege of parking on Government-leased property. As a consequence, your decision is requested on each of the following questions.

1. Are the fees received from employees parking on the Government-leased lots received "for the use of the United States" and required to be deposited into the Treasury of the United States as miscellaneous receipts?

2. If the answer to the first question is affirmative, does the fact that the Employees' Welfare Association has disposed of such funds in the form of free parking for the employees have any bearing on the case?

3. If the answer to the second question is negative, should we recommend that such funds be recovered for deposit into the Treasury?

Arthur Schoenhaut

Arthur Schoenhaut
Deputy Director

Attachments

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Director, Civil Accounting and Auditing Division

Returned. Section 203(b)(3) of the National Aeronautics and Space Act of 1958, 72 Stat. 430, which NASA suggests as containing authority for the leasing of parking lots at its installations, provides in pertinent part that the Administrator is authorized--"to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of the employees of the Administration at its installations."

An examination of the legislative history of this provision shows that similar provisions in earlier related bills proposing the creation of a space agency were limited to the establishment of cafeterias only. While both the cognizant House and Senate Committees subsequently expanded such provision to include "other necessary facilities for the welfare of the employees" nothing has been found in the legislative history to indicate the intent of those Committees in this matter.

As pointed out by the Agency, parking facilities are available to employees without charge at numerous Government installations and we think there can be no question but that the provision for such facilities contributes a great deal toward employee welfare. Consequently, in view of the parking situations existing at the installations in question as described in the agency comments forwarded here

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as attachments, we cannot establish that the parking facilities involved are not "necessary facilities for the welfare of the employees" if they are so determined administratively. It should be kept in mind that the criterion here involved is less stringent than a requirement that the facilities be essential for the operation of the installation. Cf. 43 Comp. Gen. 131 and 10 id. 140.

Concerning the fees collected by the Employees' Welfare Association at the NASA installation at Santa Monica, California, you take the position that such fees are derived from the use of Government property and, therefore, must be deposited into the Treasury as miscellaneous receipts.

It appears that the $2 fee represents an assessment made on all employees desiring parking space at the installation and is based on the total cost of the space used on the municipal property. The arrangement appears to be one voluntarily entered into by all employees involved and represents a plan that treats all employees fairly and equitably. In our view, the fees paid pursuant to this arrangement are not paid as rental of parking spaces on a Government lot and since they are voluntarily paid to an organization that is not collecting the fees on behalf of the United States, it is our view that the fees are not required to be deposited into the Treasury.

The attachments forwarded with your memorandum are retained here for ready reference.

JOSEPH CAMPBELL

Comptroller General
of the United States

Enclosure