



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

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DEC 10 1973

The Honorable Les Aspin  
House of Representatives

Dear Mr. Aspin:

Further reference is made to your letter dated September 19, 1973, requesting our views regarding 10 U.S.C. 4744 in light of the practice of the Department of Defense which is said to permit senior military officers to make advance reservations of up to 30 days for trips to 5 different destinations, on space available airline facilities.

In this regard, you ask the following questions:

"Does this section or any other section in law justify the establishment of an advanced reservation system exclusively for senior officers?"

"Is there adequate legal justification for the military services to continue to operate the system, or is additional legislation required?"

"Overall, does the GAO find this 30 day advanced reservation system in keeping with the general spirit of 10 U.S.C. 4744?"

Section 4744 of title 10 U.S. Code, provides as follows:

"Whenever the Secretary of the Army considers that space is available, the following persons and supplies may be transported on vessels operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any military transport agency of the Department of Defense:

"(1) Members of the Navy, Marine Corps, or Coast Guard.

"(2) Officers and employees of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Coast Guard.

"(3) Supplies of the Department of the Navy.

"(4) Members of Congress.

"(5) Other officers of the United States traveling on official business.

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" (6) Secretaries and supplies of the Armed Services Department of the Young Men's Christian Association.

" (7) Officers and employees of the Commonwealth of Puerto Rico on official business.

" (8) The families of persons described in clauses (1), (2), (4), (5), and (7).

However, a person described in clause (7) or (8) may be so transported only if the transportation is without expense to the United States."

Section 4744 sets forth those categories of persons and supplies which may be authorized sea transportation on a space available basis on vessels operated by the Department of the Army or within space allocated to the Department of the Army on vessels operated by any military transport agency of the Department of Defense. The language of the statute is derived largely from legislation contained in the act making annual appropriations for the support of the Army, March 2, 1907, 34 Stat. 1158, 1170. Although it appears from this legislation that Congress intended priority to be accorded to the transportation of the Army, its supplies and employees, on Army transport vessels, we have found no expression of an intent by the Congress that any particular order of priority be granted to persons or supplies authorized transportation on a space available basis. Furthermore, since 10 U.S.C. 4744 expressly refers only to sea transportation on vessels operated by the Department of the Army, or to bulk space allocated to it on vessels operated by any military transport agency of the Department of Defense, it would not appear to be applicable to space available transportation on aircraft owned or operated by the Department of Defense.

We are aware of no specific statutory authority similar to 10 U.S.C. 4744 that establishes categories of persons or supplies which may be authorized transportation on a space available basis on aircraft operated by the Department of Defense. However, the practice of allowing various categories of persons to travel on military aircraft on a space available basis has for many years been administratively authorized within the Department of Defense. In this regard paragraph 9-40b of Air Force Manual 75-8, April 20, 1970, (change 6, January 1, 1973), states in part that;

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"Space available transportation on MAC aircraft is an administrative privilege. This privilege is not a legislative entitlement. Neither is it viewed as a traditional benefit in the same manner as enacted by legislation. \* \* \*"

Pursuant to Department of Defense (DOD) Directive 4515.13, ✓ October 31, 1970, the Department of the Air Force issued DOD regulation 4515.13-R, ✓ July 14, 1972, governing the transportation of cargo and passengers by Department of Defense owned and controlled aircraft. As to transportation between the continental United States and overseas areas on a space available basis, paragraph 4-2 ✓ of this regulation provides that space available registers are to be maintained to destinations served by each terminal and that applicants for such travel may register for up to a maximum of 5 destinations. In this regard paragraph 4-4 ✓ of the regulation sets forth the categories of persons who may be allowed space available transportation and further provides:

"\* \* \* The order in which these categories are listed indicates the normal precedence of movement and will be used as a guide. The listing within each of the categories is not intended to indicate a precedence within categories. Eligible personnel falling within the various categories will be furnished transportation on a first-in, first-out basis except that PRCs (passenger reservation centers) may change this precedence when requested by the sponsoring Military Department and the facts and circumstances support such a request. Reservations will not be made for any category of space available passenger. PRCs will maintain a roster of applicants as a means of identifying such passengers. There is no guaranteed space for such passengers. \* \* \*"

Accordingly, DOD 4515.13-R ✓ establishes the priority to be accorded the various categories of persons who may travel on a space available basis but does not establish a priority for those persons within a particular category except that generally they will be furnished transportation on a "first-in, first-out" basis as identified by the roster of applicants for such travel. Further, the regulation clearly prohibits a reservations system or any system guaranteeing travel, which by its terms would not constitute space available travel (surplus

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after all space required traffic has been accommodated).

As to the maintenance of space available rosters, paragraph 9-40 of Air Force Manual 75-8 (change 6) sets forth the policies and procedures for eligible persons to obtain transportation on Military Airlift Command (MAC) aircraft on a space available basis. It provides, in part, as follows:

\* \* \* \* \*

"d. Active duty senior officers in grade O-6 and above may apply for space available transportation on MAC aircraft by letter not more than 30 days before their desired date of travel. \* \* \* On the basis of this application, their names are entered on the space available register in the same manner and in the same sequence as other passengers physically reporting to that facility.

\* \* \* \* \*

"(2) No reservations are given for space available transportation of passengers placed on the register through this means. However, once the name reaches the top of the list, it will remain at that position until 2400 on the day indicated as being available for transportation.

\* \* \* \* \*

"(3) Officers who have reached the top of the list and have not reported by 2400 on the date they indicated as being available for transportation will be dropped from the space available register.

"e. All other passengers must report to a MAC passenger terminal, place his name on the space available register, and remain in the terminal area until name is reached.

\* \* \* \* \*

"h. Passengers using this means of transportation are processed on a 'first-in-first-out' basis with other space available passengers of the same priority \* \* \*."

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Under these provisions active duty officers in grade O-6 and above are given the benefit of being able to get their names on the space available register for specific travel, by letter, whereas other applicants for such transportation must go to the terminal to have their names placed on the register. Furthermore, although these provisions do not allow them to make reservations or guarantee space for a particular departure or destination, these officers may place their names on the register 30 days in advance of the desired departure date and this registration remains effective until the date and time of departure, which gives them an advantage over other persons in the same category who must report to and remain available at the terminal to retain their names on the register. In effect this system would make these officers more likely to receive transportation on a desired date to a desired destination than other passengers in the same category.

In view of the fact that the authority for persons to travel on military aircraft on a space available basis and the policies and procedures for such travel are administrative in nature, it would appear that any change in such policies or procedure would have to be initiated by the Department of Defense or by the Congress in the form of legislation. In this regard, we note that on October 17, 1973, you introduced H.R. 10966, a Bill to amend title 10 of the United States Code to place certain limitations on the space available transportation system operating within the armed services.

Sincerely yours,

R.F. KELLER

Deputy Comptroller General  
of the United States

AIRCRAFT

Military

Space available transportation

MILITARY PERSONNEL

Space available transportation

Military aircraft