

DECISION

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

GGM

12388

FILE: B-194881

DATE: DEC 27 1979

Use of Appropriated Funds For

MATTER OF: Rental of Limousine to take Witness to Administrative Hearing

DIGEST:

Agency with express authority to expend appropriation for hire of passenger motor vehicles may rent chauffeured limousine to transport witness from airport to hearing and back, although other means of transport may have been less costly. Statute which authorizes agency to pay witnesses whom it summons "the same witness and mileage fees as are paid to witnesses in the courts of the United States," does not preclude providing transportation by means other than reimbursing witness.

R The Director, Budget and Finance, Equal Employment Opportunity Commission (EEOC), requests a decision on whether the EEOC may use appropriated funds to pay for a limousine rented to transport a witness to an agency hearing. Although the matter was submitted in the posture of a claim by the contractor, this is essentially a request for an advance decision on whether the contractor's invoice can properly be paid. Our opinion is that the EEOC may make payment. 440

2 The EEOC was conducting hearings at one of its regional offices. A United States Senator was to be a witness. The Office of Policy Implementation of the EEOC arranged for the rental of a chauffeured limousine from Academy Limousine, Inc., to transport the Senator from the airport to the hearing site, where it was to wait and then take the Senator back to the airport. Academy Limousine, Inc., has billed the EEOC in the amount of \$157.50 for the rental of the limousine, including toll charges, and a "gratuity," presumably paid to the chauffeur.

Section 628 of title 31, United States Code (1976), prohibits an agency from using appropriated funds for any purpose except those for which the funds are appropriated. We have held, however, that funds appropriated for a particular purpose are also available for other expenses which are necessary to execute that purpose. 50 Comp. Gen. 534 (1971); see also 56 Comp. Gen. 111 (1976). The question, therefore, becomes whether the rental of a limousine was a necessary expense of the agency.

~~008154~~

111163

The EEOC has authority "to pay witnesses who are summoned before the Commission the same witness and mileage fees as are paid to witnesses in the courts of the United States." 42 U.S.C. § 2000e-4(g)(2) (1976). In this case, however, the agency has *Chose* ~~chosen~~ to provide transportation for the witness, rather than to reimburse the witness for his expenses. *and has* It is not clear whether this witness was summoned; if not, 42 U.S.C. § 2000e-4(g) would not apply, but implied authority exists, in the absence of a specific statute, for agencies to use their appropriations to pay for travel of Government witnesses to hearings. See 48 Comp. Gen. 110 (1968); 50 Comp. Gen. 811 (1971).

In general, appropriations are not available for the purchase or hire of passenger motor vehicles unless specifically authorized by the appropriation concerned or other law. 31 U.S.C. § 638a(a) (1976). However, EEOC, in the fiscal year 1978 appropriation here involved, has express authority to expend its funds for necessary expenses "including hire of passenger motor vehicles." Pub. L. No. 95-86, 91 Stat. 437.

In this case, therefore, the EEOC may provide transportation for a witness whose appearance it finds necessary at its proceedings, and may do so through the hire of passenger motor vehicles. Obviously, the EEOC could have arranged to transport this witness by some means other than a limousine (for example by taxi), at substantially lower cost, presumably without any sacrifice of efficiency. However, the contract for transportation by limousine cannot be said to have been unauthorized and the contractor has evidently performed satisfactorily. The invoice may be paid.

MILTON SOCOLAR

For the Comptroller General
of the United States