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Zelkowitz



DECISION

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

FILE: B-199531

DATE: May 19, 1981

MATTER OF: Department of the Army: Services provided by non-appropriated fund employees

DIGEST: Appropriated fund (AF) and non-appropriated fund (NAF) personnel on Army base operate separate billeting facilities in single hotel/motel type quarters. NAF and AF clerks, working alone, handle both NAF and AF transactions on their respective shifts. Certifying officer asks whether AF can reimburse NAF for AF work performed by NAF employees, in light of GAO decision 58 Comp. Gen. 94, that purchases of services from NAFs, when authorized, must be treated as procurements, and of finding that this procurement is unauthorized because it involves personal services. Reimbursement is authorized. Transaction should not be treated as procurement of personal services, but as method of allocating expenses of operating respective facilities on a cost sharing basis.

This decision is in response to a request from a United States Army Finance and Accounting Officer for an advance decision. His request concerns the propriety of reimbursing a non-appropriated fund instrumentality (NAFI) with appropriated funds, for work performed by NAFI employees in support of appropriated fund activities.

Specifically, this case involves billeting activities at an Army base. There are two types of accommodations available on the base, both housed in a single hotel/motel type accommodation. One type, which includes Visiting Officer Quarters, Bachelor Officer Quarters, Distinguished Visitors Quarters, and Enlisted Bachelors Quarters, is operated with appropriated funds. The other is a NAFI enterprise operated to provide guest accommodations for relatives of military personnel stationed on the base and other transient needs. The volume of transactions, we are told, does not justify having two desk clerks, one paid from appropriations and the other a NAFI employee, on duty at all times to provide "check in-check out" services for the respective operations. Instead:

"[t]here are two appropriated fund desk clerks and three nonappropriated fund desk clerks, each working alone for an 8-hour shift. Each desk clerk handles both appropriated (52% of

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the workload) and nonappropriated (48% of the workload) fund transactions as they occur during the shift.***"

Consequently, NAFI employees on their shift provide some of these services for accommodations receiving appropriated funds.

The Finance and Accounting Officer has before him a voucher for reimbursement of the NAFI for services involving the appropriated fund accommodations from October 1 to December 31, 1979. The Contracting Officer, citing the lack of authority for "personal services" contracts, has refused to authorize procurement of these services from the NAFI for subsequent periods. The Finance and Accounting Officer asks whether he may certify the voucher for payment, and further, whether the NAFI can properly be reimbursed from appropriated funds in the future; whether the transaction is in essence a procurement from a source outside the Government; and, if so, whether it should be treated as an Order for Supplies and Services rather than as an Order for Reimbursable Services from within the Government. The answer is that the voucher should not be paid, but not for the reasons suggested in the submission.

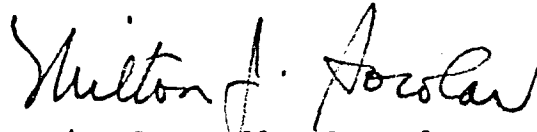
The Finance and Accounting Officer cites our decision, 58 Comp. Gen. 94 (1978) (listed in his submission as B-148581, B-189651, and B-190650) as directing that NAFIs be treated as non-Government contractors for purposes of securing services from them. The dilemma arises because the contracting officer refuses to authorize a procurement of these services from the NAFI because he is not authorized to enter into personal service contracts.

It is not necessary to resolve the question of whether the billeting services of the NAFI desk clerks should be regarded as "personal services" for which the Army may not contract. In fact, 58 Comp. Gen. 94 and the Defense Acquisition Regulation (DAR) governing procurements from non-Governmental sources are not pertinent at all, because, in our view, no procurement is involved.

A decision has obviously been made to operate a single hotel/motel type accommodation with some billeting facilities for appropriated fund guests and some for non-appropriated fund guests. Obviously, an arrangement is necessary to allocate costs for common expense items, such as lobby maintenance and repair. Since the volume of traffic does not justify assigning two desk clerks for every shift, according to the submission, a cost sharing arrangement is also necessary for the salary expenses of the total number of clerks employed. If the total number of NAFI desk clerks is disproportionate to the total

B-199531

number of NAFI transactions, as alleged, redress can be made by replacing one NAFI desk clerk with one appropriation-funded desk clerk. If the allocation of costs is still inaccurate, payment of the difference may be effected, using DA Form 2544 and Standard Form 1080, treating this as a transfer between funds.

A handwritten signature in cursive script that reads "Milton J. Aroslan". The signature is written in dark ink and is positioned above the typed name and title.

Acting Comptroller General
of the United States