



Comptroller General
of the United States

Washington, D.C. 20348

Decision

Matter of: Payment for Consulting Services for Child Care Facility

File: B-256158

Date: September 27, 1994

DIGEST

The Forest Service (FS) may use appropriated funds to pay a consultant for services rendered to a FS-supported child care center operated by a parent organization on FS premises so long as the FS determines that the consulting services were necessary to help maintain a viable child care facility.

DECISION

A certifying officer for the United States Department of Agriculture asks whether he may certify a voucher for consulting services obtained in connection with a child care center operated on Forest Service (FS) premises at Payette National Forest in McCall, Idaho.¹ For the reasons discussed below, we would not object to certifying such voucher for payment so long as the FS determines that the consulting services were needed to help maintain a viable child care center.

A parent organization is operating a child care facility on Forest Service premises primarily for children of Forest Service employees. According to the Forest Service, the center was having difficulties with its program and the Forest Service acquired the consulting services of an individual who owns and operates several day care centers in Vancouver, Washington, to "help organize the day care" and to "act as a consultant on financing and organization of the FS child care facility." At the completion of her work, the consultant submitted an invoice for \$2,244.77. Of that amount \$118.77 was for lodging, and \$526 was for airline tickets. The remaining \$1,600 consisted of per hour charges (\$50 per hour) for services rendered, e.g., attending meetings, reviewing the Center's operations, and advising the FS and the facility.

As a general matter, if an agency determines that the establishment of an employee operated child care center is necessary for employee welfare, any expenses

¹A certifying officer, under 31 U.S.C. § 3529(a)(2), may request a decision from the Comptroller General on questions raised by vouchers presented to the certifying officer for certification.

associated with the establishment of a day care center could be viewed as a necessary expense of the agency's appropriation. B-39772-O.M., July 30, 1976. In 1985, Congress passed the Triple Amendment, 40 U.S.C. § 490b, authorizing Federal agencies to provide space and related services, such as utilities, without charge to child care centers benefitting Federal employees. More recently, Congress enacted legislation² making agency appropriations available to cover "travel, transportation, and subsistence expenses incurred [by 'any person'] for training classes, conferences, or other meetings in connection with the provision of [child care] services." Pub. L. 102-393, § 604, 106 Stat. 1766 (1992).

The Forest Service concludes that its appropriations are available to support child care centers. The Forest Service generally distinguishes "start-up/support costs", that may be paid from appropriated Funds, from "operating costs", that may not be paid from appropriated funds. Forest Service Manual, sections 6444.14a and .14b, effective October 18, 1991. The FS Manual defines "start-up/support costs" as those "costs necessary to bring the child care facility into a state of readiness and to provide basic support." *Id.* On the other hand, "operating costs" are defined as those "costs necessary to run the child care facility." *Id.*

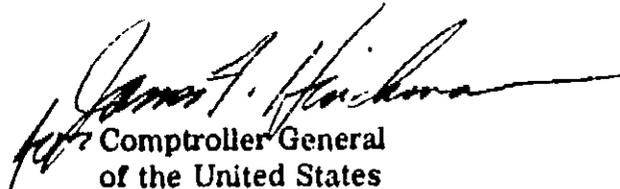
Although the FS manual does not identify consulting services specifically as a "start-up/support cost", we think such services can reasonably fit within the general definition of such costs. We would not object to an agency use of appropriated funds to obtain consulting services to assess in the first instance the viability of supporting or sponsoring a child care center in its facilities. Similarly, we think an agency's appropriation would be available to obtain consulting services to help assess and/or maintain an existing center's viability. The FS presumably has invested considerably in space and other services at the Payette Facility and the acquisition of expert advice to help ensure the continuation of a viable facility, and thereby protect that investment, appears reasonable.

The certifying officer for the Department suggests that 40 U.S.C. § 490b and section 604 of Public Law 102-393 specifically authorize the payment of the expenses in question. While neither of those laws specifically addresses this type of expense, section 604 of Public Law 102-393 authorizes the use of appropriated funds to pay the travel expenses of Federal and non-Federal child care center employees to attend training classes, conferences or other meetings involving the provision of child care services. Here, the Forest Service elected to bring the expertise on-site rather than send the employees to obtain training, information and advice off-site.

²Section 1345, of title 31, United States Code, prohibits, except as specifically provided by law, the use of appropriated funds for travel, transportation, and subsistence expenses of meetings other than for federal officers and employees carrying out official duties.

Thus, the expenditure in question here is certainly consistent with the explicit authority contained in section 604.

Accordingly, so long as the FS determines that the consulting services were necessary to assess and maintain the continuing viability of the child care center, we would not object to the certification of the voucher in question. We would suggest that the FS update its manual to reflect the authority contained in section 604 of Public Law 102-393 and this decision.


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