

COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON 25

MEMO

B-36190

AUG 12 1943
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Mr. Albert D. Mislar,
Authorized Certifying Officer,
Office of Emergency Management.

Dear Mr. Mislar:

I have your letter of July 15, 1943, requesting decision whether you are authorized to certify for payment voucher for \$375.25 in favor of the Chesapeake and Potomac Telephone Company, covering charges for personal long-distance telephone calls over Government leased facilities irrespective of the fact that some of the charges cannot be collected from the employees, it being proposed to make payment now from appropriated funds, the appropriation to be later reimbursed if and when collection is accomplished from the employees.

Your doubt in the matter appears to arise principally because of section 4 of the act of May 10, 1939, 53 Stat. 738, which provides as follows:

"Sec. 4. That hereafter no part of this or any other appropriation for any executive department, establishment, or agency shall be used for the payment of long-distance telephone tolls except for the transaction of public business which the interests of the Government require to be so transacted; and all such payments shall be supported by a certificate by the head of the department, establishment, or agency concerned, or such subordinates as he may specially designate, to the effect that the use of the telephone in such instances was necessary in the interest of the Government."

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Circular letter dated May 24, 1939, of this office, 18 Comp. Gen. 1017, prescribes the following form of certificate as required by the above act:

"Pursuant to section 4 of the act approved May 10, 1939 (53 Stat. 738), I certify that the use of the telephone for the official long-distance calls listed herein was necessary in the interest of the Government."

See also circular of August 21, 1941, 21 Comp. Gen. 1158, and prior circulars cited therein with respect to accounting for collections for personal telephone calls.

In view of the provisions of section 4 of the act of May 10, 1939, ~~et cetera~~, it is obvious that you could not truthfully make the certificate required by the act that the use of the telephone in this case was necessary in the interest of the Government; hence, no liability under the law could be imposed upon the Federal Government for the cost of the unauthorized use of Government telephones for personal long-distance calls for which collection has not been accomplished by your office, irrespective of the reason for the failure to make such collection. Compare 11 Comp. Gen. 365; 15 id. 885.

Accordingly, the voucher is returned herewith and you are advised that, on the present record, you are not authorized to certify the same for payment from appropriated funds.

Respectfully,

(Signed) Lindsay O. Warren

Comptroller General
of the United States.

Enclosure.