

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

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B-70978

DEC 5 1947

The Honorable,

The Postmaster General.

My dear Mr. Donaldson:

I have your letter of November 4, 1947, requesting to be advised whether the appropriation "Domestic Air Mail Service, 1948," is available for the payment of rent—including light, water, heat and janitor service—for office space for Regional Superintendents, Air Postal Transport, in buildings controlled by the Public Buildings Administration, or in privately owned buildings.

It is stated in your letter that the Post Office Department is faced with the necessity of obtaining adequate office space for Regional Superintendents, Air Postal Transport, in the near future. As to the circumstances necessitating the acquisition of additional space, it is stated in your letter, as follows:

"The Second Assistant Postmaster General is responsible for the efficient and economical operation of the Domestic and Foreign air mail service. Five Regional offices are presently authorized by law, located at New York, New York; Chicago, Illinois; San Francisco, California; Ft. Worth, Texas; Atlanta, Georgia. There is a Regional Superintendent in charge of each office, with one or more Assistant Regional Superintendents, and a clerical force of five to seven people. These five Regional Superintendents have general supervision over the operation of the air mail service in their regions, including the preparation of air mail schemes and the distribution of air mail in accordance therewith, routing of air mail, examination of carriers' operations, and investigation of irregularities.

for the period from June 15, 1942, to January 1, 1944. This latter is what I claim.

If any action was taken to modify the contract, as implied by your letter, I knew nothing of it, and I was paid under it during the time in question, without separation, the only change taking place occurring in April, 1944, when my contract was endorsed to the Navy Department disbursing office, and which action took place with notification to me.

"To further verify that I was considered a 'full-time' employee during this period, I received, in October 1944, \$334.67 in payment for overtime for this period, which I do not think was applicable to part-time employment."

In your undated claim letter received here August 23, 1945, it was stated:

"2. The leave claimed is from the time I became a full time employee under Contract N171s 60050, 13 June 1942 through 30 June 1942, 1 July 1942 through 30 June 1943 under Contract N171s 60667, and 1 July 1943 through 15 December 1943 under Contract N171s 67103. After the latter date, I worked part time, both through the remainder of the term of Contract N171s 67103 and through the term of Contract NPS 1697, 1 July 1944 through 30 June 1945. I am now working under Contract NPS 2413, which has a term of one year from 1 July 1945.

"3. On 17 July 1943 my duty station was transferred from the Navy Yard, Washington, D. C., to the Bureau of Ordnance, Navy Department, Washington, D. C. On 1 April 1944 Contract N171s 67103 was modified to permit payment by the Disbursing Officer, Navy Department instead of by the Disbursing Officer, Navy Yard, Washington, D. C."

By report dated September 30, 1947, from the Fiscal Officer, U. S. Naval Gun Factory, it was stated:

"2. The records of this office show that Mr. Thompson was working on part-time basis from 1 January 1944 to 31 March 1944 on a hold over from a prior contract N171s 67103 and was transferred to the Navy Department on 31 March 1944. His status prior to 1 January 1944 was on full time basis.

"3. In reference to Standard Form No. 63, the date of March 31, 1944 shown on that form was the last date Mr. Thompson was carried on the rolls of the Naval Gun Factory and it is believed that the only reason that date was shown was for service and not for the purpose of computing leave. Mr. Thompson did not earn

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Cf. B-27329, July 16, 1942. In the circumstances, insofar as privately owned property is concerned, it may be stated that if it be administratively determined that the rental of additional space from private parties is essential to the prosecution of the authorized functions of the Domestic Air Mail Service there would appear to be no legal objection to the use of the appropriated funds therefor, subject, of course, to compliance with the applicable statutory provisions relating to the leasing of property by the Government.

However, insofar as the question presented in your letter relates to the rental of buildings under the control of the Public Buildings Administration, it is not clear whether reference is made to Government-owned buildings or to buildings leased by the Public Buildings Administration. If the former, the appropriation for the Domestic Air Mail Service, of course, would not be available for the payment of rent for such quarters in view of the general rule prohibiting the payment of rent by one department or agency for premises under the administrative control of another department or agency. 21 Comp. Dec. 524; 22 id. 684; 20 Comp. Gen. 699. However, in such cases reimbursement of the cost of special services furnished by one Government agency to another Government agency has been held to be authorized under the provisions of section 601 of the act of June 30, 1932, 47 Stat. 417, as amended. See 26 Comp. Gen. 677. Said section, as incorporated in section 606, Title 31, U. S. Code, Supplement IV, provides in pertinent part as follows:

"(a) Any executive department or independent establishment of the Government, or any bureau or office thereof, if funds are available therefor and if it is determined by the head of such executive department, establishment, bureau, or office to be in the interest of the Government so to do, may place orders with any other such department, establishment, bureau, or office for materials, supplies, equipment, work, or services, of any kind that such requisitioned Federal agency may be in a position to supply or equipped to render, and shall pay promptly by check to such Federal agency as may be requisitioned, upon its written request, either in advance or upon the furnishing or performance thereof, all or part of the estimated or actual cost thereof as determined by such department, establishment, bureau, or office as may be requisitioned; but proper adjustments on the basis of the actual cost of the materials, supplies, or equipment furnished, or work or services performed, paid for in advance, shall be made as may be agreed upon by the departments, establishments, bureaus, or offices concerned: Provided, That the War Department, Navy Department, Treasury Department, Civil Aeronautics Administration, and the Maritime Commission may place orders, as provided herein, for materials, supplies, equipment, work, or services, of any kind that any requisitioned Federal agency may be in a position to supply, or to render or to obtain by contract: Provided further, That if such work or services can be as conveniently or more cheaply performed by private agencies such work shall be let by competitive bids to such private agencies. Bills rendered, or requests for advance payments made, pursuant to any such order, shall not be subject to audit or certification in advance of payment."

In view of the provision made in said section for an adjustment of appropriations of the Government agencies involved on an actual cost basis "as may be agreed upon by the departments, establishments, bureaus, or offices concerned," reimbursement for the actual cost of any special services incurred in connection with the occupancy of space in Government-owned buildings properly may be made from the appropriation for the Domestic Air Mail Service. See in this connection, General Regulations No. 98, October 7, 1943, 23 Comp. Gen. 998, and 26 Comp. Gen. 677.

On the other hand, if reference is made to space leased for Government purposes by the Public Buildings Administration and under

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its control, there would appear to be no legal objection to reimbursing the Public Buildings Administration for the proportionate actual cost of the space, as well as for the actual cost of the applicable special services, furnished your Department from the said appropriation for the Domestic Air Mail Service under the procedure set forth in paragraphs 7, 8, and 9 of General Regulations No. 98, supra. See 24 Comp. Gen. 851.

The question presented is answered accordingly.

Respectfully,

Comptroller General
of the United States.