



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Flexiplace—Mobile Work Site

File: B-261729

Date: April 1, 1996

DIGEST

Appropriated funds may not be expended for a bus, even though equipped with office equipment, whose primary purpose is to daily transport employees from present headquarters to relocated headquarters.

DECISION

The Naval Air Systems Command (Command) has requested our opinion regarding the propriety of using appropriated funds for a mobile work site. The Command considers the mobile work site concept they have proposed to be consistent with federal flexiplace work arrangements encouraged by the President. We conclude that the expenditure would be improper.

In 1997, the Command will relocate from its current headquarters in Crystal City, Arlington, Virginia to St. Mary's County, Maryland. The Command is considering equipping a bus with computer workstations, telephones, and work surfaces to daily transport employees to the new headquarters from a pick-up point close to the present headquarters. An employee's day would commence when he boarded the bus. The return trip would start an hour and a half prior to the end of the work day with the employee's work day ending when he got off the bus at the pick-up point. The Command intends to screen employee workloads for suitability for the mobile work site.

The Command states that under the Federal Flexiplace Project, it will designate the bus an official workplace of the riders. The Command contends that the arrangement, therefore, would be consistent with statutory and case law prohibiting the use of appropriated funds to subsidize employee commuting expenses.

We disagree. The proposed arrangement was devised to reduce anticipated consequences of the longer commute the Command's employees will have when its headquarters are moved to St. Mary's County. In its June 6, 1995 request for our opinion, the Command explained the rationale for its proposal as follows: "It is anticipated that, unless alleviated, the Command will . . . experience decreased

efficiency occasioned by loss of productivity, absenteeism, reduced morale, fatigue, and loss of highly skilled professionals, all resulting from substantially longer commutes to the new headquarters." The Command, under guise of a flexiplace arrangement, is proposing, simply, to accommodate its employees' commutes.

Commuting is a personal expense, and personal expenses are not payable from appropriated funds absent specific statutory authority. 5 U.S.C. § 5536; 72 Comp. Gen. 225, 227 (1993). Specific guidelines for the use of appropriated funds to pay for transportation for official purposes is contained in section 1344(a)(1) of Title 31, U.S. Code, which provides:

"Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such individual's place of employment is not transportation for an official purpose."¹

Once the Command completes its move, the "place of employment" for its employees, within the meaning of section 1344(a)(1), will be in St. Mary's County, Maryland. All of the usual expenses incurred by an employee prior to his arrival at that location, whether or not he makes an intermediate stop at a different location, are commuting expenses. Vehicles may not be operated with appropriated funds except for an "official purpose" and since the term "official purpose" does not include transportation between home and work, it cannot logically include transportation to work from some point in between.

The Command's desire to expand the concepts underlying the Federal Flexiplace Project and consider its bus an alternate work site fails to overcome this prohibition. Under flexiplace programs, employees perform their work at alternate work sites, such as the employee's home or a telecommuting site. See Presidential Memorandum, July 11, 1994, 59 Fed. Reg. 36017 (1994). Guidance provided agencies by the Office of Personnel Management does not recognize a bus or other mobile work site as a flexiplace option. Federal Personnel Manual Letter 368-1, attachment p.1 (1991). The fact that work is performed while an employee is commuting does not turn the travel into something other than commuting, and does not allow the employee to obtain compensation for that work. We conclude that expenditure of appropriated funds for the mobile work site would be improper.

¹The exceptions listed in subsections (b) and (c) are not applicable here.

We recognize the practical consequences the Command's move may have on its employees individually, and on the office as a whole. However, unless the Command can obtain legislative authority for the proposed mobile work sites, 31 U.S.C. § 1344(a)(1) prohibits it from mitigating the effects of the move in that manner.

/s/Robert P. Murphy
for Comptroller General
of the United States