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DECISION



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

FILE: B-215580

DATE: December 31, 1984

MATTER OF: Department of the Army - Use of Intra-Army Order to obtain child care services from a nonappropriated fund instrumentality

DIGEST:

Army proposal to procure child care services from an Army nonappropriated fund instrumentality (NAFI) through the use of an intra-Army order is not permissible. Intra-agency or interagency orders are not appropriate vehicles for transactions between Government agencies and NAFIs. Obtaining goods and services from a NAFI is tantamount to obtaining them from nongovernmental commercial sources, and a regular purchase order rather than an interagency or intra-agency order should be used.

This decision is in response to a request from Mr. Earl H. Rueth, an authorized certifying officer of the Department of the Army at Headquarters, United States Army Garrison, Honshu, Japan. Mr. Rueth requests a decision regarding the propriety of the use of an intra-Army order to obtain child care services from a nonappropriated fund instrumentality (NAFI). As set forth below, we conclude that the use of an intra-agency order in these circumstances would not be permissible.


The Army Garrison at Honshu, Japan, operates a child care center using both appropriated and nonappropriated funds. Appropriated funds are used to pay the salaries of supervisory personnel, who are apparently employees of the Department of the Army. Nonappropriated funds are used to pay the salaries of teachers, food service workers and other subordinate personnel, who are apparently employees of the Honshu Morale Support Fund (HMSF), a NAFI. The particular contractual relationship between the Army and the HMSF is not clear from the submission.

The Department of the Army recently issued Army Regulation 608-10, October 15, 1983, which provides for the operation of child care services at Army installations. The new regulation expands the range of staff positions for which

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appropriated funds are available to include positions which formerly were funded with nonappropriated funds. However, because of an internally-imposed ceiling on hiring, the Army has been unable to hire additional personnel to fill the newly-funded positions. Accordingly, the Army desires to use an intra-Army order to obtain the required services from HMSF. The certifying officer questions the propriety of this action in view of the position of this Office, set forth in 58 Comp. Gen. 94 (1978) and other cases, that interagency or intra-agency orders are not appropriate vehicles for transactions between Government agencies and NAFIs.

We conclude that the decision of this Office in 58 Comp. Gen. 94 is applicable in the case at hand and that the Army may not obtain services from HMSF through the use of an intra-Army order. It has been the consistent position of this Office that, for all practical purposes from an appropriation and procurement standpoint, the obtaining of goods and services from a NAFFI is tantamount to obtaining them from nongovernmental, commercial sources. Id. at 98; B-192859, April 17, 1979. Accordingly, we have concluded that a regular purchase order, rather than an interagency or intra-agency order should be used. Id. Here, the proposed use of an intra-Army order by the Army to obtain child care services from HMSF would not be permissible.

for 
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of the United States