

**DECISION**



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

01325

FILE: B-178342

DATE: AUG 11 1976 98700

MATTER OF: General Services Administration - Insurance policies on vehicles operated in foreign countries.

- DIGEST:
1. General Services Administration may provide by regulation for purchase of annual or trip insurance policies on Government vehicles regularly or intermittently driven into foreign countries where requirements of law that insurance be carried or legal procedures which may result in extreme difficulties to Government employees when involved in an accident require such purchase. To the extent inconsistent, 39 Comp. Gen. 145, 19 id. 798, and similar cases are overruled.
  2. We are not required to object to reimbursement of Government employees for costs of "trip insurance" purchased while operating Government-owned or privately owned vehicles in foreign countries as "miscellaneous expense" covered by FTR (FPMR 101-7) para. 1-9.1d (May 1973). However, we believe change in FTR specifically providing for such reimbursement would be desirable because present applicable FTR sections do not provide for payment for any kind of insurance on vehicles operated in foreign countries.
  3. We have no legal objection to deletion of restriction in FTR (FPMR 101-7) para. 1-3.2c against reimbursement of Government employees for purchase of additional insurance available on vehicles rented for use in foreign countries if GSA determines this is in best interests of Government. FTR are statutory regulations, and question of whether or not reimbursement for costs of additional insurance on rental vehicles should be permitted, is within discretion of agency authorized to promulgate the particular regulations involved. See Comp. Gen. decs. cited.
  4. We have no legal objections, if GSA determines it is in best interests of Government, to amendment of FTR to provide higher mileage allowance rates for operation of privately owned vehicles by Government employees in foreign countries than for operation of such vehicles in United States, within overall statutory limit. FTR are statutory regulations, and such amendments are for determination by agency authorized to promulgate the travel regulations.

This decision is in response to a letter from the Administrator of General Services concerning the purchase of liability insurance for drivers of Government-owned vehicles which are occasionally or regularly used for travel into foreign countries, and the reimbursement by the Government of certain insurance costs incurred by Government employees who may be required or permitted to drive, on official business, Government-owned, rented, or privately owned vehicles, into foreign countries in the regular course of their employment.

The General Services Administration (GSA) states that with the increase in cooperation between the United States Government and the Governments of Canada and Mexico, in particular, more Government employees are required to drive vehicles in these foreign countries.

GSA points out that while driving motor vehicles in these foreign countries, Government employees may be subject to suit or otherwise be called upon to assume personal responsibility for damages or injury resulting from accidents. If there is an accident, the vehicle may be impounded and the driver detained until the question of the liability for the accident is resolved. GSA indicates, however, that the likelihood of the vehicle being impounded or the driver detained is lessened with proof of financial responsibility, which in most instances must be evidenced by possession of an insurance policy valid in, and recognized by, the foreign country.

GSA has asked a series of questions concerning the purchase of insurance on Government-owned, Government-rented, and privately owned vehicles driven in foreign countries, or the reimbursement of employees who purchase such insurance at their own expense, and has set forth the different problems related with each.

As to purchasing insurance on Government-owned vehicles, GSA requests that we reconsider 39 Comp. Gen. 145 (1959), wherein we stated in pertinent part:

"\* \* \* Where the circumstances are such as we would require in the interests of the Government that insurance policies be procured it would appear that justification of such need should be presented to the Congress and authorizing legislation sought."  
39 Comp. Gen. 145, 148.

GSA suggests that a change in the rule set forth in 39 Comp. Gen. 145 is desirable so that appropriated funds may properly and lawfully be expended to purchase annual or trip liability insurance

policies for drivers of Government-owned vehicles which are occasionally or regularly used for travel into foreign countries, particularly Canada or Mexico.

It is a long-standing policy of the Government to self-insure its own risks of loss. As far back as February 9, 1892, the first Comptroller of the Treasury so advised the Department of State. This policy has been restated and followed in numerous decisions ever since that time. See, e.g., 13 Comp. Dec. 779 (1907); 21 Comp. Gen. 928, 929 (1942); B-59941, October 8, 1946. In this connection, we have stated that:

"It is a settled policy of the United States to assume its own risks and the established rule is that, unless expressly provided by statute, funds for the support of Government activities are not considered applicable generally for the purchase of insurance to cover loss of or damage to Government property. \* \* \* It is not sufficient that there is no law specifically providing that the United States shall not insure its property against loss, but rather that there is some law which specifically authorizes it. \* \* \* The basic principle of fire, tornado, or other similar insurance is the lessening of the burden of individual losses by wider distribution thereof, and it is difficult to conceive of a person, corporation, or legal entity better prepared to carry insurance or sustain a loss than the United States Government. As to this policy of the Government to assume its own risks, no material distinction is apparent between assumption of risk of property damage and assumption of risk of tort liability." 19 Comp. Gen. 798, 800 (1940).

The Government's practice of self-insurance is derived from policy considerations, not positive law. This policy arose because it was felt that the magnitude of the Government's resources and the wide dispersion of the types and geographical location of the risks made a self-insurance policy generally more advantageous to the Government, in that it would save the items of cost and profit which private insurers have to include in their premiums. See B-175086, May 16, 1972; 19 Comp. Gen. 211, 214 (1939); 21 id. 928, 929 (1942).

When the economy sought to be obtained under this rule would be defeated, when sound business practice indicates that a saving can be effected, or when services or benefits not otherwise available can be obtained by purchasing insurance, exceptions to the general rule have been made. See B-151876, April 24, 1964. Most of these exceptions have been provided

through congressional action. For example, the Department of State and the Department of Agriculture have been granted statutory authority by Congress to purchase insurance covering the liability of employees for damage or injury caused while operating Government vehicles in foreign countries. See 22 U.S.C. § 2670(a) (1970) and 7 U.S.C. § 2262 (1970) respectively. In reporting out such legislation creating exceptions, the Congress specifically recognized the general rule as embodied in Comptroller General decisions. In S. Rep. No. 1175, 84th Cong., 1st Sess., the Committee on Foreign Relations reported, with respect to section 3(a) of S. 2569 which ultimately was enacted in amended form as section 3(a) of the Act of August 1, 1956, ch. 841, § 3, 70 Stat. 890, and eventually codified as 22 U.S.C. § 2670(a) (1970) that:

"Laws in some foreign countries require that insurance be carried on all motor vehicles being operated in those countries. The above provision is necessary as the Comptroller General of the United States has consistently ruled that funds of a Government agency may not be expended, in the absence of statutory authority to purchase insurance to cover the Government's possible tort liability (19 Comp. Gen. 798).

"The above provision is necessary to save this Government from the embarrassment of being unable to comply with local regulations." (Emphasis added.)

The Committee on Foreign Affairs of the House of Representatives in H.R. Rep. No. 2508, 84th Cong., 2d Sess., reported on section 3(a) as it appears in the Act as follows:

"Specific authority is required under a ruling of the Comptroller General (19 Comp. Gen. 798) which states that in the absence of statutory authority a Government agency may not use appropriated funds to cover a possible tort liability of the Government.

"Under this provision the Secretary [of State] may obtain insurance not only in those countries where required by law of the country but also in those countries where the policy of the foreign office or regulation of local authority make it desirable in the interests of the United States to comply with such policy or regulation." (Emphasis added.)

Moreover, 7 U.S.C. § 2262 (1970), enacted into law as the Act of August 4, 1965, Pub. L. No. 89-106, § 3, 79 Stat. 431, granted the entire Department of Agriculture the authority to purchase insurance on Government vehicles operated in foreign countries. This statute was enacted after our ruling in 39 Comp. Gen. 145 (1959) that pursuant to statute, liability insurance could be purchased by the Department of Agriculture only for vehicles of the Foreign Agriculture Service in foreign countries.

In reporting on section 3, the House of Representatives Committee on Agriculture stated in pertinent part:

"Such authority already exists regarding the Foreign Agricultural Service. The bill would extend the same authority to other agencies of the Department with employees overseas. The Department has more than 100 additional vehicles abroad, under programs administered by constituent agencies other than the FAS, most of which are trucks operating in Mexico in connection with research or control measures relating to plant pests. Other countries in which cars or trucks of this Department are located are Brazil, England, France, Italy, Iran, Kenya, Morocco, and the Netherlands.

"In many foreign countries situations exist which necessitate carrying insurance on federally owned vehicles. In some cases these result from requirements of law of a country; in others, from legal procedures which result in extreme difficulty to drivers and passengers even when apparently free of actual responsibility in the circumstances of an accident. Since the provisions of the Federal Tort Claims Act are not applicable to claims arising in foreign countries (28 U.S.C. 2680(k)), employees would be forced to bear the full impact of judgment in accident cases arising out of the performance of official duties." H.R. Rep. No. 206, 89th Cong., 1st Sess. 5 (1965).

A similar statement was made by the Senate Committee on Agriculture and Forestry in S. Rep. No. 506, 89th Cong., 1st Sess. 6 (1965).

These reports demonstrate that on at least two occasions when the question was presented to it, the Congress has determined that there should be authority to purchase insurance on Government-owned vehicles operated in foreign countries in situations where

requirements of law that insurance be carried or legal procedures which may result in extreme difficulty to Government employees when involved in an accident necessitate the purchase of such insurance. In light of the rule in 39 Comp. Gen. 145, however, it was necessary for the Congress to grant specific statutory authority for the purchase of liability insurance in those situations where it was determined to be necessary.

Although carrying liability insurance is not required on vehicles operated in Mexico, we understand that if there is an accident, the vehicle may be impounded and the driver detained until the question of the liability for the accident is resolved. This could have the effect, in the case of a Government employee, of delaying the employee's mission, causing embarrassment to the United States Government, and increasing the cost of the Government activity being carried out in the foreign country.

Under these circumstances, we are of the view that a change in our rule would be advisable so as to permit GSA to provide by regulation for the purchase of liability insurance on Government-owned vehicles operated in foreign countries in the limited circumstances noted above. To the extent that they are inconsistent with this decision, 39 Comp. Gen. 145 (1959), 19 Comp. Gen. 793 (1949), and similar decisions, are overruled.

GSA also questions whether it may reimburse Government employees who purchase "trip insurance" on Government-owned or privately owned vehicles operated in foreign countries. In its letter of June 16, 1975, GSA states:

"\* \* \* it has come to our attention that a common practice of drivers traveling on official business in both Government-owned and privately owned vehicles is to purchase, at relatively modest cost, 'trip' insurance at the border to cover potential liability for property damage or personal injury or death to third parties during specific trips into Canada or Mexico. Upon return to their official stations, we believe the travelers could reasonably claim reimbursement for the trip insurance premium on the official travel voucher as a miscellaneous expense permitted by section 1-9.1(d) of the FTR.

\* \* \* \* \*

"We believe that 'trip' insurance expense is properly considered another minor 'Miscellaneous Expense' very similar to those expenses previously cited, and currently reimbursable. Accordingly, we request your approval of reimbursement of 'trip' insurance as a miscellaneous expense of travel under section 1-9.1(d)."

FTR para. 1-9.1d (May 1973) provides:

"d. Other expenses. Miscellaneous expenditures not enumerated herein, when necessarily incurred by the traveler in connection with the transaction of official business, shall be allowed when approved."

In light of the discussion above, we are of the view that purchase by a Government employee of "trip insurance" is arguably "\*\*\* necessarily incurred by the traveler in connection with the transaction of official business \*\*\*" in those countries where carrying liability insurance is a legal or practical necessity for use of that country's roads.

Nevertheless, we wish to point out that payments for additional expenditures connected with travel outside the conterminous United States are specifically provided for in FTR para. 1-9.1c (May 1973), which provides:

"c. Fees relating to travel outside the conterminous United States. The following items of expense may be authorized or approved:

"(1) Conversion of currency.  
Commissions for conversion of currency in foreign countries. (See 1-11.5e.)

"(2) Check cashing costs. Charges covering exchange fees for cashing United States Government checks or drafts issued for the reimbursement of expenses incurred for travel in foreign countries. (See 1-11.5e(1).) Exchange fees incurred in cashing checks or drafts issued in payment of salary shall not be allowed in travel expense accounts.

"(3) Travelers checks. Costs of travelers checks purchased in connection with travel outside the limits of the conterminous United States. The amount of the checks may not exceed the amount reasonably needed to cover the reimbursable expenses incurred.

"(4) Travel document costs. Fees in connection with the issuance of passports, visa fees, costs of photographs for passports and visas, costs of certificates of birth, health, and identity, and of affidavits and charges for inoculation which cannot be obtained through a Federal dispensary."

No payment for insurance costs is listed therein.

Moreover, FTR para. 1-4.1c (May 1973) seems to provide for the reimbursement of additional expenses, such as parking fees, ferry fares, and so on, specifically connected with the operation of a motor vehicle by a Government employee. Again, no provision for the payment of insurance costs is included.

Under the circumstances, we are of the view that a change in the regulations specifically providing for reimbursement for the cost of "trip insurance" purchased on Government-owned or privately-owned vehicles for trips into Mexico or other countries where legal requirements or procedures necessitate carrying liability insurance, would be preferable to attempting to pay such costs under FTR para. 1-9.1d (May 1973) as presently written. The amended regulations should provide that reimbursement will only be made for the cost of the minimum amount of insurance that is required for the use of a foreign country's roads.

As to the purchase of insurance on vehicles rented from commercial sources for Government use, the Federal Travel Regulations (FPMR 101-7) para. 1-3.2c (May 1973) provide:

"c. Damage waiver or insurance costs. In connection with the rental of vehicles from commercial sources, the Government will not pay or reimburse employees for the cost of the collision damage waiver or collision damage insurance available in commercial rental contracts

for an extra fee. The waiver or insurance referred to is the type offered a renter to release him from liability for damage to the rented vehicle in amounts up to the amount deductible (usually \$100) on the insurance included as a part of the rental contract without additional charge. Under decisions of the Comptroller General, the agency in appropriate circumstances is authorized to pay for damage to the rented vehicle up to the deductible amount as contained in the rental contract should the rented vehicle be damaged while being used for official business. The cost of personal accident insurance is a personal expense and is not reimbursable."

GSA requests our views on the issue of whether it may properly delete the restriction in section 1-3.2c against reimbursement of employees of the cost of a collision damage waiver or collision damage insurance available in commercial rental contracts for an extra fee, in connection with the rental of vehicles from commercial sources for use on official trips into foreign countries.

The Federal Travel Regulations are statutory regulations issued by the GSA pursuant to Exec. Order No. 11,609, 36 Fed. Reg. 13747, July 24, 1971, as amended, 3 C.F.R. § 308 (1974). Our decisions involving insurance on rented vehicles have, therefore, revolved around the issue of whether the travel regulations in effect at the time of the rental precluded the purchase of such insurance. In 47 Comp. Gen. 145 (1967) we permitted reimbursement to a Government employee of the \$100 deductible amount he was forced to pay after he was involved with a collision in a rental car. We held in that case that in the absence of any administrative instructions requiring the purchase of additional insurance, the employee did not fail to use reasonable discretion because he did not apply for the collision damage waiver. We recognized by implication in that decision that additional insurance could have been purchased.

In B-172721, March 13, 1972, we decided that the Government could not pay for a collision damage waiver, but based our decision on the applicable regulations then in force which precluded such payment. However, in B-172721, July 19, 1971, involving the purchase of additional insurance on a rental car rented prior to the effective date of regulations proscribing reimbursement for such insurance, we permitted reimbursement. See also 35 Comp. Gen. 553 (1956); B-180933, October 2, 1974; and B-181193, June 25, 1974.

We have recognized that the decision of whether or not insurance may be purchased on rental automobiles is a matter of economy, and we have had no objections to changes in the Joint Travel Regulations

based on the determination of whether it was more advantageous for the Government to assume the risk of loss covered by a collision damage waiver or to reimburse Federal personnel for the cost of such waiver. B-162186, January 7, 1970.

It would appear, therefore, that GSA has authority to promulgate regulations concerning the purchase of insurance on rental vehicles. Under these circumstances, we perceive no legal objection to the deletion of the restriction in section 1-3.2c of the FTR against reimbursement of employees of the cost of a collision damage waiver or collision damage insurance in connection with the rental of vehicles for use in foreign countries, if the GSA determines, within its delegated authority to prescribe such regulations, that such deletion would be in the best interests of the Government.

GSA next asks whether it may properly amend the FTR to provide for mileage allowances differing from those prescribed for the continental United States, but within the statutory maximum, for Government employees using privately owned vehicles for official business in foreign countries.

In this connection, GSA states in its letter of June 16, 1975, that:

"Travel reimbursed on a mileage basis is a commutation of actual expenses. We recognize that when mileage is paid, Government liability to the traveler begins and ends with the payment and while an employee may profit if travel costs him less, the risk also is his that it may cost him more (21 Comp. Gen. 507); and that the private automobile is maintained not merely at the owner's expense, but in such condition, safe or otherwise, and with such insurance, as he may decide upon. However, the present mileage allowance rates are based on GSA studies of insurance and other costs incurred for travel inside the continental United States, and subject to a statutory maximum. The studies do not embrace added insurance expense for travel in foreign countries.

"In an effort to remedy the situation of employee reluctance to utilize their privately owned automobiles, GSA is studying the possibility of prescribing different mileage allowances (subject, of course, to the statutory maximum) for reimbursement of travel in foreign countries than are applicable in the continental United States. These mileage allowances might be based upon operating costs, including insurance costs, that are incurred by drivers using privately owned vehicles in foreign countries."

B-178342

As stated above, the Federal Travel Regulations are promulgated by the GSA pursuant to statutory authority delegated to it. Within this authority, it appears that GSA has prescribed various mileage allowances based on differing circumstances. It further appears that mileage allowance rates take into account the insurance and other costs incurred for travel inside the continental United States. Thus we perceive no legal objection to GSA fixing different mileage allowance rates for operation of privately owned motor vehicles in foreign countries when its studies of cost indicate that such costs differ from those incurred in operation of a privately owned vehicle in the continental United States.

SIGNED ELMER B. STAATS  
Comptroller General  
of the United States