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DECISION



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

FILE: B-203214

DATE: June 23, 1982

MATTER OF: Financing Traffic Signal at Entrance to
Detroit Arsenal Tank Plant

DIGEST: GAO will no longer object to use of appropriations to finance installation of traffic signals at or near Federal installations where such installation is not a service which the State or local jurisdiction is required to provide for all residents of the area free of charge, and the charge does not discriminate against the United States. Previous Comptroller General decisions to the contrary are hereby modified.

This decision is in response to a letter dated April 30, 1981, from Senator Carl Levin, who asked whether it was permissible for the Department of the Army to contribute to the financing of a new traffic signal at the intersection of Michigan State Highway M-3 (Van Dyke Avenue) and entrance gate number 8 of the Detroit Arsenal Tank Plant in Warren, Michigan.

The plant is a Government-owned-contractor-operated facility currently producing M-60 Army tanks. The affected intersection is "T" shaped, where the entrance drive meets the heavily-traveled State road. The lack of a traffic signal has been determined to interfere with access to the plant and to cause a safety hazard for all travelers in the intersection. In accordance with Michigan State law, (Mich. Stat. Ann. § 9.1097(1b)) the State of Michigan will pay two-thirds of the installation cost and of the annual maintenance expenses of the traffic signal. The question before us is whether Department of Defense appropriations may be charged for the remaining third. On the basis of the analysis below, we would not object to the Department of Defense appropriations being used for this purpose.

In our early cases involving traffic signals, we held that traffic regulation is a function of State and local authorities, to be financed by State and local taxes. Analogizing a required Federal subsidy of signal installation to an unconstitutional tax or an unauthorized payment in lieu of taxes, we found such expenditures generally to be unauthorized. 36 Comp. Gen. 286 (1956); 51 Comp. Gen. 135 (1970).

We made a limited exception in 55 Comp. Gen. 1437 (1976), where we held that the Army could procure and install a traffic light (to be maintained by local authorities) at a point where a public road bisected a military base, based on evidence that base traffic comprised the majority of traffic in the intersection, and two serious accidents in the intersection demonstrated a severe safety hazard for Government personnel. We concluded that the installation of the traffic signal was for the "primary benefit of the Government," and the expenditure was allowed.

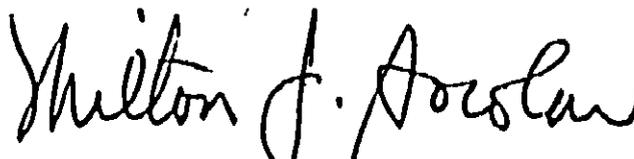
On the other hand, in B-187733, October 27, 1977, we permitted the Immigration and Naturalization Service (INS) to pay for police protective services for a special ceremony at a city-controlled building. A clause in the rental contract between the city and INS provided that a city police detail must be used to protect the city's property at any event open to members of the public on a reimbursable basis. We distinguished these special services from "normal police services which are financed by tax revenues and which are required to be provided to all residents of the city." We pointed to a similar line of reasoning in a series of fire fighting service cases, (See e.g., 24 Comp. Gen. 599 (1945); 26 *id.* 382 (1946); 53 *id.* 410 (1973).) In all these cases, the propriety of payment depended on whether the State or local Government was required to provide the services in question without cost to all residents of the jurisdiction. If, on the other hand, the services are not among those which the jurisdiction is required to provide and the charge does not single out the United States but would be imposed on any resident for like services, the invoices may be paid. B-187733, cited above. We think this rationale should be applied to all future traffic light cases.

As noted earlier, even when the State agrees on the need for a traffic light on a State highway, Michigan statutes provide for its financing only of the trunk line portion of the costs. The remaining portion of the costs is supposed to be borne by the person who desires the light because its road intersects with or abuts the State highway. It does not appear that the city of Warren has any streets intersecting with the State highway at the point in question. It therefore has no obligation to provide any part of the financing of this light. In the present case, it is the Government whose interests are affected by the absence of a light. We see no reason why the Government should not assume the required portion of the costs, as prescribed by State statute, which is applicable to all parties desiring similar services.

B-203214

Moreover, this decision would not prevent a Federal agency from adhering to a more restrictive internal policy with respect to signal installations at or near its facilities. The Department of Defense has an unwritten informal policy prohibiting funding of single projects on defense access roads. We understand that this policy reflects our previous decisions prohibiting signal installation, but it also reflects the Department's desire not to participate in a plethora of small projects. Nothing in this decision would contravene that policy's continued implementation at the discretion of the appropriate Defense Department officials.

Consistent with the foregoing, this Office will in the future permit appropriations to be used for financing needed traffic signals at or near Federal installations where the Federal Government alone will benefit (except for the incidental benefit of making the intersection safer for other travelers) and all residents of the area would be subjected to a similar charge for the same type of benefits. All previous cases to the contrary are hereby modified.

for 
Comptroller General
of the United States