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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Federal Energy Regulatory Commission's Use of Government Motor Vehicles and Printing Plant Facilities for Partnership in Education Program

File: B-243862

Date: July 28, 1992

DIGEST

The Federal Energy Regulatory Commission expended limited government resources to assist its adopted public school under a partnership in education program. The assistance provided included printing of a school yearbook and transporting students to attend commission events. The expenditure of limited amounts of federal resources in support of civic, charitable, or similar community support activities, is within the discretion of an agency head in managing the employees and resources of an agency.

DECISION

The Inspector General of the Department of Energy asks whether the Federal Energy Regulatory Commission improperly used its printing plant facilities as well as government motor vehicles while participating in a partnership in education program. For the reasons indicated below, we view the Commission's limited use of its resources to print a school newsletter and to transport students to and from the Commission's headquarters to participate in educational programs as within the bounds of its administrative discretion to support civic, charitable, and similar community support activities.

BACKGROUND

The Federal Energy Regulatory Commission (FERC), like many federal agencies, participates in the Adopt-A-School Partnership in Education Program. (FERC has adopted the Jessie LaSalle Elementary School in Washington, D.C.) The Partnership in Education Program stems from President Reagan's Proclamation No. 5112, 48 Fed. Reg. 45371 (1983), encouraging agencies and their employees to provide a wide range of volunteer services to schools including tutoring, teacher training, scientific and technical advice, and the establishment of a variety of special programs.

In November 1990, the Inspector General initiated an investigation after receiving an allegation from staff of the Joint Committee on Printing that the Commission improperly used its printing plant while participating in the education program. On one occasion the Commission printed 500 copies of a 25-page school newsletter (also referred to in the submission as a yearbook). The newsletter contains a brief interview by students of a Commission official as well as several other references to the agency. The balance of the newsletter is devoted to news about the school and writings by the students. The Commission absorbed the estimated cost (\$270) of printing the newsletter¹. During the course of this inquiry, the Inspector General also learned that the Commission had used government vehicles to transport students to and from the Commission's headquarters for partnership in education programs and other agency activities.

The Office of General Counsel, Department of Energy, cites 42 U.S.C. § 5813(11) and 42 U.S.C. § 7381c, two statutes relating to Department educational activities, as authority for the Commission's participation in the program.² The Commission's General Counsel claims that support for educational partnerships is derived from the authority and responsibility of agencies to educate the public about their functions and programs, enhance recruiting by helping develop professional and technical skills required by the government, and foster such activities as energy

¹The Commission apparently charged its printing costs to its "salaries and expenses" appropriation. See 1990 Energy and Water Development Appropriations Act, Pub. L. No. 101-101, 103 Stat. 641, 661 (1989).

²Congress has provided limited statutory authority for certain education partnerships between federal agencies and local schools. See 10 U.S.C. § 2194 (defense laboratories) and, more importantly for the present discussion, 42 U.S.C. § 7381 (Department of Energy Science Education Programs). The focus of the statutorily authorized program are the Department's research and development facilities. Among other things, the Secretary of Energy is authorized to "[p]rovide paid administrative leave for employees of the Department . . . who volunteer to interact with schools . . . teachers, or students for the purpose of science, mathematics and engineering education." 42 U.S.C. § 7381b(a)(8). Since the term "Department" is defined in the Department of Energy's organic act, 42 U.S.C. § 7101(a), as including the Commission, this provision would apply to the Commission and its employees to the extent they otherwise qualify. The other statutory authority cited in the submission is not apposite.

conservation and the restoration and maintenance of the environment. He reports that the Commission's authority to bring members of LaSalle's energy club to the agency for an environmental program conforms to the Commission's responsibility under the National Environmental Policy Act, codified at 42 U.S.C. § 4332 (1988). He also states that LaSalle students were provided transportation to the agency's black history program, concluding that this was an authorized expenditure under 60 Comp. Gen. 303 (1981).

ANALYSIS

Under 31 U.S.C. § 1301(a), "[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Because it is not possible that every item of expenditure be specified in an agency's appropriation act, we have held that an appropriation made for a particular object, by implication, confers authority to incur expenses which are reasonably necessary or incident to the proper execution of the object. 67 Comp. Gen. 254, 256 (1988).

While federal funds, facilities and employees' time are available only for purposes authorized by law, we believe it is not necessary that each and every authorized government employee activity, or for that matter, agency activity be specifically designated by statute. B-155667, Jan. 21, 1965. As discussed below, we have viewed certain charitable or civic activities involving limited use of agency resources and employee time as "official". We recognize, of course, that an agency's authority to commit its resources to such activities is not without limits. As we have previously observed, "a line has to be drawn somewhere." However, "[w]here that line should be drawn in any given situation is essentially a matter of judging the propriety of the administrative discretion exercised in light of the authority vested by the Congress in agency heads to conduct their agencies' activities." Id.

We view the Commission's involvement with the school as within the range of agency discretion as it is applied to other charitable campaigns on behalf of community health and welfare or civic activities. Government cooperation in charitable fund raising campaigns has been a long-established, authorized practice, notwithstanding lack of specific legislation, and we view the requisite Congressional consent as implied.³ These campaigns clearly

³Specifically, see B-119740, July 29, 1954 (permitting federal employees to collect for a consolidated charity during business hours); B-154456, Aug. 11, 1964 (permitting
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require some work time of federal employees, government supplies and equipment, and limited purchases of promotional materials. In this context, we have not questioned the limited use of agency resources for such community health and welfare or civic activities as blood drives, 30 Comp. Gen. 521 (excused absences from work without charge for leave for the purpose of donating blood) and savings bond drives, B-225006, June 1, 1987.

An agency's community and employee relations activities are generally committed to the sound discretion of the head of an agency in managing and controlling the agency's employees and resources. The exercise of such discretion must of course be consistent with relevant statutory authority and with our decisions on the use of appropriated funds. However, the federal government does not exist in a vacuum insulated from the day-to-day civic and charitable needs of the communities in which it operates, and limited participation in recognized and publicly accepted community support activities, such as partnerships with local schools, may well be viewed as incident to the discharge of its responsibility to contribute to the welfare of the community. B-154456, Aug. 11, 1964. Thus we do not object to what we view as the Commission's de minimis use of its facilities to print the school's newsletter.⁴

The Department of Energy's Office of General Counsel as well as the Commission's General Counsel advised the Inspector

³(...continued)

the Navy to use appropriated funds for instructions, mailing labels, and campaign materials for the John F. Kennedy Library fund drive); B-155667, Jan. 21, 1965 (permitting the Post Office to display posters and offer special mail delivery for the Eleanor Roosevelt Memorial Foundation); and, 67 Comp. Gen. 254 (1988) (permitting agencies to expend appropriated funds to support efforts to solicit contributions to the Combined Federal Campaign from their employees).

⁴Sections 1102 and 1108 of Title 44, United States Code generally restrict the use of government printing facilities to official government business. Section 1102 prohibits the printing of any matter unless it is authorized by law and "necessary to the public business." Similarly, 44 U.S.C. § 1108 prohibits the printing of a document "not having to do with the ordinary business transactions" of an agency. Since we view limited use of agency resources for civic and charitable purposes as in furtherance of "official" agency business, we do not object to FERC's de minimis use of its resources to print the LaSalle Elementary School newsletter. See B-154456, August 11, 1964.

General that the use of government vehicles by the Commission to transport students to educational activities was within the scope of official business and allowable. We agree. "Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles . . . of the United States Government that are used only for an official purpose," 31 U.S.C. § 1344 (1988) (emphasis added). Section 1344 provides no guidance as to what circumstances would give rise to an "official purpose" and precedent in this area is sparse except for cases dealing with misuse of vehicles for personal purposes by agency officers or employees. See generally 62 Comp. Gen. 438 (1983).

Since, as discussed above, participation in the partnership in education program is an exercise of discretion by the head of the agency, to which we give considerable deference, we also will not object in this case to transporting the students in government vehicles for official purposes. We do not encourage this practice, however, because of the increased liability of the United States in the event of personal injury to these passengers.⁵

Although we do not object to the activities in this case, the extent to which the Commission can provide limited direct support to local schools is unclear. Establishing guidelines and overall policy for executive departments and agencies forming partnerships with local schools is more properly a subject for consideration by the Congress or the President than for consideration by this Office. See B-155667, Jan. 21, 1965. Absent specific legislation or an

⁵The Commission's General Counsel argues that "expenses related to putting on the Black History Program, including transportation costs of participants, are an authorized expenditure to promote an agency's EEO training efforts." He cites 60 Comp. Gen. 303 (1981) as justification. However, we construe our decision more narrowly. We held there that a live artistic performance may be an authorized part of an agency's EEO effort if it is part of an official program designed to promote EEO training objectives--thus payment for the expenses of the performance was authorized. We also authorized payment of luncheon expenses for two guest speakers under 5 U.S.C. § 5703. Neither of these situations apply to the students in the present case unless they were participating in the program as performers or making some other type of direct contribution to the EEO training effort.

overall executive branch policy⁶, we will continue to afford considerable weight to administrative decisions regarding education partnerships unless a clear abuse of discretion or misapplication of appropriated funds is evident and provided the collective expenditures of time and resources remain prudent and insubstantial.

Milton J. Doonan

Acting Comptroller General
of the United States

⁶We note that the Office of Personnel Management has issued guidelines for the limited use of excused absences for employee volunteer activities in FPM Letter 992-1, April 19, 19⁹¹.