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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: United States Capitol Police--Employee Shuttle

File: B-305864

Date: January 5, 2006

DIGEST

The United States Capitol Police (USCP) may not use appropriated funds for a shuttle bus service from its parking lot to the Fairchild Building, or any other USCP building, where the purpose of the service is to facilitate the commutes of USCP employees. Commuting costs are personal expenses, and, absent statutory authority, appropriations are not available for personal expenses. Where, however, USCP establishes a legitimate operational need for a building-to-building shuttle, there is no objection to employees' incidental use of the service as part of the home-to-work commute, so long as such use does not result in additional expense to the government.

DECISION

The United States Capitol Police (USCP) asks whether it may use appropriated funds for a shuttle bus to transport USCP employees from USCP-provided parking to a new USCP facility, the Fairchild Building. Letter from John T. Caulfield, General Counsel, USCP, to Anthony H. Gamboa, General Counsel, GAO, July 7, 2005 (Caulfield Letter). USCP also asks whether, in the event such use of funds is not proper, it may use appropriated funds for a shuttle to transport employees from the USCP headquarters building to the Fairchild Building. *Id.* In our view, USCP may not use appropriated funds for shuttle bus service, whether from the parking lot to the Fairchild Building or from headquarters to the Fairchild Building, where the purpose of the shuttle is to enable employees to complete their commutes. USCP, however, may provide shuttle service from its headquarters to other USCP buildings, including the Fairchild Building, so long as it establishes a legitimate operational need for such a service.

USCP states that it is moving several component offices from its headquarters building on the Senate side of the U.S. Capitol complex, near which employees are provided parking, to the Fairchild Building on the House side, where adequate

parking is not available. Caulfield Letter. Whereas in the past employees (primarily USCP officers) would walk from their cars to the headquarters building at the start of their shifts for their daily assignments, they now start their shifts by reporting to the Fairchild Building. *Id.* USCP states that until it is able to acquire parking facilities close to the Fairchild Building, many employees who continue to use the USCP parking on the Senate side will need transportation to the Fairchild Building. USCP asserts that the Fairchild Building is not within a reasonable walking distance of either the current parking location or the headquarters building. The agency also indicates that it may be able to lease parking facilities near, but still not within walking distance of, the Fairchild Building.

USCP suggests that since it is proper to use appropriated funds to provide parking in the first instance, it should be proper to use appropriated funds to transport employees from the parking lots to the Fairchild Building. USCP is concerned, however, that the trip from either the parking lot or USCP headquarters to the Fairchild Building might be viewed as part of an employee's commute so that any attendant expense would not be payable from appropriated funds.

Initially, we point out that the fact that USCP provides parking for its employees is not relevant to the issue here--the propriety of shuttling employees from the parking lot to USCP buildings. The propriety of the use of appropriated funds for a parking lot-to-workplace shuttle turns on the application of a longstanding rule regarding the nature of commuting costs.

It is well-established that an employee's commute between home and work is a personal expense, and personal expenses are not payable from appropriated funds, absent specific statutory authority. 27 Comp. Gen. 1 (1947); 16 Comp. Gen. 64 (1936). For executive branch entities, the rule is codified at 31 U.S.C. § 1344(a)(1), which limits the use of appropriated funds for passenger vehicles to "official purposes," and provides that, with certain exceptions not applicable here, transporting an employee "between such individual's residence and such individual's place of employment is not transportation for an official purpose."¹ This limitation applies to *any* portion of the trip between home and work. B-261729, Apr. 1, 1996. The Naval Air Systems Command, for example, could not use appropriated funds for a bus to transport, on a daily basis, employees from their then-current headquarters

¹ While section 1344 applies to executive branch entities, *see* 31 U.S.C. § 1344(g)(2), the principle embodied in section 1344, that appropriations are available only for official purposes and, without specific statutory authority, not for personal expenses such as home-to-work transportation applies equally to USCP appropriations. *See generally* 31 U.S.C. § 1301(a)(1) ("appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law"). For that reason, section 1344, its legislative history, and case law applying it offer a useful analytical construct in this case.

in Arlington, Virginia, to relocated headquarters in St. Mary's County, Maryland.² *Id.* Once the Command moved its offices, the place of employment for its employees would be the new location: "[a]ll 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." *Id.*

In our view, an employee's arrival at a parking lot cannot be considered the end of the commute. Rather, a parking lot is simply an intermediate stop—like a subway or bus stop—within the totality of the commute from home to office. For purposes of section 1344(a)(1), legislative history suggests that the end of the commute, or "place of employment," is "the primary place where an officer or employee performs his or her business, trade or occupation, and includes, but is not limited to, an official duty station, home base, or headquarters. It includes any place where an employee is assigned to work. . . ." H.R. Rep. No. 99-451, at 7 (1985), accompanying Pub. L. No. 99-550, 100 Stat. 3067 (Oct. 27, 1986). USCP advises that its employees now report for work and daily assignments at the Fairchild Building. Therefore, the trip from the parking lot to the Fairchild Building is part of the employee's commute, and thus a personal expense, so that USCP may not use appropriated funds for shuttle bus service from Senate-side or other parking lots.

There is no objection, however, to the use of appropriated funds for a shuttle bus from USCP headquarters to the Fairchild and other USCP buildings, so long as USCP establishes a legitimate operational need to shuttle persons among those buildings and its purpose is not to aid employees' commutes. *See* 16 Comp. Gen. 64, discussing "official business;" 31 U.S.C. § 1344(a)(1), discussing "official purposes." In that circumstance, there is no objection to an employee's incidental use of such shuttle service on a space-available basis, and so long as it does not result in additional expense to the government, even though the employee may not yet have reported to work at the Fairchild Building or may already have completed his or her daily assignment. However, to the extent that the purpose of the shuttle is to transport employees to their workplaces, that is, to complete their commutes from home, the use of appropriated funds for the service would not be proper. *See* B-210555.3, Feb. 7, 1984 (" . . . every employee is responsible for his or her own transportation to the headquarters station or to the site or office where the employee's work is to begin . . ."³).

² The Command proposed to equip the bus with office equipment and designate it as the riders' official workplace pursuant to the government's flexiplace program; we noted that flexiplace guidance did not recognize a mobile work site as a flexiplace option.

³ This decision responded to an agency's suggestion that an official entitled to be driven from his headquarters to a particular site or office could be picked up at home, bypass his normal headquarters stop, and be deposited directly at the site or office where his activity was to commence.

A 1979 case, B-195073, Nov. 21, 1979, is illustrative in this regard. The Federal Bureau of Investigation (FBI) allowed some of its employees, engaged in field work, to drive government vehicles to and from work. FBI asked whether other FBI employees could ride to and from work in the vehicle's empty seats, essentially carpooling with the field agent. We saw no objection to FBI's proposal. B-195073, Nov. 21, 1979. We concluded that because of the nature of the field agent's work, the "vehicle is being driven primarily for the benefit of the government. Any use by other employees on a space available basis is only incidental to the government purpose, provided, of course, that there is no additional expenditure of time or money by the government in order to accommodate these riders." *Id.* Similarly, so long as USCP establishes a legitimate operational need for shuttle service among USCP buildings, there is no objection to any incidental use of the service by USCP employees to complete their home-to-work commutes that impose no additional cost to the government.

In sum, the general rule that an employee's commute between home and work is a personal expense precludes the use of appropriated funds for shuttle bus service whose purpose is to complete the employees' home-to-work commute to the Fairchild Building. Incidental use as described above raises no objection.

/signed/

Anthony H. Gamboa
General Counsel