

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Architect of the Capitol—Availability of Funds for Battery Recharging Stations for Privately Owned Vehicles

File: B-320116

Date: September 15, 2010

DIGEST

Without statutory authority, the Architect of the Capitol (AOC) may not use appropriated funds to install battery recharging stations for privately owned hybrid or electric vehicles on the Capitol grounds nor establish a program where employees reimburse AOC for costs related to the use of recharging stations for employees' personal vehicles. Personal expenses are not payable from appropriations without specific statutory authority. The use of appropriations for recharging personal vehicles of employees is a matter for Congress to address through legislation.

DECISION

The Architect of the Capitol (AOC) has requested a decision on whether its appropriated funds are available for the installation on the Capitol grounds of battery recharging stations for privately owned hybrid or electric vehicles of employees or Members of Congress.¹ Letter from the Architect of the Capitol to the Acting Comptroller General, GAO, June 25, 2010 (Request Letter). Alternatively, AOC asks whether it can establish a program where employees or Members would reimburse

¹ AOC receives its appropriations in the Legislative Branch Appropriations Act. *See, e.g.*, Legislative Branch Appropriations Act, 2010, Pub. L. No. 111-68, div. A, title I, 123 Stat. 2023, 2032–35 (Oct. 1, 2009). The AOC did not identify a specific appropriation that it proposed using to install the essential infrastructure for recharging stations for privately owned vehicles on the Capitol grounds.

AOC for recharging and utility costs of their private electric or hybrid vehicles.² *Id.* We conclude that, in the absence of specific authority, AOC may not use its appropriation for the purchase and installation of recharging stations for use by its employees for their personal vehicles nor establish a reimbursable program. The use of the public's funds for this purpose is a matter for Congress to address through legislation.

Our practice when rendering decisions is to obtain the views of the relevant agency to establish a factual record and the agency's legal position on the subject matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at www.gao.gov/legal/resources.html. In this regard, AOC presented the pertinent facts and its views in its request letter.

BACKGROUND

As part of Congress's commitment to reduce energy consumption and greenhouse gas emission, AOC has been asked to consider installing battery recharging stations for hybrid and electric vehicles for employees and Members. Request Letter. This would entail installing the essential infrastructure and providing necessary utilities. AOC believes that having recharging stations on the Capitol grounds would encourage the use of these vehicles. *Id.*

AOC explains that installation of the recharging stations would be solely for the purpose of recharging privately owned electric or hybrid vehicles while employees and Members are at work. Having access to a recharging station would provide an incentive for employees to use electric vehicles by reducing the burden, time, or expense of employees who own such vehicles from having to locate and utilize other sources of electricity to recharge their vehicles.

DISCUSSION

A basic tenet of the use of appropriated funds is that under 31 U.S.C. § 1301, appropriated funds may be used only for the purposes for which they are appropriated. Here, the AOC has identified no law which specifically authorizes the use of appropriated funds for installing essential infrastructure for recharging stations for private vehicles of employees and Members. The issue then is whether AOC may treat the installation of essential infrastructure to support recharging stations for private vehicles as a "necessary expense" of one of its appropriations. As a general rule, appropriations for "necessary expenses" of an agency may be used for purposes not specifically set forth in the appropriations act if the expenses in question are for the direct support of the agency mission. 68 Comp. Gen. 502 (1989).

² AOC also asked whether it could enter into an agreement with an outside vendor to provide the recharging service on a reimbursable basis including paying a fee or commission to the AOC. We do not address that question because we lack sufficient information about such an arrangement.

AOC has not identified how this expenditure is in direct support of its agency mission.

It is well established that the expenses of an employee's commute between home and work are personal expenses,³ and personal expenses are not payable from appropriated funds, absent specific statutory authority. B-305864, Jan. 5, 2006 (appropriations not available for shuttle bus service to facilitate commutes of employees); B-307918, Dec. 20, 2006 (appropriations not available to reimburse commuting expenses of employees when performing after-hours, on-call emergency services). We view the use of appropriations to install and operate recharging stations for employees' and Members' use for their personal vehicles as conferring a benefit to them that would facilitate their commute between home and work. This benefit would be akin to providing fuel for personal vehicles.

Congress, of course, may authorize agencies to use appropriations for expenses that would otherwise be considered personal in nature. For example, in 1993, Congress enacted the Federal Employees Clean Air Incentives Act,⁴ which authorizes each agency head to establish a program to encourage employees to use means other than single occupancy motor vehicles to commute to and from work. Programs established under this authority may include, among other benefits, transit passes or cash reimbursements for transit passes and space, facilities, or services to bicyclists. 5 U.S.C. § 7905(b)(2). The authority, however, does not permit an agency to install and operate recharging stations. Specific statutory authority is provided, for example, for the use of appropriated funds for other activities that would be considered personal expenses like the use of appropriated funds to support physical fitness facilities, 5 U.S.C. § 7901, and day care facilities, 40 U.S.C. § 490b.

We are not aware of any current authority, nor has AOC cited any, that would allow AOC to use appropriations to install and operate recharging stations for the personal benefit of employees or Members. Also, we are not aware of any authority that would allow AOC to install recharging stations and recover its costs of installation and operation from federal employees and others who might utilize them. We have consistently held that even where providing a personal benefit or item to an employee fulfills a laudable objective, appropriated funds may not be used unless the expenditure is necessary to achieve an authorized purpose. 70 Comp. Gen. 248 (1991). Given that providing recharging stations is not a typical benefit offered the

³ Executive branch agencies are permitted to use appropriations for the maintenance, operation, or repair of any passenger carrier used to provide transportation for official purposes. 31 U.S.C. § 1344. While not applicable to the AOC, a legislative branch agency, this statute embodies the well-established principle that appropriations are available only for official purposes, and without specific statutory authority, not for personal expenses such as maintaining or operating a personal motor vehicle. *See* B-305864, Jan. 5, 2006.

⁴ Pub. L. No. 103-172, 107 Stat. 1995 (Dec. 2, 1993), *codified at* 5 U.S.C. § 7905.

American work force and other benefits are available to federal employees only pursuant to specific legislation, we think it is for Congress to decide whether AOC or other federal appropriations can be used to support the building and maintaining of recharging stations for use by employees or Members. Consequently, it is our view that AOC may not use its appropriations for this purpose in the absence of specific authorization to do so. AOC should seek statutory authority before proceeding with a program to install recharging stations for personal use. Also, if AOC plans to recover its costs, it should obtain authority to charge a fee and retain and use the amounts collected.

Our conclusion with regard to personal expenses does not mean that AOC may not purchase recharging stations for official use by AOC or other authorized users. For example, its appropriation would be available for purchasing recharging stations to recharge and operate vehicles in its official fleet. Also, we note that the Energy Independence and Security Act of 2007 provides that “to the maximum extent practicable, the Architect of the Capitol shall include energy efficiency and conservation measures . . . and other appropriate environmental measures in the Capitol Complex Master Plan.”⁵ 2 U.S.C. § 1824(a).

CONCLUSION

The question of whether, or to what extent, the federal government should encourage the use of electric or hybrid vehicles by the federal workforce is a policy matter best addressed through the legislative process. It is for Congress to set the statutory direction for AOC, as well as for other federal agencies, as they address these or similar issues in the future. AOC may wish to seek statutory direction from Congress on how to proceed in this regard.



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⁵ This Act, in addition, encourages the use of “high-performance green buildings . . . in the operations of the Federal Government . . .” 42 U.S.C. § 17092(e). In determining whether a building is a high-performance green building, the Act provides that consideration be given to the “environmental and energy impacts of transportation through building location and site design that support a full range of transportation choices for users of the building . . .” 42 U.S.C. § 17061(13). For example, choosing a building location in close proximity to public transportation or designing a site to provide for infrastructure to support official electric or hybrid vehicles could reduce the environmental and energy impacts of transportation. See GAO, *Federal Energy Management: GSA’s Recovery Act Program Is on Track, but Opportunities Exist to Improve Transparency, Performance Criteria, and Risk Management*, GAO-10-630 (Washington, D.C.: June 16, 2010).