Text as published on gao.gov, https://www.gao.gov/products/b-223726, archived 2026-09-12. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-223726, JUN 26, 1987, OFFICE OF GENERAL COUNCIL

Number: B-223726

Date: 1987-06-26

B-223726, JUN 26, 1987, OFFICE OF GENERAL COUNCIL

CIVILIAN PERSONNEL - COMPENSATION - GOVERNMENT CLAIMS - DEBT COLLECTION - SET-OFF APPROPRIATIONS/FINANCIAL MANAGEMENT - ACCOUNTABLE OFFICERS - LIABILITY - DEBT COLLECTION DIGEST: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, GEORGE C. MARSHALL SPACE FLIGHT CENTER (NASA/MSFC), REQUESTS AN OPINION AS TO THE AUTHORITY OF NASA/MSFC TO ADMINISTRATIVELY OFFSET AMOUNTS FROM THE SALARIES OF TWO MSFC EMPLOYEES FOR A JOINT DEBT OF $930 WHICH THE EMPLOYEES ALLEGEDLY OWE TO THE NASA EXCHANGE SYSTEM. IN VIEW OF THE LIMITATIONS OF THE RECORD PRESENTED, OUR LETTER REPLY DOES NOT ADDRESS THE VALIDITY OF THE DEBT WHICH THE EMPLOYEES ARE ALLEGED TO OWE, NOR DO WE ADVISE NASA WHETHER SALARY OFFSET MAY BE USED TO COLLECT DEBTS WHICH ARE OWED TO THE NASA EXCHANGE SYSTEM. THE LETTER STATES THAT AN AGENCY MUST HAVE REGULATIONS IN PLACE BEFORE AN EMPLOYEE MAY BE HELD LIABLE FOR ERRORS OF JUDGMENT OR NEGLECT. WE ALSO MENTION THE PROCEDURES FOR COLLECTIONS OF DEBTS FROM ACCOUNTABLE OFFICERS.

MR. WALTER H. PARKER, JR.:

YOUR LETTER OF JULY 17, 1986, REQUESTS AN OPINION AS TO THE AUTHORITY OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, MARSHALL SPACE FLIGHT CENTER (NASA/MSFC), TO EFFECT OFFSETS FROM THE SALARIES OF TWO MSFC EMPLOYEES FOR A JOINT DEBT IN THE AMOUNT OF $930 WHICH YOU STATE THE EMPLOYEES OWE TO THE NASA EXCHANGE SYSTEM.

YOUR LETTER DOES NOT PLACE THE FULL CIRCUMSTANCES GIVING RISE TO THE ALLEGED DEBT IN ISSUE, BUT WE MUST DO SO BECAUSE THE VALIDITY OF ANY DEBT COLLECTION PROCEDURES, AS WELL AS THE SELECTION OF ALTERNATIVE DEBT COLLECTION AUTHORITIES, IS NECESSARILY DEPENDENT UPON THE LAWFUL ESTABLISHMENT OF AN OBLIGATION TO REIMBURSE THE GOVERNMENT.

AS A RESULT, BASED ON THE INFORMATION YOU HAVE PROVIDED, WE ARE NOT IN A POSITION TO RENDER A COMPTROLLER GENERAL'S DECISION ON YOUR REQUEST AT THIS TIME OR TO ADVISE YOU WHETHER DEBTS THAT ARE PROPERLY ESTABLISHED AS OWED TO THE NASA EXCHANGE SYSTEM MAY BE COLLECTED BY OFFSET FROM THE SALARY OF NASA EMPLOYEES UNDER THE DEBT COLLECTION ACT OF 1982. HOWEVER, ON THE GENERAL QUESTION OF WHETHER OR NOT NASA MAY USE ADMINISTRATIVE OFFSET PROCEDURES TO RECOUP GENERAL DEBTS APPROPRIATELY CERTIFIED AS OWING TO THE ACCOUNTS OF THE UNITED STATES, WE OFFER THE FOLLOWING OBSERVATIONS.

BRIEFLY, YOU STATE THAT THE ALLEGED DEBT AROSE WHEN THE TWO MSFC EMPLOYEES, IN THEIR CAPACITIES AS PRESIDENT AND SECRETARY-TREASURER OF THE MSFC HEALTH CLUB RESPECTIVELY, PURCHASED GYM EQUIPMENT TOTALLING $22,100 WITHOUT PROPER AUTHORITY AND IN CONTRAVENTION OF APPLICABLE AGENCY REGULATIONS, CLUB BYLAWS AND THE

EXPRESS DIRECTIONS OF THE MSFC EXCHANGE COUNCIL. YOU FURTHER STATE THAT THE EXCHANGE COUNCIL WAS ABLE TO RETURN THE EQUIPMENT TO THE COMPANIES FOR A REFUND OF THE PURCHASE PRICE OF THE ITEMS.

THE $930 ALLEGED DEBT REPRESENTS THE SHIPPING COSTS FOR THIS EQUIPMENT WHICH THE COUNCIL WAS UNABLE TO RECOVER.

IN THIS REGARD, WE ARE MINDFUL THAT THERE IS NO AUTHORITY TO ASSESS PECUNIARY LIABILITY AGAINST A GOVERNMENT EMPLOYEE FOR LOSSES RESULTING FROM HIS OR HER ERROR IN JUDGMENT OR NEGLECT OF DUTY UNLESS THE AGENCY HAS ISSUED ADMINISTRATIVE REGULATIONS SPECIFICALLY PROVIDING FOR SUCH LIABILITY. SEE 25 COMP.GEN. 299 (1945). IF THE AGENCY HAS REGULATIONS OF THIS TYPE, THEY ARE CONSIDERED PART OF THE EMPLOYEE'S CONTRACT OF EMPLOYMENT. THUS, AN EMPLOYEE MAY BE HELD LIABLE, BUT ONLY IF THE AGENCY HAS ISSUED REGULATIONS TO THAT EFFECT. THE REGULATIONS SERVE TO PUT THE EMPLOYEE ON NOTICE OF THE POTENTIAL LIABILITY. 52 COMP.GEN. 964 (1973).

ANOTHER STATUTE AUTHORIZING SETOFF AGAINST CURRENT SALARY IS 5 U.S.C. SEC. 5512 WHICH APPLIES TO "ACCOUNTABLE OFFICERS," THAT IS, PERSONS WHO HAVE BEEN ENTRUSTED WITH AND ARE REQUIRED TO ACCOUNT FOR PUBLIC FUNDS. YOUR LETTER DOES NOT INDICATE WHETHER THERE ARE ANY REGULATIONS OR APPOINTING ORDERS THAT ESTABLISH THE TWO INDIVIDUALS INVOLVED AS ACCOUNTABLE OFFICERS. IN THE EVENT YOU HAVE SUCH REGULATIONS OR ORDERS ESTABLISHING THESE INDIVIDUALS AS ACCOUNTABLE OFFICERS, THEN COLLECTION ACTION COULD PROCEED AGAINST THE EMPLOYEES UNDER 5 U.S.C. SEC. 5512.

MOREOVER, WHENEVER A LOSS OCCURS FOR WHICH AN ACCOUNTABLE OFFICER IS LIABLE, THE AGENCY SHOULD SEEK TO RECOVER FROM THE RECIPIENT IF POSSIBLE. ANY AMOUNTS RECOUPED WILL REDUCE THE ACCOUNTABLE OFFICER'S LIABILITY. ASSUMING THAT THE SHIPPING CHARGE IN QUESTION IS UNCOLLECTABLE, AND THE AGENCY DOES NOT REQUEST RELIEF OR RELIEF IS REQUESTED AND DENIED, THE ACCOUNTABLE OFFICER BECOMES INDEBTED TO THE UNITED STATES FOR THE AMOUNT INVOLVED. AT THAT POINT, IT IS THE AGENCY'S RESPONSIBILITY TO INITIATE COLLECTION ACTION AGAINST THE ACCOUNTABLE OFFICER IN ACCORDANCE WITH 5 U.S.C. SEC. 5512.

WE TRUST THIS RESPONSE WILL BE HELPFUL TO YOU.