

DOCUMENT RESUME

06364 - [B1706234] ~~(Restricted)~~ RELEASED 5/18/78

Benefits General Services Administration Provides by Operating Cafeterias in Washington, D.C., Federal Buildings. LCD-78-316; B-114820. May 5, 1978. 3 pp. + 5 appendices (24 pp.).

Report to Sen. Jennings Randolph, Chairman, Senate Committee on Environment and Public Works; by Elmer B. Staats, Comptroller General.

Issue Area: Are Agencies Maintaining Government Facilities Cost-Effectively? (713).

Contact: Logistics and Communications Div.

Budget Function: General Government: General Property and Records Management (804).

Organization Concerned: General Services Administration; Government Services, Inc.

Congressional Relevance: Senate Committee on Environment and Public Works. Sen. Jennings Randolph.

Authority: Public Buildings Cooperative Use Act of 1976 (P.L. 94-541; 90 Stat. 2505). Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 490). Randolph-Sheppard Act for the Blind. 40 U.S.C. 490(a). 35 Comp. Gen. 113. Executive Order 11458. GMB Circular A-25. =41 C.F.R. 101. F.F.M.B. 101-21.205. B-177610 (1973). A-4689 (1924).

Government Services, Inc. (GSI) operates 32 cafeterias and 5 coffee shops in the Washington, D.C., area under contract with the General Services Administration (GSA). The estimated commercial equivalent annual value of benefits provided by the Federal Government for operating cafeterias and coffee shops in the Washington area is about \$9.5 million-- \$9 million for the space and utilities and \$500,000 for equipment maintenance. Findings/Conclusions: GSI had a loss of about \$210,000 for calendar year 1977 on its contract with GSA. If the \$9.5 million of benefits are included, the total loss would be about \$9.7 million. Without these benefits, the cost of food to contractors could increase considerably, causing many cafeterias to close. There appears to be no express statutory authorization for operating Government-controlled cafeterias in public buildings. The practice of providing the space as a consideration for operating food-service facilities in Federal buildings is not unlawful, contrary to public policy, or improper, even though the contractor may appear to have a competitive advantage over other food service operators in the vicinity of Federal cafeterias. Government-controlled cafeterias are intended primarily for use by Federal employees, but there are no legal restrictions barring the use of Federal cafeterias by the public. Recommendations: The Administrator of GSA should provide for disclosure in GSA's annual budget submission of the total benefits granted for operating Federal cafeterias and coffee shops. (RRS)

6234

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REPORT BY THE

RELEASED

Comptroller General

5/18/78

OF THE UNITED STATES

Benefits General Services Administration Provides By Operating Cafeterias In Washington, D.C., Federal Buildings

The Committee on Environment and Public Works asked GAO to review the General Services Administration's food service policies.

Government Services, Inc., operates 32 cafeterias and 5 coffee shops in the Washington, D.C., area for the General Services Administration. The Government provides space and services valued at about \$9.5 million a year to operate these facilities.

If cafeteria operations were required to be fully self-supporting, food prices would increase considerably and many contractor operated cafeterias would close.

There is no express statutory authorization for the operation of these cafeterias in public buildings. However, the cafeterias can be justified on the basis of implied authority to provide for such facilities.





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

B-114820

The Honorable Jennings Randolph
Chairman, Committee on Environment
and Public Works
United States Senate

Dear Mr. Chairman:

On June 16, 1977, you requested us to review the General Services Administration's food service policies with Government Services, Inc. You noted that restaurant operators have construed the various considerations granted to Government Services, Inc., as a Federal subsidy, potentially violating those public laws which prohibit granting special privileges or advantages to particular groups at the public's expense. You expressed particular interest in the admission policy for Federal cafeterias, because public use of these food services compounds the restaurateurs' complaints, and in the policy on charging rent for space occupied by food service facilities in Government-owned buildings.

We reviewed laws and regulations applicable to Federal building operations, General Services' food service policies and its contract with Government Services, Inc., and the benefits provided by the Government to food service operators. We did not review the efficiency of Government Services, Inc., food service operations.

The results of our review are summarized below and discussed in more detail in appendix I.

- Government Services, Inc., operates 32 cafeterias and 5 coffee shops in the Washington, D.C., area for the General Services Administration under the current contract.
- The estimated commercial equivalent annual value of benefits provided by the Federal Government for operating cafeterias and coffee shops in the Washington, D.C., area for 1977 is about \$9.5 million--\$9 million for space and utilities and \$500,000 for equipment maintenance. The commercial equivalent annual value of the approximately 1.87 million

square feet of space occupied by food service facilities in General Services operated buildings nationwide is about \$24 million. These facilities are available to about one-third of the 850,000 civilian employees housed in General Services operated buildings. The other two-thirds work in buildings that do not have Government contract food service facilities, although in some cases these employees may use Government cafeterias which may be available in a nearby building.

--For calendar year 1977, Government Services, Inc., had a loss of about \$210,000 on its contract with the General Services Administration. If the above benefits of \$9.5 million are included, the total loss is about \$9.7 million. Without these benefits, the cost of food to customers would increase considerably, and, according to the General Services Administration, many cafeterias would close.

--There appears to be no express statutory authorization for operating Government controlled cafeterias in public buildings. However, we testified before the Congress in 1947 that these cafeterias can be justified "on the basis of implied authority to make provision for such facilities reasonably incidental to the statutory management and control of the property * * *."

--Although the Government could charge the contractor for the use of cafeteria space, it appears that the space is provided as a consideration for operating cafeterias in Federal buildings. We found that this practice is not unlawful, contrary to public policy, or improper, even though the contractor may seem to have a competitive advantage over other food service operators in the vicinity of Federal cafeterias.

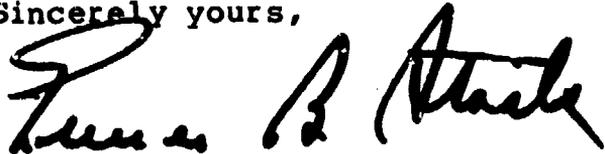
--Government-controlled cafeterias are intended primarily for use by Federal employees. No outside business is solicited, and according to General Services, there are no legal restrictions barring the use of Federal cafeterias by the public. The general public is not being discouraged from using the cafeterias.

--On December 19, 1977, the Office of Management and Budget issued a proposed circular to Federal departments and agencies for comment. The proposed circular would establish executive branch policy pertaining to the use of federally-controlled real property and related services by non-Federal activities, such as employee welfare and recreation associations, cafeterias, and other concessions. If implemented, the circular would require non-Federal activities that are not exempt by special statute to pay equivalent commercial rents for the use of Federal space.

--We are recommending that the Administrator of General Services provide for disclosure in General Services' annual budget submissions of the total benefits granted for operating Federal cafeterias and coffee shops.

As agreed with your office, we are sending copies of this report to the Ranking Minority Member, House Committee on Government Operations. Unless you publicly announce its contents earlier, no further distribution of this report will be made until 10 days from the date of the report.

Sincerely yours,



Comptroller General
of the United States

OPERATION OF CAFETERIASIN FEDERAL BUILDINGSIN THE WASHINGTON, D.C., AREABACKGROUND

During World War I, growth in the Federal Government was so great in Washington, D.C., that many employees had to work in temporary buildings far removed from restaurants or other eating facilities. To meet the needs of these employees, individual agencies contracted with various concessionaires to provide food service. As the war ended, patronage declined and with it the quality of service.

To provide continued food service to Federal employees, the Joint Welfare Service, a private corporation, was established to take over operation of the cafeterias. Controlled by Federal employees, this organization merged personnel from the Welfare Service of the War Department and the Office of Public Buildings and Grounds of the National Capital, an independent agency. This group operated the cafeterias until 1926, when the Welfare and Recreational Association of Public Buildings and Grounds, Inc., was incorporated under District of Columbia law to operate cafeterias, newsstands, refreshment stands, and recreational facilities on Federal property. The Association was a private, domestic, nonstock, non-profit-sharing corporation. In 1945, its name was changed to Government Services, Incorporated (GSI).

GSI has major contracts with the General Services Administration (GSA), the National Park Service, and the Tennessee Valley Authority. In addition, it has agreements with other Government agencies to operate cafeterias or provide other services.

A summary of operations by major contract for calendar year 1976 follows:

<u>Contract</u>	<u>Revenue</u>	<u>Expenses</u>	<u>Operating income (loss)</u>
General Services Administration	\$20,563,962	\$20,944,010	\$(380,048)
National Park Service	8,191,815	7,583,583	608,232
Tennessee Valley Authority	2,952,247	2,911,688	40,559
Other	<u>4,763,112</u>	<u>4,718,349</u>	<u>44,763</u>
Total	<u>\$36,471,136</u>	<u>\$36,157,630</u>	<u>\$ 313,506</u>

The corporation had an operating loss for 1977 of about \$210,000 under its contract with GSA. (See app. II.) However, when Government benefits of about \$9.5 million for space, utilities, and other services are considered, the total loss will be about \$9.7 million.

Legislative history

Since 1926, attempts have been made to prompt legislation detailing the relationship between the Federal Government and GSI or its predecessor. Although legislation has been introduced, none has yet been enacted.

In 1929, the Comptroller General of the United States, in a letter to the Director, Office of Public Buildings and Public Parks, questioned using Government property for operating cafeterias without the approval of the Congress. The Director responded that this information had been officially reported to the Congress each year at committee hearings and was never questioned. He subsequently submitted to the Congress a bill specifying the cafeteria operating arrangements, but it was never introduced. A similar bill was introduced in 1946, but failed to be enacted.

In 1947, the Senate Committee on Post Office and Civil Service held extensive hearings on the management and operation of cafeterias in Government buildings. One of the issues discussed was the authority for permitting cafeterias to operate in public buildings. At the hearings, we testified that cafeterias can be justified "on the basis of implied authority to make provision for such facilities reasonably incidental to the statutory management and control of the property * * *."

Bills were proposed by members of the Committee in both the 80th and the 81st Congresses to create a Government corporation to operate cafeterias and other activities in Government buildings, but none were enacted. Therefore, GSA does not have explicit statutory authority concerning the operation of cafeterias in Government buildings.

CONTRACT PROVISIONS BETWEEN GSA AND GSI

Since 1927 there have been three contracts. The current one, negotiated in 1971, has been amended twice. The contract does not have an expiration date but can be canceled by either party with 196 days' notice.

Under this contract, food prices shall be set to maintain the solvency of the contractor. GSI receives free use of space and utilities. In addition, Government-furnished equipment is provided, which must be replaced through the contractor's reserve account funded by 1-1/2 percent of gross income.

These benefits have not always been part of the food service agreement. The 1949 contract called for payment of a franchise fee (1-1/2 percent of gross income from the contract) in lieu of rent; charges for lighting, heating, and air conditioning; and for general repairs. The franchise fee was waived in 1968, 1969, and 1970, so the contractor could remain solvent. In 1971 this provision was excluded entirely. Until 1970, the contractor was also required to pay the costs of all utilities used in food preparation. All of these costs are now borne by the Federal agencies which occupy the buildings and use the cafeteria.

COMMERCIAL VALUE OF BENEFITS TO GSI

The estimated commercial equivalent value of the total benefits which the contractor will receive in 1977 is about \$9.5 million--\$9.0 million for space and utilities and \$500,000 for equipment maintenance. (See app. III.)

For space occupied by these cafeterias, GSA bills the resident agencies since they receive the benefits of the food services. The rate per square foot, including a factor for utilities and building services, varies from building to building to approximate commercial rates. Federal agencies pay GSA rent for the cafeterias and coffee shops in public buildings. These cafeterias and coffee shops currently occupy about 700,000 square feet of space. See appendix III for a listing of square footage and rental rates for each cafeteria and coffee shop.

The original cost of equipment provided by the Government at the 32 cafeterias and 5 coffee shops is about \$6.3 million. (See app. IV.) For 1977 GSA has assumed \$500,000 of the costs to repair this equipment.

Although GSA could charge GSI for the use of cafeteria space, the July 21, 1971, agreement between GSA and GSI provides, in part, that GSA is to furnish suitable space and certain equipment at no charge other than the consideration of GSI's operating and using them for the benefit

of the Government. GSA is given the right to review GSI's annual budget and the menu pricing structure for foods and beverages. We determined that the agreement between GSA and GSI does not involve a lease of space but, instead, is a license to use assigned space in consideration of the performance of the agreed to services. The agreement is not unlawful, improper, or contrary to public policy, even though GSI may appear to enjoy a competitive advantage over other food service operators in the vicinity of Federal cafeterias.

CAFETERIAS INTENDED FOR FEDERAL EMPLOYEES' USE

GSA-controlled cafeterias are intended primarily for use by Federal employees. Individuals transacting business with Federal agencies are also permitted to use these facilities, but no business from the outside public is solicited. If a private food service operator complains about public patronage at a particular Federal cafeteria, GSI has said it will post signs stating that the cafeteria is for use by Federal employees and those on official Government business. However, according to GSA, there are no legal restrictions barring the use of Federal cafeterias by outsiders.

In 1971, GSA reviewed the patronage of its cafeterias and concluded that the small percentage of public patronage did not justify the additional expense of guards to control access. Approximately 4.7 percent of the patrons were non-Federal employees; about one-quarter of these (1.2 percent of the total) had no affiliation with the occupant Federal agencies.

A private entrepreneur has repeatedly complained about unfair competition from the "subsidized" James Forrestal Building cafeteria, which was attracting tourists and non-Federal personnel. In February 1974, GSA reported to the then Senate Committee on Public Works that GSI would no longer accommodate bus tour groups at this cafeteria, would place signs restricting patronage to Federal employees, and would further discourage outsiders by locking exterior doors. We visited the cafeteria on November 8, 1977, to see if these practices were being followed. The Forrestal cafeteria was easily accessible to the public. We found all the exterior doors open and no signs restricting the clientele. According to an assistant manager, the cafeteria is open to the general public. On the same day we observed members of the public, intent on using the cafeteria, being prevented from entering the J. Edgar Hoover Building. A

Federal Bureau of Investigation employee said that the cafeteria is for Bureau employees. The general public cannot gain ready access.

There is no policy governing the patronage of Federal cafeterias. Generally, if the building is open to the public, so is the cafeteria. If access to the building is controlled (as in the Hoover Building) access to the cafeteria would also be controlled.

In its comments on our draft report (see app. V), GSA said that sometime after the exterior doors of the Forrestal Building cafeteria were locked, it was determined that these doors could not be locked during business hours, as they were not equipped with panic hardware to provide egress during an emergency. When the exterior doors were unlocked, no followup action was taken to discourage public access. GSA also stated that it has instructed its regional office to take immediate action to equip the exterior doors of the cafeteria with panic hardware, and to post signs on all exterior entrances indicating that the cafeteria is for use by Federal employees or those on official Government business.

PROPOSED GOVERNMENT POLICY
FOR CHARGING NON-FEDERAL ACTIVITIES
FOR USE OF FEDERAL SPACE

On December 19, 1977, the Office of Management and Budget issued a proposed circular to Federal departments and agencies for comment. The proposed circular would establish executive branch policy pertaining to the use of federally-controlled real property and related services by non-Federal activities, such as employee welfare and recreation associations, and cafeterias and other concessions. The circular basically requires non-Federal activities that are not exempt by specific statute to pay equivalent commercial rents for use of Federal space. Exceptions to the paying policy will be permitted only under special circumstances. Unless otherwise provided by law, the revenues to be collected from non-Federal activities for use of space shall be deposited in miscellaneous receipts of the Treasury.

Under present GSA contracting procedures, space and major equipment are provided to food service contractors at a nominal cost, usually a franchise fee of 1-1/2 percent of gross sales, which is deposited in miscellaneous receipts of the

Treasury. This amounts to about \$412,000 ^{1/} a year (as stated previously, GSI does not pay this fee). The actual cost of space and services provided each contractor is recovered by GSA, from rent assessed on a pro rata basis to occupant agencies benefiting from the service. The rent rate for cafeteria space is presently computed at a square-foot charge equal to 1.64 times the GSA established rent rate for office space in the same building.

Contractors operate 127 food service facilities in GSA buildings nationwide. They occupy about 1.87 million square feet, 704,593 of which is occupied by the 32 cafeterias and 5 coffee shops operated by GSI (see app. III). Based on the average rental rate of about \$12.73 a square foot for the GSI occupied space, the estimated annual rental value of the 1.87 million square feet is about \$23.8 million.

AGENCY COMMENTS

In comments to the Office of Management and Budget on the proposed circular (see app. V), GSA said that the assessment of equivalent commercial rents to GSA cafeteria contractors would have a severe adverse impact on its client agencies nationwide, and the present essential food service levels would be drastically curtailed or precluded. Food prices would increase an average of 50 percent, and many cafeterias would close.

OBSERVATIONS

If cafeteria operations were required to be fully self-supporting, the cost of food to the customer could increase considerably. These cafeterias cannot be compared to commercial ones, because operating hours are limited to breakfast and lunch during regular Government workdays only. A captive but limited clientele is served, and food prices must be approved by GSA. If the meal prices were set to cover full costs, the drop in patronage might be so great as to make the operations impractical.

Without the substantial indirect assistance provided, GSA believes that the contractor could not provide reasonably priced food service in Federal buildings. According to GSA, implementation of the proposed Office of Management and Budget policy requiring payment of commercial equivalent

^{1/}Based on estimated annual food sales of \$27.5 million, which excludes GSI sales of \$20 million.

rent for use of Government space would be severe enough to preclude GSA from continuing to provide full-scale cafeteria service to Federal employees.

The annual value of benefits provided by the Government for food service in the Washington, D.C., area has been steadily increasing and is now in excess of \$9 million annually. Nationwide, these benefits are about \$24 million a year for operating food service facilities in GSA operated buildings.

On the other hand, food service facilities are not available to all Federal employees. These facilities are available to about one-third of the 850,000 civilian employees housed in GSA operated buildings. The other two-thirds work in buildings that do not have GSA contract food service facilities, although in some cases a GSA cafeteria may be available in a nearby building.

RECOMMENDATION

If the proposed Office of Management and Budget policy is not implemented and food service contractors continue to occupy rent free space and receive other benefits, we recommend that the Administrator of General Services provide for disclosure in GSA's annual budget submissions of the total benefits granted for operating Federal cafeterias and coffee shops.

AGENCY COMMENTS

GSA's comments of March 21, 1978, on a draft of this report are in appendix V. Some comments are discussed in the body of the report, and others, below.

GSA stated that it was in general agreement with the findings discussed in the report. It had no objection to identifying the total amounts of benefits granted for operating cafeterias and coffee shops in its annual budget submissions, if such information is requested by the Congress.

PROFIT/LOSS OF GOVERNMENT SERVICES, INC., CAFETERIASAND OTHER OPERATIONS FOR CALENDAR YEAR 1977

<u>Building</u>	<u>Revenue</u>	<u>Expenses</u> (note a)	<u>Profit</u> (loss)	<u>Maintenance</u> <u>adjustment</u>	<u>Revised</u> <u>profit</u> (loss)
Cafeterias:					
Agriculture South	\$ 1,423,715	\$ 1,451,873	\$(28,158)	\$ 24,407	\$(3,751)
Commerce	805,981	792,182	13,099	18,343	31,442
Connecting Wing (Customs-ICC)	454,020	470,017	(15,997)	12,091	(3,906)
Courthouse	283,591	338,780	(55,189)	10,398	(44,791)
ERDA Main	399,278	419,431	(19,153)	7,226	(11,927)
Federal (New Post Office)	295,530	317,104	(51,574)	8,155	(43,419)
Federal Office Building 2 (Navy Annex)	660,507	677,471	(16,964)	15,241	(1,723)
Federal Office Building 3 (Suitland)	678,172	648,633	29,539	9,268	38,807
Federal Office Building 6	388,106	415,980	(27,872)	15,417	(12,455)
Federal Office Building 9 (Civil Service)	513,561	553,455	(39,894)	17,388	(22,506)
Federal Office Building 10A (FAA)	600,582	647,138	(46,556)	17,011	(29,545)
Federal Trade	186,623	203,383	(16,760)	11,504	(5,256)
GAO	1,040,106	1,078,170	(38,064)	25,894	(12,170)
GSA (Headquarters)	330,306	362,794	(32,488)	10,096	(22,392)
GSA-ROB (Region 3)	498,979	530,567	(31,588)	14,032	(17,556)
Headquarters (CIA)	1,298,508	1,306,709	(8,201)	16,955	8,754
HUD	901,005	920,683	(19,678)	23,682	4,004
Interior	821,084	808,487	12,597	18,244	30,841
IRS	486,975	491,309	(4,334)	9,289	4,955
J. Edgar Hoover	1,079,745	1,135,988	(56,243)	13,432	(42,811)
James Forrestal	1,188,976	1,205,735	(16,759)	24,936	8,177
John W. Powell (Geological Survey)	410,157	415,748	(5,591)	8,633	3,042
Justice	43,940	61,328	(17,388)	12,837	(4,551)
Lafayette	258,860	313,819	(54,959)	8,368	(46,591)
Navy Yard Annex 213	213,786	247,918	(34,132)	11,757	(22,375)
New Executive Office	327,380	359,143	(31,763)	15,459	(16,304)
New Labor	711,454	739,603	(28,149)	29,661	1,512
Old Executive Office State	331,308	329,992	1,316	5,750	7,066
State	1,792,865	1,835,674	(42,809)	41,955	(854)
Tax Court	51,806	62,437	(10,631)	1,150	(9,481)
Taylor House	71,891	92,339	(20,448)	2,657	(17,791)
320 First Street, N.W. (PHLB)	271,308	295,077	(23,769)	9,439	(14,330)
Coffee shops:					
Agriculture Adminis- tration	186,443	199,920	(13,377)	9,855	(3,522)
Ames Center	164,930	176,441	(11,511)	4,178	(7,333)
Federal Office Build- ing 10B (NASA)	151,271	154,662	(3,391)	4,488	1,097
Navy Yard Annex 159E	125,702	138,334	(13,032)	2,353	(10,679)
Veterans Administra- tion	365,743	363,559	2,184	6,739	5,923
Total cafete- rias and coffee shops	\$19,813,796	\$20,591,483	(\$777,687)	\$498,288	(\$279,399)
Other (note b)	546,344	478,436	67,908	1,715	69,623
Total for all contract operations	\$20,360,140	\$21,069,919	(\$709,779)	\$500,003	(\$209,776)

a/Does not include the cost of Government space and utilities.

b/Includes vending machine, barber shop, and parking lot operations.

PROJECTED BENEFITS RECEIVED BY
GOVERNMENT SERVICES, INC., DURING 1977

<u>Building</u>	<u>Cafeteria area (sq. ft.)</u>	<u>Rental rate (sq. ft.)</u>	<u>Annual rental</u>	<u>Equipment maintenance</u>
Cafeterias:				
Agriculture South	27,597	\$11.48	\$ 316,814	\$ 24,406
Commerce	21,277	11.48	244,260	18,343
Connecting Wing (Customs-ICC)	15,441	10.59	163,520	12,090
Courthouse	10,545	15.25	160,811	10,399
ERDA Main	10,588	10.14	107,362	7,225
Federal (New Post Office)	10,668	13.28	141,671	8,155
Federal Office Building 2 (Navy Annex)	30,627	9.24	282,993	15,241
Federal Office Building (Suitland)	18,882	8.79	165,973	9,268
Federal Office Building 6	16,634	14.62	243,189	15,417
Federal Office Building 9 (Civil Service)	15,217	14.62	222,473	17,388
Federal Office Building 10A (FAA)	28,202	14.62	412,313	17,911
Federal Trade	5,074	13.72	69,615	11,504
GAO	29,570	11.04	326,453	25,893
GSA (Headquarters)	13,255	11.04	146,335	10,097
GSA-ROE (Region 3)	25,910	11.48	297,447	14,032
Headquarters (CIA)	54,057	12.11	654,630	16,955
HUD	24,367	12.83	312,629	23,682
Interior	32,931	10.59	348,739	18,244
IRS	15,603	13.28	207,208	9,290
J. Edgar Hoover	48,664	14.62	711,468	13,432
James Forrestal	50,148	15.07	755,730	24,937
John W. Powell (Geolo- gical Survey)	24,025	11.72	281,573	8,633
Justice	12,445	12.38	154,069	12,838
Lafayette	8,640	13.72	118,541	9,368
Navy Yard Annex 213	8,409	12.38	104,103	11,757
New Executive Office	10,299	17.31	178,276	15,458
New Labor	36,956	14.62	540,297	29,661
Old Executive Office	6,401	12.38	79,244	5,750
State	46,945	13.72	644,085	41,955
Tax Court	3,701	16.42	60,770	1,151
Taylor House	2,130	18.21	38,787	2,657
320 First Street, N.W. (FHLB)	7,999	12.83	102,627	9,439
Coffee shops:				
Agriculture Administration	7,178	13.72	98,482	9,855
Ames Center	6,405	12.56	80,447	4,178
Federal Office Building 10B (NASA)	3,529	14.62	51,594	4,488
Navy Yard Annex 159E	9,359	9.06	84,793	2,353
Veterans Administration	<u>4,915</u>	12.83	<u>63,059</u>	<u>6,739</u>
Total	<u>704,593</u>		<u>\$8,972,380</u>	<u>\$498,289</u>

COST OF EQUIPMENT PROVIDEDGOVERNMENT SERVICES, INC., CAFETERIAS BYGENERAL SERVICES ADMINISTRATION

<u>Building</u>	<u>Government- furnished equipment</u>
Cafeterias:	
Agriculture South	\$ 393,967
Commerce	253,084
Connecting Wing (Customs-ICC)	166,718
Courthouse	99,797
ERDA Main	55,513
Federal (New Post Office)	136,947
Federal Office Building 2 (Navy Annex)	169,207
Federal Office Building 3 (Suitland)	284,533
Federal Office Building 6	138,322
Federal Office Building 9 (Civil Service)	157,462
Federal Office Building 10A (FAA)	210,905
Federal Trade	57,953
GAO	307,337
GSA (Headquarters)	103,675
GSA-ROB (Region 3)	205,733
Headquarters (CIA)	288,130
HUD	247,447
Interior	273,048
IRS	268,669
J. Edgar Hoover	295,064
James Forrestal	361,630
John W. Powell (Geological Survey)	163,867
Justice	190,901
Lafayette	76,368
Navy Yard Annex 213	67,650
New Executive Office	154,573
New Labor	283,371
Old Executive Office	86,622
State	464,717
Tax Court	13,142
Tayloe House	31,266
320 First Street, N.W. (FHLB)	63,243
Coffee Shops:	
Agriculture Administration	82,928
Ames Center	53,081
Federal Office Building 10B (NASA)	44,337
Navy Yard Annex 159E	39,298
Veterans Administration	51,735
Total	<u>\$6,342,240</u>

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



MAR 21 1978

Honorable Elmer B. Staats
Comptroller General of
the United States
General Accounting Office
Washington, DC 20548

Dear Mr. *Staats*

As requested in Mr. F. J. Shafer's letter of February 14, 1978, we have reviewed the draft report entitled "Benefits Provided by the General Services Administration for Operation of Cafeterias in Federal Buildings in the Washington, D.C. Area."

As indicated in our attached comments, we are in general agreement with the findings presented in the report and interpose no objection to the actions proposed for possible consideration by the Congress. Our comments include recommendations for updating statistical and other data to reflect more current information and the incorporation of revised language to clarify or correct certain statements. Action taken to resolve a matter brought to our attention by the draft report is also included although the report makes no specific recommendations for actions to be implemented by this agency.

We will be pleased to meet with you to further discuss the matter if you so desire.

Sincerely,

A handwritten signature in dark ink, appearing to be "E. Staats", written over a faint, illegible typed name.

Enclosure

Keep Freedom in Your Future With U.S. Savings Bonds

GSA Comments on GAO Draft Report to the Chairman,
Senate Committee on Environment and Public
Works Entitled, "Benefits Provided by the General
Services Administration for Operation of Cafeterias
in Federal Buildings in the Washington, DC Area

General. Financial statistics pertaining to Government Services, Inc. (GSI) operations for calendar year 1977, as cited in various places in the draft report and appendices, are based on projections computed by the GAO audit staff. GSI's statements for the final accounting period were being withheld pending completion of their auditor's review at the time information for the report was compiled. These statements have now been released and we understand your audit staff is in the process of revising the report and appendices to reflect actual rather than projected figures in the report and appendices. GSI reported the following data for the 32 cafeterias and 5 coffee shops operated under the GSA contract during calendar year 1977: Revenue - \$19,813,796, Expenses - \$20,591,483, Gross Loss - \$777,687, Adjustment for Equipment Maintenance Costs Assumed by Government - \$498,288, Net Loss - \$279,399. For all operations under the contract, GSI reported: Total Revenue - \$20,360,740, Expenses - \$21,069,919, Gross Loss - \$709,779, Equipment Maintenance Adjustment - \$500,003, Net Loss - \$209,776.

We understand your audit staff is also revising the draft report to incorporate more current data pertaining to the amount and SLUC value of space occupied by GSI for cafeteria and coffee shop operations. These changes result from space and/or billing adjustments made by our Region 3 office to reflect the reopening of one cafeteria closed for renovation at the time information for the report was compiled and increases and decreases in the size of other facilities. The revised totals indicate that GSI currently occupies 704,593 square feet of space for the aforementioned operations and that occupant agencies will be assessed \$8,972,380 for this space.

As the audit staff is preparing detailed statistics for each of the cafeterias and coffee shops, we will not repeat those details in these comments.

Draft Letter to the Chairman. The reference to 1.87 million square feet of space on page 2 of the draft should be identified as an approximate amount. Your audit staff advised us that an approximate figure would be satisfactory and no survey was made to verify the amount of space.

Appendix I, Contract Provisions Between GSA and GSI. The second paragraph on page 7 of the draft report indicates that the Government furnishes janitorial services under the GSI contract. Amendment No. 1 to the contract provided that the Government would assume a portion of GSI's janitorial costs for approximately 5-1/2 months during 1975. With that specific exception, GSI is responsible for providing all janitorial services under the contract.

Appendix I, Cafeteria: Intended for Federal Employees' Use. Information provided to the then Senate Committee on Public Works, as referenced on page 10 of the draft report was essentially correct at that time. The accommodation of bus tour groups was discontinued at that time and the ban on such activities remains in effect. The exterior doors to the dining area were locked and signs posted on the interior of such doors directing patrons to other exits within the building. Signs were posted at the entrances from within the building which read, "This Cafeteria Is for the Use of Federal Employees and Those on Official Government Business. I. D. May be Requested." The latter signs are still posted.

Sometime after the above action was taken, however, it was determined that the exterior doors could not be locked during business hours as they were not equipped with panic hardware to provide egress during an emergency. Unfortunately, when the doors were unlocked no followup action was taken to discourage public access through these doors and the effect of the posted signs was negated for this purpose. We have instructed our regional office to take immediate action to post similar signs on all exterior entrances and to equip the doors with panic hardware by the earliest practicable date.

Proposed Government Policy for Charging Non-Federal Activities Rent for Use of Federal Space. On February 21, 1978, GSA responded to the proposed OMB Circular referenced on pages 11 and 12 of the draft report. A copy of our reply is attached. Comments pertaining to the proposed circular's impact on food services appear on page 3, and under Appendix A of the reply.

We recommend that the GSA comments appearing on page 12 of the draft report be revised to state GSA's official position on this matter as set forth in the aforementioned reply. We believe it important to also bring to the attention of the Chairman that GSA is following the practice of private industry in providing certain benefits to contractors operating employee feeding facilities.

Observations. The first sentence in the first paragraph on page 13 should be revised to indicate a possible requirement for fully self-supporting operations in lieu of just self-supporting facilities. It should also indicate that such a requirement could force all GSA food service contractors out of business and not GSI only.

With reference to the actions you offer for possible consideration by the Congress on page 14 of the draft report, we have no objection to identifying the total amounts of benefits granted for operating cafeterias and coffee shops in our annual budget submissions if such information is requested by the Congress.

[See GAO note.]

GAO note: The deleted comments relate to matters which were discussed in the draft report but omitted from this final report.

February 21, 1978

Honorable James T. McIntyre, Jr.
Acting Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. McIntyre:

We appreciate the opportunity to review and submit comments on your proposed Circular to Heads of Executive Departments and agencies on the subject, "Assignment of Federally Controlled Real Property to Non-Federal Activities."

Our review has revealed numerous conflicts with existing policies, practices and procedures, particularly those emanating from the implementation of the Public Buildings Cooperative Use Act of 1976, Title I of P.L. 94-541 (90 Stat. 2505) (the Cooperative Use Act), as well as provisions of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 490), General Accounting Office rulings, and OMB Circular A-25.

Because of the necessity for extensive changes, including major problems with nomenclature, we do not support the issuance of the Circular as drafted. We are submitting substantial comments for use in revising the draft. Additionally, a copy of GSA's Guidelines for Implementation of the Cooperative Use Act is attached for your consideration. Since GSA is vitally concerned with the Circular's subject, we request that GSA be represented in any discussions proposed to be held for the purpose of its revision. Mr. A. G. Barnes of GSA's Public Buildings Service, telephone (566-0412) has been designated as the point of contact and will arrange for any further discussions relating to the revision of the Circular.

Please do not hesitate to contact me if I can be of further assistance in this matter.

Sincerely,

(S) Jay Solomon
Administrator

Enclosures

ENCLOSURE

GSA's Substantive Comments on OMB Draft Circular
"Assignment of Federal Controlled Real Property to Non-Federal Activities"

4. Definitions

b. Assignment of Real Property

In line 4 replace the word "outleasing" with the word "use" since licenses, permits, etc., may be involved. Also in line 4 between the words "of" and "excess", insert "property to be reported to GSA as excess real property or."

d. Temporary Use

This paragraph defines temporary use of Federal real property as use of the property for a period of 48 hours or less by a non-Federal activity. Although we realize the impossibility of covering all situations, we believe 48 hours is inadequate and instead suggest that the phrase "less than 30 days" be used. Further, this paragraph appears to be inconsistent with the Cooperative Use Act which encourages "occasional use" of Government-owned facilities by the public. See sections 102 and 104 of the Cooperative Use Act.

5. Policy

a. Assignment of Federally-Controlled Real Property to Non-Federal Activities

On line 4 replace the phrase "in accordance with 41 CFR Part 101-47", with "As determined by the Administrator of General Services." Furthermore, since it is GSA's responsibility to assign and reassign space in buildings under its control, we suggest that this sentence be amended to read "Agencies allowing non-Federal activities to use a portion of their space shall ensure that the intended use is not adverse to their mission and is consistent with the public interest."

Consequently, the next sentence should more appropriately read "Occupancies" authorized by law shall be made pursuant to the applicable statutes. Where a non-Federal activity is allowed the use of real property, in the absence of particular statutory authority, the agency official allowing its use shall prepare a written statement setting forth all factors pertaining to the occupancy.

b. Charges for Use of Federally Controlled Real Property

The language in this paragraph should be revised to reflect the provisions of the Cooperative Use Act. As written, there is a conflict between requiring non-Federal activities "to pay equivalent commercial rent" and the Cooperative Use Act which sets rates for public access level space based on the prevailing commercial rate for "comparable

space devoted to a similar purpose in the vicinity of the public building."

The final sentence of that paragraph should be revised as follows:
 "Agencies not having 'in house' capability for determining rental values may request advice from the GSA regional office serving their area."

c. Deposit of Rev.

We suggest that this paragraph be rewritten to be compatible with the provisions of the Cooperative Use Act. 40 U.S.C. 490(a)(18) specifically provides for deposit into the Federal Buildings Fund of all revenue associated with the lease or rental of space under the Cooperative Use Act. It further provides that each sum shall "be credited to the appropriation made for such fund applicable to the operation of such building."

6. Employee Service Activities

a. Employee Welfare and Recreation Associations

While in general we have no problem with this section as written, the same considerations applied to welfare and recreation associations could also be applied to other non-Federal activities. Why are they only applicable to recreation associations?

Consistent with the provisions of the Cooperative Use Act, space for welfare and recreation associations could be covered under the recreational category of the Act for which we would charge a commercial rate.

We recommend that the section on charges be rewritten to make it compatible with the Cooperative Use Act.

b. Credit Unions

The Federal Credit Union Act refers to Federal buildings rather than federally controlled space. Also, the comma in the quoted sentence of the Act should be deleted. In B-177610, dated June 21, 1973, the Comptroller General, held that section 210(j) of the Federal Property Act of 1949, as amended, required GSA to charge the Credit Unions or the sponsoring agency for space occupied by them in GSA controlled buildings.

c. Blind Vending Facilities

Suggest that phrase "Federal real property" be changed to "federally controlled real property" to indicate occupancy in either Federal or leased buildings.

d. Concessions

The assessment of SLUC charges to GSA's cafeteria contractors would have a severe adverse impact upon our client agencies nationwide. We firmly believe present essential food service levels would be drastically curtailed or precluded. The operation of cafeterias in Federal buildings is totally justified on the basis of efficiency, employee morale, and economics. We have developed substantial supporting documentation which is submitted as Appendix A.

This section also has a detrimental effect on the future of existing 8(a) Minority Business Program participants. See Appendix B for details.

f. Day Care Centers

The Cooperative Use Act specifically allows for the inclusion of day care centers within Federal buildings. The rent to be charged would be equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. See sections 104 and 105 of the Cooperative Use Act.

Further, the statement "fees charged to parents for using the (day care) centers shall be sufficient to recapture the Government's full cost of the services" must be modified in consideration of the fact that day care centers may be funded in part by grants from Government agencies, just as day care centers in the private sector may be.

Consideration could also be given to establishing day care centers under the 8(a) Minority Business Program, through agency sponsorship, or where programmatic/legislative authority exists, such as in the case of DHEW and DHUD. In the case of agency sponsorship, GSA would receive a SLUC for space provided. The sponsoring agency could in turn receive reimbursement from participating agencies and/or operators of the day care center (FPMR 101-21.205).

In line three, a determination should be made as to whom the "agency head" would be in a multi-occupancy building.

7. General Commercial Organizations

This section must be rewritten to cite the Cooperative Use Act which encourages the location of commercial, cultural, educational, and recreational facilities and activities within public buildings. Under these circumstances, rates would be determined as prescribed in the law.

8. Specific Organizations**b. Veterans' Service Organizations**

The Veterans Administration is required to pay GSA for space occupied in GSA buildings by approved National organizations pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended.

c. National Voluntary Action Programs

For clarity, we suggest that this heading be changed to ACTION Programs and the first sentence modified to read "In implementation of the provisions of..."

9. Temporary Use by a Non-Federal Activity

This paragraph conflicts with GSA's guidelines for implementation of the Cooperative Use Act regarding the times during which space may be used and the reimbursement of costs.

APPENDIX A**Supplemental Comments Concerning the Assessment of Standard Level User Charges Against Contractors Operating Employee Cafeteria Facilities on GSA-Controlled Property:**

In fulfilling its responsibility under Section 210 of the Property Act for the operation of public buildings, GSA has the allied responsibility to arrange for food and other essential services which are not conveniently available from commercial sources and which are required for health, morale, comfort, or efficiency of Federal employees while on duty. In the case of food service facilities, it is the government, as an employer, that is the principal recipient of benefits or services provided by their use. In many cases it would be impossible for Federal employees to eat within the allotted lunch period if cafeterias were not available within the building or facility.

The Congress has clearly supported the provision of cafeteria facilities for Federal employees by granting specific approval for funding the construction and equipping of such facilities. The Comptroller General has noted that the provision of such facilities is analogous to providing rest, toilet, lavatory, first-aid, locker rooms, and water cooling and drinking facilities, etc. (Decision A-4689, November, 1924, which has been upheld by a number of subsequent decisions).

Unlike most commercial facilities which are open throughout the day, six or seven days per week, and provide the three basic meal services per day, employee feeding facilities are basically one meal per day, five days per week operations. The latter constraints apply to employee feeding facilities operated by private industry as well as those providing service in government buildings. Contractors operating under government contracts are faced with additional constraints such as those imposed by the competition permitted by the Randolph-Sheppard Act for the Blind, higher wage levels usually required under the Service Contract Act, and generally "remote" (basement or upper floor) locations which results in negligible patronage by outsiders.

Our present method of contracting for food services is based on extensive experience gained over many years in attempting to provide food services under various types of contracts and the results of a 1964 detailed survey of food service subsidy practices of private industry. Heavy subsidization of employee feeding facilities, usually under a guaranteed profit or management fee arrangement with the contractor, is the prevalent manner in which cafeteria services are provided by businesses, corporations, and institutions, etc. Many of the firms surveyed reported that employee morale was an over-riding consideration in developing their respective food service policies. GSA's policies, therefore, support the missions and objectives of its client agencies in this area. Under present

contracting procedures space and major equipment are provided to the food service contractors at a nominal cost, usually 1-1/2% of gross sales per month. Actual cost of space and services provided the contractor is recovered by GSA from the SLUC rate assessed on a pro rata basis to occupant agencies benefiting from the service. The service provided by the contractor for the occupant agencies and their employees is considered the major benefit or payment received by the government from the contractor in return for the use of government-furnished space, equipment, and utilities.

The Comptroller General has also recognized that financial return to the government should not be the most important consideration in contracting for food services. In his Decision No. B-119832 (35 Comp. Gen. 113), he stated in part: "However, there is for consideration the fact that the chief purpose of contracting for food service in government buildings is not to obtain the greatest possible direct financial return but to serve the interests of the government indirectly by providing suitable facilities for government employees and advancing their welfare in order that the government may be enabled to employ and retain the number and type of employees necessary for conducting its business in a satisfactory manner." The assessment of SLUC rates against our food service contractors would appear to be a step backwards for the government in employee relations and directly contrary to the policies of private industry in providing employee feeding facilities.

In the publication "Dollars and Cents of Shopping Centers 1975," the average median percentage of sales paid as rental by cafeterias ranges from 4% in Neighborhood Shopping Centers to 7.5% in Super Regional/Enclosed Mall Shopping Centers. The equivalent per square foot rate ranges from \$2.84 to \$5.38 respectively. While the SLUC rate represents fair rental value to client agencies, the assessment of SLUC rates to cafeteria contractors would entail rental charges of approximately 50% of current gross sales based on an updated review of the impact of the proposed circular.

Government Services, Inc. (GSI) our largest food service contractor, operates 32 cafeterias and 5 coffee shops in the metropolitan area of Washington, DC. In a study recently completed by the General Accounting Office and now in draft form, the SLUC value of space occupied by GSI is estimated at \$8.9 million or approximately 46% of annual food sales. The cafeteria located in the Everett Dirksen Federal Building, Chicago, Illinois, occupies 17,830 square feet with the SLUC rate at \$16.41

per square foot. The annual SLUC cost to the food service contractor would be \$292,590 or 58 percent of present gross sales of \$502,800. The cafeteria located in the Federal Building, 450 Golden Gate Avenue, San Francisco, California, occupies 22,000 square feet, with the SLUC rate at \$17.56 per square foot. The annual SLUC cost to the food service contractor would be \$386,320 or 69.8 percent of annual gross sales of \$553,791.

GSA recently completed a test project at the Pittsburgh Federal Building to determine the feasibility of recovering more of the government's costs as they relate to cafeteria operations. Government costs attributable to the operation were estimated at \$51,785 per annum which included all direct charges and a pro rata share of other building costs. These costs amounted to approximately 6.18% of the anticipated gross sales under the contract or \$3.42 per square foot. The new contract required the contractor to pay the government 6% in lieu of the previous 1-1/2% of gross sales. If the SLUC rate for this space had been assessed it would have amounted to \$14.62 per square foot or \$221,171 per annum.

Notwithstanding the previous viability of this facility, the contractor was soon involved in serious financial difficulties. Customer resistance in the form of reduced patronage and "shopping down" by patrons as a result of the price increases required to offset the increased rental and an additional \$48,000 per annum in increased labor costs imposed on any successor contractor by the Service Contract Act was much more severe than anticipated. Patronage declined by 300 to 400 per day and gross revenue declined rather than increased. Total gross earnings to the contractor for the initial 6 month period ending in August 1977 were \$7,652 or 2% of the gross sales of \$382,601. Under the terms of the contract the contractor was entitled to, but not guaranteed, earnings of 9% of sales (4% profit plus 5% G&A). The contractor's failure to earn at least 6% represents a direct and actual loss to the company. A recent GSA audit of the firm's home office substantiated that the firm incurs slightly over 6% in overhead costs for administering our contracts, notwithstanding the 5% limitation on such expenses imposed by the contract. After a careful review of actions taken by the contractor to curtail losses and induce patronage it was determined that our regional office should be granted authority to renegotiate the rental consideration under this contract to maintain the contractor's solvency and avoid the termination of an essential food service.

As a result of the governmental constraints placed on our contractors, the menu price differential between cafeterias operating in GSA buildings and those operating in the private sector has continued to narrow considerably in recent years. Menu prices in our cafeterias are now comparable to and in some instances exceed prices charged in the private sector. To arrive at a fair comparison of such prices, the specific prices of individual menu items must be used as a basis rather than an average

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APPENDIX B**Supplemental Comments Concerning the Assessment of Standard Level User Charges Against Operators of Minority Business Concessions on GSA Controlled Property:**

On March 4, 1969, Executive Order 11458 was issued and it created the Office of Minority Business Enterprise (OMBE) in the Department of Commerce. The overall objective was to help promote minority business enterprise in the total economy. OMBE was charged with the responsibility of coordinating all programs, both public and private, that relate to the development of minority enterprise. As an outgrowth of OMBE, the Interagency Council for Minority Business Enterprise was created to coordinate the Federal minority enterprise effort. The Interagency Council created various Task Forces to deal with key areas relating to the President's program, such as procurement, capital development, construction, etc. In December 1970, the Interagency Task Force on Minority Business Concessions was established with the Commissioner, PBS, GSA, as Chairman. It was envisioned that the establishment of minority operated business concessions would contribute to the goal of assisting minority enterprise. The membership of this Task Force was comprised of representatives of all major Federal real property holding agencies.

Out of a total of 128 such facilities established on GSA controlled property, only 52 remain in operation and approximately 50% of these are considered marginal business enterprises. Future opportunities under this program have already been curtailed as a result of the additional priorities granted the blind by the Randolph-Sheppard Act Amendments of 1974 and by more stringent requirements imposed by OMBE, SBA and GSA under an interagency agreement designed to ensure that proposed facilities have reasonable potential for success.

The assessment of the full SLUC rate against the operators of such concessions would force the closing of many of the existing concessions and probably preclude the establishment of any new facilities under the program. Most of our present operators are required to pay a nominal rental equal to 1-1/2% of gross sales under a tripartite agreement between GSA, SBA and the concessionaire.