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

April 28, 1980

B-197698

The Honorable Clifford L. Alexander, Jr.
The Secretary of the Army

Dear Mr. Secretary:

[Comments on
We refer to a letter dated January 25, 1980, from the Assistant Secretary for Installations, Logistics, and Financial Management, requesting our concurrence in the Army's proposed transfer of its military clothing sales stores (MCSS) to the Army and Air Force Exchange Service (AAFES).

Title III of the Department of Defense Appropriation Act, 1980, enacted on December 21, 1979, as Public Law 96-154 (93 Stat. 1139), contains the following provision making a lump sum appropriation for your agency:

" [T]he following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * *

"OPERATION AND MAINTENANCE, ARMY

"For expenses, not otherwise provided for, the operation and maintenance of the Army, as authorized by law, and not to exceed \$3,231,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments made on his certificate of necessity for confidential military purposes; \$9,915,368,000, of which not less than \$457,100,000 shall be available only for the maintenance of real property facilities."

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Congressional action which prompted the Assistant Secretary's letter is best summarized in the legislative history of Public Law 96-154 as follows:

"The military departments operate military clothing sales stores (MCSS) on installations to sell issue standard uniforms and accessories to officers and enlisted personnel at cost plus shipping (stock fund prices). MCSS operating costs are paid with departmental operation and maintenance funds, and the standard items sold by the stores are procured from the Defense Personnel Support Center (DPSC) with stock funds.

"The Army and Air Force Exchange Service (AAFES) operates military uniform departments in exchanges, which stock optional items (dress/formal uniforms and accessories, etc.) not sold in the MCSS. They also sell brand name items comparable to those sold in the MCSS. The merchandise is purchased from commercial vendors and sold at acquisition cost plus a markup for operating costs.

"In September 1972, AAFES established a study group to determine the feasibility and desirability of its assumption of the responsibility for operation and supervision of the Army and Air Force MCSS. The study group found such an operation was feasible and recommended that a test operation be conducted by the Army and Air Force for the purpose of (1) determining the effectiveness of AAFES procedures and customer service, and (2) the cost effectiveness of AAFES operations compared to in-house operations.

"In 1973, test operations were approved by the Army and Air Force. An Air Force Steering Committee report on the AAFES test operation found the potential for substantial savings in money and manpower spaces (263 military and 255 civilian) would be realized, and that 70 percent of customers surveyed preferred the

AAFES operation because of the increased service and convenience. For these reasons, the Air Force closed the separate military clothing sales stores and paid the exchange to sell the military clothing through these stores.

"The Navy also sells its uniforms and other military procured clothing through the exchange system.

"The Army delayed making a decision on the matter until 1975 when it concluded that there was no economic justification or operational benefit to be gained by selling military clothing through the AAFES. However, this year the Army reported to the Committee that:

'The Army is currently negotiating with the Army-Air Force Exchange Service for the turnover of our retail clothing sales store mission in Europe. We are also looking into the feasibility of combining the remaining stores under the exchange system or placing the activities under the Department of Defense Commercial or Industrial Type Activities (CITA) program.'

"In view of the Air Force and Navy experience with the Exchange operation of the clothing sales stores, the Committee sees no reason to further delay implementation by the Army on a worldwide basis. A reduction of \$1.1 million has been made to the request of \$7.2 million for operation of these stores. The Air Force has achieved manpower savings of 519 spaces and \$2.3 million and feels that the transfer of the clothing stores to AAFES was a progressive and satisfactory way of providing support to Air Force personnel. There

is no reason why the same savings cannot be achieved by the Army. To facilitate the transfer of the Army's clothing sales stores to AAFES, the provisions of Comptroller General Decisions B-148581, B-189651, B-190650, and B-192859 should be waived and a one-time exception to A-76 procedures should be granted in view of the Air Force and Navy successfully implementing this approach." (Emphasis Added.) H. R. Rep. No. 96-450, 96th Cong., 1st Sess. 185 (1979).

The Senate Committee on Appropriations concurred in the House action "direct[ing] the Army to transfer" its MCSS to AAFES. See S. Rep. No. 96-393, 96th Cong., 1st Sess. 88 (1979).

We have been informally advised that the Office of Management and Budget (OMB) has no objection to the Army's proposed MCSS transfer to AAFES since OMB does not believe the provisions of Circular A-76 are applicable in light of AAFES' status as a Federal instrumentality.

The Assistant Secretary's letter states that the Army proposes to transfer the operation of MCSS to AAFES through the use of a "Memorandum of Understanding" (MOU) under which disbursements would be made to AAFES to defray certain operating costs. In our decision B-148581, B-189651, B-190650, November 21, 1978 (58 Comp. Gen. 94), cited by the House Committee on Appropriations, while recognizing that "the Army and Air Force Exchange Service is a Government instrumentality which functions as an agency of the Army and Air Force," we stated that, for practical purposes, the Government's obtaining goods and services from a NAFI can be tantamount to obtaining them from non-governmental commercial sources.

That decision, however, involved separate procurements of goods and services from NAFIs at the local installation level. Here, Congress has mandated an agency-wide transfer of the entire military clothing sales function to AAFES. We do not view such a transfer as involving the procurement of services from AAFES, but rather as a Congressionally directed reassignment of the operational

responsibility for military clothing sales from the Army to AAFES. We further view the use of funds to defray the AAFES operating costs as in the nature of a subsidy similar to various others presently provided to NAFIs throughout the military services. Consequently, we have no basis to object to the proposed transfer.

Sincerely yours,



For the Comptroller General
of the United States