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B-114827, Oct 2, 1974

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1. WHILE APPROPRIATED FUNDS ORDINARILY MAY NOT BE USED TO PROVIDE REFRESHMENTS SERVED AT CAREER SERVICE AWARD CEREMONY SINCE SUCH PROVISION WOULD CONSTITUTE ENTERTAINMENT REQUIRING SPECIFIC AUTHORIZATION, APPROPRIATION AVAILABLE FOR "OFFICIAL RECEPTION AND REPRESENTATION EXPENSES" MAY BE USED TO PROVIDE SUCH REFRESHMENTS. 2. IN ABSENCE OF PROVISION IN FEDERAL HOME LOAN BANK BOARD (FHLBB) APPROPRIATION ACT FOR RENTAL OF BUILDING IN DISTRICT OF COLUMBIA, FHLBB MAY NOT LEASE FACILITIES IN DISTRICT OF COLUMBIA IN WHICH TO HOLD CAREER SERVICE AWARD CEREMONY IN VIEW OF PROHIBITION CONTAINED IN 40 U.S.C. 34. 3. ALTHOUGH UNDER 31 U.S.C. 82D CERTIFYING OFFICER IS ENTITLED TO DECISION ONLY WITH RESPECT TO QUESTION OF LAW INVOLVED IN PAYMENT ON VOUCHER PRESENTED TO HIM FOR CERTIFICATION, DECISION REQUESTED BY HIM CONCERNING USE OF APPROPRIATED FUNDS IN CONNECTION WITH PLANNED CAREER SERVICE AWARD CEREMONY IS ADDRESSED TO HEAD OF AGENCY HAVING AUTHORITY TO REQUEST SUCH DECISION UNDER 31 U.S.C. 74.

PAYMENT OF CAREER SERVICE AWARD CEREMONY EXPENSES:

THIS DECISION TO THE CHAIRMAN OF THE FEDERAL HOME LOAN BANK BOARD (FHLBB) IS IN RESPONSE TO A REQUEST BY MR. JOSEPH W. GILLESPIE, AN AUTHORIZED CERTIFYING OFFICER, FOR AN ADVANCE DECISION AS TO THE LEGALITY OF PAYING FROM APPROPRIATED FUNDS EXPENSES RELATING TO A CAREER SERVICE AWARD CEREMONY.

THE STATUTORY AUTHORITY UNDER WHICH THIS OFFICE RENDERS DECISIONS TO CERTIFYING OFFICERS IS CONTAINED IN 31 U.S.C. 82D WHICH PROVIDES AS FOLLOWS:

"THE LIABILITY OF CERTIFYING OFFICERS OR EMPLOYEES SHALL BE ENFORCED IN THE SAME MANNER AND TO THE SAME EXTENT AS NOW PROVIDED BY LAW WITH RESPECT TO ENFORCEMENT OF THE LIABILITY OF DISBURSING AND OTHER ACCOUNTABLE OFFICERS; AND THEY SHALL HAVE THE RIGHT TO APPLY FOR AND OBTAIN A DECISION BY THE COMPTROLLER GENERAL ON ANY QUESTION OF LAW INVOLVED IN A PAYMENT ON ANY VOUCHERS PRESENTED TO THEM FOR CERTIFICATION."

UNDER THE ABOVE-QUOTED AUTHORITY, A CERTIFYING OFFICER IS ENTITLED TO A DECISION BY THE COMPTROLLER GENERAL ON A QUESTION OF LAW INVOLVED IN PAYMENT ON A SPECIFIC VOUCHER WHICH HAS BEEN PRESENTED TO HIM FOR CERTIFICATION PRIOR TO PAYMENT OF THE VOUCHER, WHICH SHOULD ACCOMPANY THE SUBMISSION TO THIS OFFICE. 21 COMP. GEN. 1128 (1942).

IN THE INSTANT CASE, THERE ARE NO ACCOMPANYING VOUCHERS SINCE NO EXPENSES HAVE YET BEEN INCURRED. NORMALLY, WE WILL NOT RENDER A DECISION UNDER SUCH CIRCUMSTANCES. HOWEVER, WE ARE RENDERING OUR DECISION TO THE CHAIRMAN UNDER THE BROAD AUTHORITY CONTAINED IN 31 U.S.C. 74, PURSUANT TO WHICH WE MAY PROVIDE

DECISIONS TO THE HEADS OF DEPARTMENTS ON ANY QUESTION INVOLVED IN PAYMENTS WHICH MAY BE MADE BY THAT DEPARTMENT.

IT IS EXPLAINED THAT THE BOARD DESIRES TO PROVIDE A CEREMONY TO RECOGNIZE EMPLOYEES FOR CAREER SERVICE AS AUTHORIZED BY 5 U.S.C. 4501 4506 AND RECOMMENDED BY THE CIVIL SERVICE COMMISSION IN CHAPTER 451, SUBCHAPTER 3- 11 OF THE FEDERAL PERSONNEL MANUAL.

IT IS EXPECTED THAT APPROXIMATELY 500 EMPLOYEES WILL ATTEND THE CEREMONY AND SINCE ADEQUATE GOVERNMENT-OWNED FACILITIES ARE NOT AVAILABLE WITHIN WALKING DISTANCE FOR SUCH AN ASSEMBLY, IT IS PLANNED TO RENT FACILITIES FROM THE QUALITY INN WHICH IS ADJACENT TO FHLBB. ALSO, IT IS EXPLAINED THAT DUE TO THE NATURE OF THE CEREMONY, IT IS BELIEVED APPROPRIATE TO PROVIDE LIGHT REFRESHMENTS FOLLOWING THE CEREMONY, SO THAT EMPLOYEES CAN BECOME ACQUAINTED WITH MORE OF THEIR COWORKERS.

WE ARE ASKED WHETHER FUNDS APPROPRIATED FOR FHLBB PROPERLY ARE AVAILABLE TO PAY SUCH EXPENSES.

WITH RESPECT TO THE RENTAL OF FACILITIES FROM THE QUALITY INN WHICH ARE LOCATED IN THE DISTRICT OF COLUMBIA, THERE IS FOR CONSIDERATION THE ACT OF MARCH 3, 1877, 19 STAT. 370, 40 U.S.C. 34 WHICH READS AS FOLLOWS:

"NO CONTRACT SHALL BE MADE FOR THE RENT OF ANY BUILDING, OR PART OF ANY BUILDING, TO BE USED FOR THE PURPOSES OF THE GOVERNMENT IN THE DISTRICT OF COLUMBIA, UNTIL AN APPROPRIATION THEREFOR SHALL HAVE BEEN MADE IN TERMS BY CONGRESS, AND THIS CLAUSE SHALL BE REGARDED AS NOTICE TO ALL CONTRACTORS OR LESSORS OF ANY SUCH BUILDING OR ANY PART OF BUILDING."

AN EXAMINATION OF THE ACT MAKING APPROPRIATIONS FOR FHLBB FOR THE FISCAL YEAR ENDING JUNE 30, 1975, PUB. L. 93-414, APPROVED SEPTEMBER 6, 1974, 88 STAT. , DISCLOSES NOTHING WHICH WOULD AUTHORIZE RENTAL OF BUILDINGS IN THE DISTRICT OF COLUMBIA. HOWEVER, OUR OFFICE HAS HELD THAT UNDER THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, 63 STAT. 377, AS AMENDED, GENERAL SERVICES ADMINISTRATION (GSA) IS AUTHORIZED TO ENTER INTO LEASING AGREEMENTS FOR THE BENEFIT AND ACCOMMODATION OF FEDERAL AGENCIES AND IF THE ADMINISTRATOR OF GSA AUTHORIZES THE FORMATION OF A RENTAL AGREEMENT, THE STATUTORY REQUIREMENT OF 40 U.S.C 34 IS SATISFIED. SEE B- 159633, MAY 20, 1974.

THE SITUATION CONCERNING THE FURNISHING OF LIGHT REFRESHMENTS FOLLOWING THE CEREMONIES, IS SIMILAR TO THAT CONSIDERED IN 43 COMP. GEN. 305 (1963). IN THAT CASE OUR OFFICE WAS ASKED TO DECIDE WHETHER VETERANS ADMINISTRATION APPROPRIATIONS COULD BE USED FOR THE PURPOSE OF PROVIDING A DINNER, LUNCHEON, OR REFRESHMENTS AT VETERANS ADMINISTRATION FIELD STATIONS IN CONJUNCTION WITH THE ANNUAL RECOGNITION CEREMONY FOR THOSE VOLUNTEERS WHO WERE TO RECEIVE AWARDS OR TO BE HONORED FOR THEIR SERVICE TO VETERAN-PATIENTS. OUR OFFICE HELD IN ACCORD WITH THE GENERAL RULE THAT FUNDS APPROPRIATED FOR GOVERNMENT DEPARTMENTS AND AGENCIES MAY NOT BE USED FOR ENTERTAINING INDIVIDUALS BY GIVING LUNCHEONS, ETC., EXCEPT WHEN SPECIFICALLY AUTHORIZED BY STATUTE AND APPROVED BY PROPER ADMINISTRATIVE OFFICERS. HOWEVER, SINCE IT WAS NOTED THAT THE INDEPENDENT OFFICES APPROPRIATIONS ACT, 1963, APPROVED OCTOBER 3, 1962, PUB. L. 87-741, 76 STAT. 716, 732, AUTHORIZED THE VETERANS ADMINISTRATION TO SPEND $1,000 FOR OFFICIAL RECEPTION AND REPRESENTATION EXPENSES, OUR OFFICE HELD THAT SUCH FUNDS COULD BE USED TO PROVIDE MEALS OR REFRESHMENTS AT THE AWARDS CEREMONY.

SIMILARLY, IN THIS SAME RESPECT, WE NOTE THAT PUBLIC LAW 93-414, SUPRA, PROVIDES, WITH REGARD TO FHLBB - "THAT NOT TO EXCEED $1,000 SHALL BE AVAILABLE FOR OFFICIAL RECEPTION AND REPRESENTATION EXPENSES." ACCORDINGLY, IT IS OUR OPINION THAT SUCH AMOUNT PROPERLY MAY BE USED FOR THE PURPOSE OF PROVIDING LIGHT REFRESHMENTS AFTER THE AWARDS CEREMONY.