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B-138925 April 15, 1959

Number: B-138925

Date: 1959-04-15

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Mr. Hanley W. Allen Authorized Certifying Officer National Park Service Department of the Interior

Dear Mr. Allen:

By letter dated March 3, 1959, reference F16-ABF, you requested our decision as to the propriety of paying a transmitted invoice. That invoice dated February 6, 1959, in the amount of $46.92 from Government Service, Inc., to the Civil War Centennial Commission covers 23 luncheons furnished on January 6, 1959, in the Interior Department Building in connection with a duly called business meeting of the Commission.

The Executive Director of the Commission reports that the luncheon was arranged as a time saving measure to enable the members, all of whom are busy men and women, to remain together in the meeting room for the expeditious transaction of Commission business in the shortest possible time and without having to disperse for luncheon and reassemble thereafter and that since the purpose of the luncheon was directly to facilitate the transaction of Commission business they consider its cost a proper charge aginst Commission funds.

The Civil War Centennial Commission was created by Public Law 15-305 approved September 7, 1957, 71 Stat. 626. The functions of the Commission are to commemorate the one hundredth anniversary of the Civil War. It is composed of the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, who are ex officio members; four members of the House of Representatives to be appointed by the Speaker of the House of Representatives; twelve members to be appointed by the President of the United States, two of whom shall be from the Department of Defense; one member from the Department of the Interior who shall be the Director of the National Mark Service or his representative; and one member from the Library of Congress who shall be the Librarian or his representative. The members receive no salaries for their services on the Commission.

Section 2 and section 5(b) of the act, respectively, provide in ortinent part as follows:

"Sec. 2. It shall be the duty of the Commission to prepare an overall program to include specific plans for commemorating the one hundredth anniversary of the Civil War * * *.

* * * * * *

"Sec. 5(b) The Commission, to such extent as it finds to be necessary, may, without regard to the laws and procedures applicable to Federal agencies, procure supplies, services, and property and make contracts, * * * and may exercise those powers that are necessary to enable it to carry out efficiently and in the public interest the purposes of this resolution." (Emphsis added.)

The acts appropriating funds for the Commission have not stated in detail the purposes for which such funds may be expanded. The Second supplemental Appropriation Act, 1958, 72 Stat. 55 appropriated $37,000 "For expenses necessary for the period December 1, 1957 to June 30, 1958, to carry out the provisions of the act of September 2, 1957 (71 Stat. 626), " and the Supplemental Approriation Act, 1959, 72 Stat. 876, appropriated $63,000 "For expenses necessary to carry out the provisions of the act of September 7, 1957 (71 Stat. 626) * * *, together with the unobligated balance remaining from the 1958 appropriation for this purpose."

The furnishing of meals generally has been considered entertainment, and it is a general rule of long standing that funds appropriated for Government departments and agencies may not be used for entertaining individuals except when authorized by statute and authorized or approved by proper administrative officials. See 26 Comp. Gen. 281; 5id. 455. However, the Commission is authorized by section 5(b) of Public Law 85-305 to procure supplies, services, and property applicable to Federal agencies, and it is authorized to exercise those powers that are necessary to enable it to carry out efficiently and in the public interest the purposes of the act. Also, the Commission has approved the furnishing of the luncheons in question at Government expense.

Consequently, on the basis of the special statutory authority granted the Commission and its administrative approval thereof, the expenditure for such meals may be considered a proper charge against Commission appropriations. B-129102, October 2, 1956. However, the invoice in the amount of $46.92 includes $0.92 for District of Columbia sales tax. In this connection, section 2602, Title 47 of the District of Columbia Code, provides for the imposition of a tax on gross receipts for the privilege of selling certain tangible personal property at retail sale and under section 2601 of Title 47, "retail sale" includes "The sale of any meals, food or drink * * * for a consideration." However, section 2605 of Title 47, provides:

"Gross receipts from the following sales shall be exempt from the tax imposed by this chapter:

"(a) Sales to the United States * * *."

In view of the specific exemption from the District of Columbia tax of the procees from sales to the United States payment of the sales tax in the amount of $0.92 is not authorized. 12 Comp. Gen. 277.

The bill which is returned herewith may be paid as presented, minus the amount of the sales tax, if otherwise proper.

Sincerely yours,

Joseph Campbell Comptroller General of the United States

Enclosure