Text as published on gao.gov, https://www.gao.gov/products/B-175434, archived 2020-10-27. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-175434, Apr 12, 1974, 53 Comp Gen 770

Number: B-175434

Date: 1974-04-12

B-175434, APR 12, 1974, 53 COMP GEN 770

APPROPRIATIONS - AVAILABILITY - GIFTS - TO OFFICERS AND EMPLOYEES EXPENDITURE FOR THE DISTRIBUTION OF DECORATIVE ASHTRAYS TO PARTICIPANTS AT SBA-SPONSORED CONFERENCE OF GOVERNMENT PROCUREMENT OFFICIALS WITH INTENT THAT SBA SEAL AND LETTERING ON ASHTRAYS WOULD GENERATE CONVERSATION RELATIVE TO CONFERENCE AND SERVE AS A REMINDER TO THE PARTICIPANTS OF CONFERENCE PURPOSES, AND THEREBY FURTHER SBA OBJECTIVES, IS UNAUTHORIZED IN THAT SUCH ITEMS ARE IN THE NATURE OF PERSONAL GIFTS AND THUS EXPENDITURES THEREFOR DO NOT CONSTITUTE NECESSARY AND PROPER USE OF APPROPRIATED FUNDS.

IN THE MATTER OF EXPENDITURES FOR FEDERAL OFFICIALS PARTICIPATING IN INTERAGENCY CONFERENCE, APRIL 12, 1974:

A CERTIFYING OFFICER OF THE SMALL BUSINESS ADMINISTRATION (SBA) HAS REQUESTED OUR OPINION AS THE PROPRIETY OF CERTIFYING FOR PAYMENT A VOUCHER IN FAVOR OF GENERAL DISPLAYS, IN THE SUM OF $412.30, COVERING THE COST OF 70 ASHTRAYS DISTRIBUTED TO PROCUREMENT OFFICIALS FROM VARIOUS FEDERAL AGENCIES ATTENDING AN SBA-SPONSORED INTERAGENCY MEETING.

THE SMALL BUSINESS ACT CHARGES SBA WITH THE RESPONSIBILITY OF ASSISTING SMALL BUSINESS INTERESTS AND INSURING THAT A FAIR PROPORTION OF THE TOTAL PURCHASES, CONTRACTS, AND SALES OF THE GOVERNMENT ARE AWARDED TO SMALL- BUSINESS CONCERNS. 15 U.S.C. 631. TO FURTHER SUCH PURPOSES SBA IS AUTHORIZED BY SEVERAL SECTIONS OF THE SMALL BUSINESS ACT, AS AMENDED, TO CONSULT AND COOPERATE WITH THE DEPARTMENTS AND AGENCIES OF THE FEDERAL GOVERNMENT TO EFFECTUATE THE PURPOSES OF THE ACT. SEE, FOR EXAMPLE, 15 U.S.C. 637(B)(4); 637(B)(12); 638(C); AND 639(F). PURSUANT TO THAT AUTHORITY WE ARE TOLD THAT SBA ANNUALLY HAS HELD AN INTERAGENCY CONFERENCE AND HAS INVITED THE ATTENDANCE OF OFFICIALS AT THE POLICYMAKING LEVEL FROM VARIOUS GOVERNMENT DEPARTMENTS AND AGENCIES. AT THE LATEST SUCH CONFERENCE SBA PROVIDED EACH SUCH GOVERNMENT OFFICIAL WITH AN ASHTRAY BEARING THE SBA SEAL AND THE WORDS "INTERAGENCY 1973 CONFERENCE." IT WAS INTENDED THAT EACH RECIPIENT WOULD PLACE THE ASHTRAY ON HIS DESK IN HIS GOVERNMENT OFFICE AND THAT IT WOULD SERVE AS A CONTINUING REMINDER TO SUCH OFFICIAL OF THE CONFERENCE AND THE RESPONSIBILITIES OF HIS DEPARTMENT OR AGENCY TO COOPERATE WITH SBA IN PURSUANCE OF SMALL BUSINESS PROGRAMS AUTHORIZED BY THE SMALL BUSINESS ACT, AND THEREBY FURTHER THE ACCOMPLISHMENT OF SUCH PROGRAMS.

IT IS URGED THAT THE USE OF THESE ASHTRAYS FOR SUCH PURPOSES IS ANALOGOUS TO THE USE OF PHOTOGRAPHS IN CONNECTION WITH A NATIONAL SCORE CONFERENCE HELD PURSUANT TO SECTION 8(B)(1A) AND (1B) OF THE SMALL BUSINESS ACT, AS AMENDED, 15 U.S.C. 637(B)(1A) AND (1B), WHICH WAS THE SUBJECT OF OUR DECISION OF APRIL 11, 1972, B-175434.

IN THAT CASE, THE PHOTOGRAPHS IN QUESTION, TOGETHER WITH APPROPRIATE NEWS RELEASES, WERE DISTRIBUTED TO NEWSPAPERS NATIONALLY FOR PUBLICATION AS A NEWS ITEM. IN THAT THE PHOTOGRAPHS DID NOT CONSTITUTE PERSONAL ITEMS OR GIFTS AND WERE NOT USED TO PUBLICIZE THE FUTURE APPEARANCE OF ANY INDIVIDUAL OR GROUP OF INDIVIDUALS, PAYMENT THEREFOR WAS AUTHORIZED ON THE BASIS THAT THE PHOTOGRAPHS CONSTITUTED A PROPER MEANS OF EFFECTING AGENCY FUNCTIONS. CF. B-62501, JANUARY 7, 1947, AND 47 COMP. GEN. 321 (1967).

WE BELIEVE THE SITUATION CONSIDERED IN B-175434 IS ENTIRELY DIFFERENT FROM THAT CONSIDERED HEREIN IN THAT THE ASHTRAYS THAT WERE GIVEN TO THE FEDERAL OFFICIALS ARE IN THE NATURE OF PERSONAL GIFTS. FURTHERMORE, WHILE SBA IS CHARGED BY LAW TO COOPERATE WITH OTHER GOVERNMENT AGENCIES IN CARRYING OUT ITS FUNCTION, THE OFFICIALS OF THOSE OTHER GOVERNMENT AGENCIES ARE LIKEWISE REQUIRED BY LAW TO COOPERATE WITH SBA WHEN REQUESTED TO DO SO BY THE ADMINISTRATOR. CONSEQUENTLY, WE SEE NO BASIS ON WHICH PAYMENT FOR ITEMS IN THE NATURE OF PERSONAL GIFTS MAY BE AUTHORIZED IN ORDER TO SECURE THE COOPERATION OF SUCH OTHER AGENCY OFFICIALS. SIMILARLY, WE HAVE HELD THAT APPROPRIATED FUNDS MAY NOT BE USED TO PURCHASE AND DISTRIBUTE CUFF LINKS AND BRACELETS AS PROMOTIONAL ITEMS UNDER THE INTERNATIONAL TRAVEL ACT OF 1961, 22 U.S.C. 2121, SINCE SUCH ITEMS WERE MORE PROPERLY IN THE CATEGORY OF PERSONAL GIFTS RATHER THAN PROMOTIONAL MATERIAL AND, HENCE, DID NOT CONSTITUTE A NECESSARY AND PROPER USE OF FUNDS APPROPRIATED TO CARRY OUT SUCH ACT. SEE B 151668, DECEMBER 5, 1963.

ACCORDINGLY, THE VOUCHER MAY NOT BE CERTIFIED FOR PAYMENT AND WILL BE RETAINED HERE.