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CLOTHING AND PERSONAL FURNISHING - SPECIAL CLOTHING EQUIPMENT - GOVERNMENT PROPERTY REQUIREMENT DIGEST: AN AGENCY REQUESTS PERMISSION TO PURCHASE A HEAVY-DUTY OFFICE CHAIR (NORMALLY USED ONLY BY AIR TRAFFIC CONTROLLERS) FOR AN EMPLOYEE WHO NEEDS EXTRA PHYSICAL SUPPORT DUE TO HIS HEIGHT AND WEIGHT. IN DENYING THE AGENCY'S REQUEST, THE GENERAL SERVICES ADMINISTRATION CITED A GAO DECISION PROHIBITING THE PURCHASE OF SPECIAL EQUIPMENT FOR EMPLOYEES. THAT DECISION IS NOT CONTROLLING WHERE AN AGENCY, WITH REASONABLE JUSTIFICATION, CHOOSES TO PURCHASE AN ITEM OF OFFICE FURNITURE FROM THE FEDERAL SUPPLY SCHEDULE THAT IS NORMALLY PROVIDED FOR ITS EMPLOYEES. ACCORDINGLY, THE CHAIR MAY BE PURCHASED FROM APPROPRIATED FUNDS.

PURCHASE OF HEAVY-DUTY OFFICE CHAIR:

THIS DECISION IS IN RESPONSE TO A REQUEST FROM THE DEPARTMENT OF THE NAVY FOR A DECISION AS TO WHETHER THE AGENCY IS AUTHORIZED TO PURCHASE A HEAVY- DUTY CHAIR FOR AN EMPLOYEE FOR HIS USE IN PERFORMING OFFICIAL DUTIES. FOR THE REASONS HEREAFTER STATED, THE PURCHASE OF THE CHAIR FOR THE EMPLOYEE'S USE IN PERFORMING HIS OFFICIAL DUTIES IS AUTHORIZED FROM APPROPRIATED FUNDS.

THE FACTS, BRIEFLY STATED, ARE AS FOLLOWS. THE EMPLOYEE HAS WORKED FOR THE DEPARTMENT OF THE NAVY SINCE 1966. HE IS 6'6" IN HEIGHT AND WEIGHS ABOUT 330 POUNDS. SINCE THE INCEPTION OF HIS EMPLOYMENT WITH THE NAVY, DUE TO HIS HEIGHT AND WEIGHT, HE HAS BROKEN APPROXIMATELY 15 NORMAL OFFICE CHAIRS. THE CHAIRS USUALLY BEND OR BREAK AND HAVE TO BE DISCARDED. THE COST OF EACH CHAIR IS ABOUT $200. IN ADDITION, THE EMPLOYEE HAS A MEDICAL CONDITION THAT IS AGGRAVATED BY THE NARROWNESS AND SHALLOWNESS OF THE SEAT OF THE NORMAL OFFICE CHAIR WHICH DOES NOT PROVIDE ADEQUATE SUPPORT FOR HIS THIGHS AND CUTS OFF THE CIRCULATION OF BLOOD IN HIS LEGS.

THE DEPARTMENT OF THE NAVY HAS NOT BEEN ABLE TO PROVIDE ADEQUATE PHYSICAL SUPPORT FOR THE EMPLOYEE DUE TO HIS HEIGHT AND WEIGHT BY USING "STANDARD," "HEAVY-DUTY," OR "EXECUTIVE" CHAIRS AVAILABLE FROM CATALOGS ISSUED BY THE UNITED STATES GENERAL SERVICES ADMINISTRATION (GSA). THE AVERAGE LIFE SPAN FOR A CHAIR FOR THE EMPLOYEE HAS BEEN LESS THAN 1 YEAR. WE HAVE ALSO BEEN INFORMALLY ADVISED THAT THE AGENCY HAS HAD ITS MACHINE SHOP ATTACH METAL BRACES TO THE LEGS OF STANDARD CHAIRS USED BY THE EMPLOYEE BUT THEY, TOO, BEND AND BREAK.

THE AGENCY REQUESTED A WAIVER TO PURCHASE ONE CONTROL TOWER CHAIR, /1/ SPECIAL ITEM NUMBER 6524-498-1 FROM THE FEDERAL SUPPLY SCHEDULE FSC 71, PART III, SECTION K, FOR NON-CONTROL TOWER USE BY AN EMPLOYEE OF LARGER THAN AVERAGE HEIGHT AND BUILD. THIS REQUEST WAS MADE TO THE DIRECTOR OF THE FURNITURE

COMMODITY CENTER, GSA, WHO DENIED THE REQUEST BASED UPON OUR DETERMINATION IN ROY C. BROOKS, B-187246, JUNE 15, 1977. THE REQUEST FOR WAIVER WAS CONSIDERED BY THE DIRECTOR TO FALL WITHIN THE AREA OF "PERSONAL FURNISHINGS OR SPECIAL EQUIPMENT" AND, THEREFORE, WAIVER COULD NOT BE GRANTED WITHOUT CLEARANCE FROM THE GENERAL ACCOUNTING OFFICE.

THE ESTABLISHED RULE AS STATED IN ROY C. BROOKS, CITED ABOVE, IS THAT THE COST OF SPECIAL EQUIPMENT TO ENABLE AN EMPLOYEE TO QUALIFY HIMSELF TO PERFORM HIS OFFICIAL DUTIES CONSTITUTES A PERSONAL EXPENSE OF THE EMPLOYEE AND, AS SUCH, IS NOT PAYABLE FROM APPROPRIATED FUNDS. WE HAVE STATED THAT THE TEST TO BE APPLIED WITH REFERENCE TO SUCH EXPENSES, IN THE ABSENCE OF SPECIFIC STATUTORY AUTHORITY THEREFOR, IS WHETHER THE EXPENDITURE IS NECESSARY TO CARRY OUT THE PURPOSE OF THE APPROPRIATION INVOLVED AND WHETHER THE EQUIPMENT IS SOMETHING THAT THE EMPLOYEE MIGHT REASONABLY BE EXPECTED TO FURNISH AS PERSONAL EQUIPMENT NECESSARY TO PERFORM THE REGULAR DUTIES OF THE POSITION. 45 COMP.GEN. 215 (1965); 3 COMP.GEN. 433 (1924); BLAINE L. BOWEN, B-166411, SEPTEMBER 3, 1975. PRECLUDES PURCHASE OF THE CHAIR IN THIS CASE. THE ISSUE PRESENTED IS WHETHER AN AGENCY CAN PURCHASE A DIFFERENT TYPE OF OFFICE CHAIR FOR AN EMPLOYEE'S USE FROM THE FEDERAL SUPPLY SCHEDULE. THE EMPLOYEE CLEARLY MUST HAVE A CHAIR, AND THIS IS AN ITEM THE GOVERNMENT IS NORMALLY EXPECTED TO PROVIDE. THIS IS NOT THE TYPE OF "PERSONAL EQUIPMENT" IT IS REASONABLE TO EXPECT THE EMPLOYEE TO FURNISH.

HERE, THE AGENCY, IN ITS DISCRETION AND WITH REASONABLE JUSTIFICATION, WANTS TO SUPPLY AN EMPLOYEE WITH AN ITEM OF OFFICE EQUIPMENT THAT AN EMPLOYER NORMALLY WOULD BE EXPECTED TO SUPPLY FOR ITS EMPLOYEES, AND THAT PURCHASE IS TO BE MADE FROM THE FEDERAL SUPPLY SCHEDULE. THUS, EVEN THOUGH IT IS A DIFFERENT TYPE OF OFFICE CHAIR FROM THAT NORMALLY USED, THE PROPOSED PURCHASE MEETS THE TEST STATED ABOVE. WE BELIEVE THAT THESE CIRCUMSTANCES ARE SUFFICIENT TO DISTINGUISH THIS PURCHASE FROM THE DISALLOWED EXPENDITURES FOR PERSONAL ITEMS IN ROY C. BROOKS, CITED ABOVE.

WE EMPHASIZE THAT WE ARE DEALING HERE ONLY WITH CHAIRS, DESKS AND SIMILAR NORMAL OFFICE EQUIPMENT AVAILABLE FROM THE FEDERAL SUPPLY SCHEDULE. WHERE AN AGENCY IS ATTEMPTING TO FOLLOW WHAT APPEARS TO BE THE MOST COST EFFECTIVE WAY TO SOLVE A PROBLEM WITH READILY AVAILABLE EQUIPMENT, THE AGENCY SHOULD BE ABLE TO FOLLOW THAT COURSE OF ACTION.

ACCORDINGLY, THE DEPARTMENT OF THE NAVY IS AUTHORIZED TO PURCHASE THE CONTROL TOWER CHAIR FOR THE EMPLOYEE'S USE FROM APPROPRIATED FUNDS.

/1/ THE CONTROL TOWER CHAIR IS DESIGNED FOR USE BY AIR TRAFFIC CONTROLLERS ONLY. IT IS OVERSIZED, HAS A LONGER AND WIDER SEAT AREA, HAS 5 SUPPORT LEGS, 5 WHEELS, AND THE BASE IS MADE OF HEAVY DUTY CAST ALUMINUM. ITS APPROXIMATE COST IS $700. A WAIVER IS REQUIRED FOR USE BY OTHER EMPLOYEES.