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Coast Guard -Coffee Break Refreshments at Training Exercise - Non-Federal Personnel

Number: B-247966

Date: 1993-06-16

Matter of: Coast Guard -Coffee Break Refreshments at Training Exercise - Non-Federal Personnel File: B-247966 Date: June 16, 1993

APPROPRIATIONS/FINANCIAL MANAGEMENT Appropriation Availability Purpose availability Specific purpose restrictions Meals Both federal and non-federal personnel attending an On Scene Coordinator/Regional Response Team training exercise sponsored by the Coast Guard consumed coffee break refreshments contracted for by the Coast Guard. Where the coffee breaks are an integral part of the training, the expense for federal personnel is considered a necessary expense payable under the Training Act, 5 U.S.C. Sec. 4109, and 14 U.S.C. Sec. 469. While the training for the non-federal personnel is authorized under another statute, such authority is not sufficient to incur refreshment expenses for them.

DECISION The Coast Guard has requested a decision concerning whether it may pay a contractor from appropriated funds for coffee break refreshments for non-federal personnel attending a training exercise sponsored by the Coast Guard.[1] For the reasons that follow, without additional statutory authority, refreshments should not be provided non-federal personnel without charge. However, in the circumstances of this case, payment may be made.

BACKGROUND

The Seventh Coast Guard District conducted an On Scene Coordinator/Regional Response Team exercise, attended by both federal and non-federal personnel, from June 20 to 21, 1990, pursuant to 42 U.S.C. Sec. 11005 (1988) . Facilities for the exercise were obtained by contract with the Omni International Hotel, Miami, Florida, for appropriate conference rooms and for providing coffee and danish refreshments several times during the training exercise.

The Commander, Seventh Coast Guard District advises in a memorandum dated January 4, 1991, that the refreshments in question were specifically provided as an "integral requirement to ensure full participation in the training and attendees were not free to take their refreshments elsewhere . . . . The simulation was such that if individuals left the immediate area, they would miss the unfolding events of the simulation." The Commander noted that the training was a simulated emergency exercise where the federal and non-federal personnel worked as a group, and no breaks were allowed except for a one-hour lunch period. He indicates that it would not have been conducive to a cooperative atmosphere to distinguish between federal and non-federal personnel in serving refreshments during the exercise.

Based upon the Commander's finding in his memorandum referred to above and our decision in Coast Guard, B-244473, Jan. 13, 1992, the certifying officer does not question paying the expenses of refreshments for the federal government employees in attendance. However, the certifying officer does question the existence of authority to pay the refreshment expenses of the non-federal employees in attendance. In this regard he asks:

"(a) Can expenses for non-government employees come under the Government Employee Training Act or 14 USC 469?

"(b) Is there any other statutory authority that would authorize food purchases for non-government employees attending government sponsored exercise?

"(c) If the answer to the above questions is no, can enclosure (1) [the invoice for the refreshments] be legal for payment since a certain percentage of the attendees were government employees?

"(d) If the answer to (c) above is no, since the invoice is for all attendees can the percentage of enclosure (1) pertaining to government employees be legal for payment?"

ANALYSIS

As a general rule, we have held that appropriated funds cannot be used to pay for personal expenses such as meals, refreshments and coffee, unless specifically authorized by statute. See Department of the Army--Claim of the Hyatt Regency Hotel, B-230382, Dec. 22, 1989, and cases cited therein; 57 Comp.Gen. 806 (1978); and 47 Comp.Gen. 657 (1968)

We have recognized, however, that refreshments may be provided for federal employees as a necessary expense under the Government Employees Training Act, 5 U.S.C. Sec. 4109(a)(2) (f) (1988) which provides that the head of an agency may pay the necessary expenses of training including the necessary cost of "other services or facilities directly related to the training of the employee." Uniformed members of the Coast Guard are similarly covered under 14 U.S.C. Sec. 469 (1988), where the Coast Guard determines that this is necessary to achieve the objectives of the training program. Generally, this requires a determination that attendance at the refreshment periods is necessary in order for the employees and service members to obtain the full benefit of the training. See Coast Guard, B-244473, supra; 50 Comp.Gen. 610 (1971); and 39 Comp.Gen. 119 (1959)

The Commander's memorandum referred to above constitutes the necessary administrative finding in this case and provides a basis for concluding that the expense of the refreshments was a necessary training expense with regard to the federal personnel. However, neither 5 U.S.C. Sec. 4109 nor 14 U.S.C. Sec. 469 applies to the non-federal personnel. Accordingly, question (a) is answered in the negative.

As to question (b), the only other statutory authority we are aware of that is applicable in this case is the statute which provides the authority to hold the training exercise. This statute, 42 U.S.C. Sec. 11005(a)(1), provides in pertinent part:

"Officials of the United States Government carrying out existing Federal

programs for emergency training are authorized to specifically provide training and education programs for Federal, State, and local personnel in hazard mitigation, emergency preparedness, fire prevention and control, disaster response, long-term disaster recovery, national security, technological and natural hazards, and emergency processes.

This statute authorizes the training provided the non-federal personnel in this case, but it does not include authority similar to that found in the Training Act to provide "other services or facilities" incident to the training which can be construed to include providing refreshments for the non-federal participants, nor have we found any expression in its legislative history of an intent that it include such authorization. Also, in several cases where agencies had authority similar to 42 U.S.C. Sec. 11005(a) (1), under which they conducted educational seminars or conferences for non-federal personnel, we held that such general authority is not sufficient to authorize payment from appropriated funds of the attendees' subsistence expenses. See B-166506, July 15, 1975, affirmed 55 Comp.Gen. 750 (1976); B-193644, July 2, 1979; and cases cited therein.

Nevertheless, we recognize that the Coast Guard had cogent reasons for providing the refreshments to all attendees on the same basis, and might reasonably have assumed that it was authorized to do so. Although, as stated above, we have held that an agency may provide refreshments only when expressly authorized by statute, we will not object to payment of the contractor's voucher in this case.

However, without additional statutory authority, future conferences should not include providing refreshments at government expense to non- federal personnel.

1. This decision was requested by J.R. Doplet, Authorized Certifying Officer, United States Coast Guard.