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B-249249, December 17, 1992

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availability Specific purpose restrictions Meals CIVILIAN PERSONNEL Travel Permanent duty stations Actual subsistence expenses Prohibition A Special Agent in Charge represented the Federal Bureau of Investigation (FBI) at a retirement banquet honoring a local police chief and presented him with a plaque and commendation letter from the FBI Director. The cost of the banquet may be reimbursed since the agent's attendance at the function was in furtherance of the agency's functions or activities for which its appropriations are made and the meal was incidental to the retirement ceremony.

DECISION The Federal Bureau of Investigation (FBI) asks whether Mr. Richard W. Held, Special Agent in Charge, San Francisco, California, may be reimbursed $35 for the cost of attending a retirement banquet for the Police Chief of Fremont, California, at which Mr. Held presented a plaque and a letter to the Police Chief from the Director, FBI. We conclude that Mr. Held may be reimbursed.

In his capacity as head of the FBI's San Francisco office, Mr. Held was invited to attend a retirement banquet for the Police Chief of Fremont, California. At Mr. Held's request, FBI headquarters furnished an engraved plaque and a personal letter of congratulations from the FBI Director to the Police Chief for presentation by Mr. Held at the banquet. This event took place on January 10, 1992. Mr. Held incurred an expense of $35 for the cost of attending this function and now seeks reimbursement.

Mr. Held was advised that the FBI had no authority to reimburse him for a meal expense at his official duty station. At his request, the FBI asks us whether such reimbursement may be made in view of the Federal Travel Regulation's (FTR) long-standing prohibition on paying an employee's expenses for meals or lodging number of miles of the employee's official duty station.

The FBI reports that, although there is no express statutory authority for attendance at such ceremonies, it has a long-standing tradition to recognize state and local police officials' contributions to the FBI's public service mission. As the top field executive in San Francisco, Mr. Held would be expected to participate in such ceremonies as the FBI's representative.

As a rule, employees may not be paid subsistence expenses for meals or lodging at or within a radius of a certain number of miles of their permanent duty station. 41 C.F.R. Sec. 301-7.5(a). See William Perkette, B-247907, Aug. 20, 1992, 71 Comp.Gen. ___; Career Service Awards Program, 70 Comp.Gen. 16 (1990); J.D. MacWilliams, 65 Comp.Gen. 508 (1986).

We have, however, recognized an exception to the prohibition against reimbursement of meals at or near headquarters. In 38 Comp.Gen. 134 (1958), the agency head authorized the employee's attendance at an annual meeting of an association and determined that the conference was concerned with the function or activity for which the agency's appropriation was made. We allowed the employee's meal cost since it was required in order to attend the annual meeting, citing a prior statute, now codified at 5 U.S.C. Sec. 4110 (1988). Presently, section 4110 provides that an agency's appropriations for travel expenses are available for expenses of attendance at meetings concerning functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

We further refined that exemption in Gerald Goldberg, B-198471, May 1, 1980. Three employees of the General Accounting Office sought payment for a luncheon and two banquets incident to authorized attendance at an annual meeting of a presidential committee held at their headquarters. There was no charge for the meeting itself, but there were charges for the three meals. We held that the meal expenses could be paid, provided the agency determined that the meals were incidental to the meeting; that the employee's attendance at the meals was necessary for full participation; and that they were not free to take meals elsewhere without missing essential discussions concerning the purpose of the meeting.

On the other hand, employees who attended a luncheon meeting organized by representatives of various government agencies to discuss issue of common concern were not entitled to be reimbursed for the cost of their meals. Randall R. Pope and James L. Ryan, 64 Comp.Gen. 406 (1985). We concluded that the meeting was incidental to the luncheon, since no substantial functions took place separate from the meal. Id. at 408.

Thus, whether an employee may be reimbursed for the cost of a meal provided at an event that he attends for his agency at or near his duty station depends on whether the meal was an incidental part of the event or the event was incidental to the meal. Internal Revenue Service - Meal Costs, 68 Comp.Gen. 348 (1989). Where, for example, a meal is used as a convenient occasion to conduct business that could readily be conducted without food being served, the business is merely incidental to the meal, and the cost of the meal must be regarded as a personal expense. See J.D. MacWilliams, supra.

Another illustration of a business meeting that is merely incidental to a meal is that described by the FBI in its submission. According to the FBI, its officials often meet with counterparts from other law enforcement agencies over a working meal to discuss issues of mutual concern. The working meal is clearly being used by these law enforcement officials as a mutually convenient occasion to conduct business, and the expenses of the meal may not be reimbursed. 64 Comp.Gen. 406, supra.

However, the retirement banquet attended by Mr. Held is an example of a situation where the meal is clearly incidental to the event. Unquestionably, the principal purpose of the banquet was the retirement ceremony for the police chief, and the purpose of Mr. Held's attendance at the function was to represent the FBI Director in honoring the local police chief. 68 Comp.Gen. 348, supra.

In view of the FBI's long-standing tradition of recognizing the contributions of

local police officials to the FBI's mission and the approval of Mr. Held's attendance at the retirement banquet to represent the agency and present the plaque and letter, it is clear that his attendance was in furtherance of the functions or activities for which the agency's appropriations are made, and we have no objection to reimbursing Mr. Held the $35 cost of the banquet.