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Corps of Engineers-- Use of Appropriated Funds to Pay for Meals

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APPROPRIATIONS/FINANCIAL MANAGEMENT Appropriation Availability Purpose availability Specific purpose restrictions Meals Appropriated funds are not available to pay the cost of meals at quarterly managers meetings of the U.S. Army Corps of Engineers. These expenses do not fall under the training exception of 31 U.S.C. Sec. 4109 merely because of the presence of speakers. The sessions also do not fall under the meetings exception of 31 U.S.C. Sec. 4110 since this provision has little or no bearing on purely internal business meetings or conferences sponsored by government agencies.

DECISION This decision responds to a request from the Finance and Accounting Office of the Pacific Ocean Division, U.S. Army Corps of Engineers (Pacific Division), regarding the propriety of payment for meals served at certain management meetings. As explained in further detail below, we conclude that appropriated funds are not available to pay for meals at the meetings described by the Pacific Division.

BACKGROUND

According to the Pacific Division, it sponsors quarterly meetings of its Mid Managers Council (MMC). The MMC consists of approximately 60 managers who are all permanent duty station staff. The meetings are typically one day in length and are held in the officer's club at the attendees' permanent duty station. The programs start with morning working sessions structured as "open forums", during which topics, issues, and suggestions regarding the Corps of Engineer's business and management are discussed. During lunch, a guest speaker gives a presentation, which the Pacific Division describes as "training". In the afternoon, a speaker makes a presentation on subjects similar to the luncheon topic which the Pacific Division also considers "training". According to the Pacific Division, the first quarterly meeting featured an external consultant who was a motivational speaker. The speakers at subsequent quarterly meetings were either the Commander or the Chief of Staff. The Commander of the Pacific Division determines the subject matter of the planned "training" programs. The luncheon is considered mandatory for all members of the Council in order to achieve the objectives of a training program. (We have been informally advised, however, that only 30 to 40 managers typically attend the luncheon.)

The Pacific Division also asks a series of hypothetical questions aimed at identifying circumstances under which the cost of meals at MMC meetings would be allowable. Our discussion of the facts presented adequately responds to the hypothetical questions.

ANALYSIS

We have consistently held that in the absence of statutory authority, the government may not furnish meals or refreshments to employees within their official duty stations. 65 Comp.Gen. 508, 509 (1986). Thus, we have held that free food and refreshments normally cannot be justified as a "necessary expense" under an appropriation since such expenses are considered personal expenses that government employees are expected to bear from their own salaries. Id. We have recognized, however, limited exceptions to this general prohibition.

The Government Employees Training Act (the Act), 5 U.S.C. Sec. 4109, authorizes agencies to reimburse necessary subsistence expenses incurred by those who attend training programs at their duty stations. 50 Comp. Gen. 610 (1971). We have stated in the past that merely referring to a meeting or event as training is insufficient to invoke the training exception. B-168774, Sept. 2, 1970. The event must comply with the Act's definition of "training", 5 U.S.C. Sec. 4101 (4), and we will look behind an agency characterization of an event as training to determine whether such an event qualifies. Id.

The Act also provides the basis for an exception that is not strictly limited to training situations. Under 5 U.S.C. Sec. 4110, we have permitted payment for meals when a determination is made that the meal is (1) incidental to the conference or meeting, (2) that attendance at the meal is necessary to full participation, (3) that the employees are not free to take meals elsewhere without missing essential formal discussions, lectures or speeches concerning the purpose of the meeting, and (4) that the meal is part of a formal conference or meeting that includes not only functions such as speeches or business carried on during a seating at a meal, but also includes substantial functions taking place separate from the meal. B-233807, Aug. 27, 1990.

We have held, however, that this exception does not authorize the payment of meal expenses in connection with internal business meetings or conferences sponsored by government agencies. For example, in 68 Comp. Gen. 606 (1989), the U.S. Army used some of the same arguments made by the Pacific Division to support its use of appropriated funds for meals in connection with day long quarterly supervisors meetings. In denying payment, we noted that there is a clear distinction between the payment of meals incidental to formal conferences or meetings, typically externally organized or sponsored, involving topical matters of general interest to governmental and nongovernmental participants, and internal business or information meetings primarily involving the day-to-day operations of government. Id.

Accordingly, we will continue to scrutinize closely situations that reflect an attempt to manipulate the content of meetings to fit one of our established exceptions rather than furthering a legitimate training function. We note that the purpose of our exceptions to the general rule prohibiting the use of appropriated funds for meals is to allow for better and more efficiently trained and informed government employees by covering the cost of meals received as an incident to training sessions or to conferences or meetings. The purpose of our exceptions is not to feed government employees by using a "training" or "meeting" rubric as a convenient vehicle to achieve that result.

Although the Pacific Division refers to these quarterly meetings as "training", based on the record before us, we are not persuaded that the quarterly meetings qualify as training. Merely providing an open forum to discuss "topics,

suggestions, issues, problems . . . relative to the business/management" of the Corps of Engineers in a scheduled and structured atmosphere does not, in our opinion, qualify the meeting "as a program of instruction or training" as used in the Act's definition of training. See 68 Comp.Gen. 606 (1989) (denying payment of meal voucher for quarterly Army supervisor meetings). This is particularly true when the afternoon speakers have, invariably, been the Commander or his Chief of Staff and the topics discussed relate to general business/management "topics, suggestions, issues, problems" of the organization. If such a meeting were to qualify under the exceptions outlined above, then every staff briefing or meeting on any matter regarding the business/management of the Corps would qualify as training. Again, the Act is intended to allow the use of appropriations to pay for the training or provide for meals that are incidental to training, not to provide food for government employees at general meetings.

With respect to the Pacific Division's meetings, we think they resemble the Army's quarterly meetings at issue in 68 Comp Gen. 606. We opined in that decision that the training act has little bearing. Accordingly, we conclude that the Pacific Division's meetings fall within the same standards discussed in 68 Comp.Gen. 606.