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National Security Agency - Request for Advance Decision

Number: B-257895

Date: 1994-10-28

Matter of: National Security Agency - Request for Advance Decision File: B-257895 Date: October 28, 1994

The National Security Agency may use appropriated funds to obtain commercial drivers' licenses for communication team members if NSA administratively determines that it would be advantageous to the government to do so and the licenses are not for the purpose of qualifying for the employees' position.

DECISION

The Comptroller of the National Security Agency (NSA), Fort Meade, Maryland, has requested an advance decision concerning the use of appropriated funds for the payment of commercial drivers' licenses for certain employees. As explained in further detail below, NSA may use appropriated funds for the procurement of commercial drivers' licenses.

BACKGROUND

According to the Comptroller, a special team of NSA employees performs communications security testing using state-of-the-art communications equipment. The team consists of employees highly trained in engineering, computer sciences, physics and other technical areas. To discharge their functions, the team plans to perform security testing at various remote sites. Thus, the team's equipment must be transported by a commercial-class government-owned vehicle.

NSA considered hiring a contractor to drive the vehicle. The contractor would be required to stay with the team days or even weeks at the remote site to move the vehicle during the testing. Other than operating the vehicle, the driver would be without any other duties and the cost for this service would be considerable. As an alternative, NSA considered using a government driver from the NSA motorpool. However, just as with a contractor, other than operating the vehicle, the driver would be without any other duties for the entire testing period. The NSA motorpool believes that it is not administratively feasible to dedicate drivers for such extended periods of time.

The most efficient alternative NSA has identified involves the use of a few team members who have volunteered to drive the vehicle. However, before they can drive the vehicle, the NSA employees must be trained and licensed to drive a commercial vehicle. See 49 U.S.C. App. Sec. 2704(b).

According to NSA, the expense of licensing team members will be more costand manpower-efficient than hiring a contractor or using motorpool drivers.[1] Thus, NSA would like to use appropriated funds to pay for training and licensing team

volunteers to drive a commercial vehicle. NSA acknowledges our past rulings treating acquisition of drivers' licenses as a personal expense. However, the agency argues that it would be unfair for team volunteers to bear the training and licensing expenses since their duties as scientists do not include, and will not be changed to include, driving commercial vehicles. NSA concludes that payment for training and licensing should be authorized when and if it determines it to be in the government's best interest provided the driving duties are incidental to normal duties.

ANALYSIS

As a general rule, expenses necessary to qualify a government employee to do his or her job are personal expenses and not chargeable to appropriated funds. B--249061, May 17, 1993; B-235727, Feb. 28, 1990. For this reason, drivers' permits are considered personal expenses incident to qualifying for the position for which employed, B-252467, June 3, 1994; 21 Comp.Gen. 769, 772 (1942), even when a license is mandated by federal law, namely, the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App. Secs. 2701-2718, cited by the NSA Comptroller. B-250038, Sept. 23, 1992.

There are a number of recognized exceptions to the general rule, including when an agency reasonably determines that a license is not required to qualify for the employee's position and the expenditure is primarily for the benefit of the government. B-115463, Sept. 18, 1953. In this case, NSA has determined, for the reasons stated above, that the most cost- and manpower-efficient option is to authorize a few team members to drive a commercial vehicle to transport the communication equipment. We agree with NSA Comptroller's conclusion that under the circumstances present here, the benefit accrues to the government, and only marginally, at best, to the employees. The licenses are not for the purpose of qualifying the employees for their position but are incidental to the performance of their official duties. Under these circumstances, we have no objection to NSA's use of its appropriations to cover the expenses of the team volunteers' to obtain commercial licenses.

1. NSA estimates reflect that total training and licensing costs per volunteer are $390 as opposed to contractor price quotes ranging from $3,500 to $10,000 per week.