G A O
Accountability * Integrity * Reliability

Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Fish & Wildlife Service -- Reimbursement for Individual Financial Planning for Retirement

File: B-301721

Date: January 16, 2004

DIGEST

We have no objection to the U.S. Fish and Wildlife Service's (Service) proposal to use appropriated funds to reimburse its employees for the costs of individual financial planning as part of the agency's retirement education program. Employee retirement education and retirement counseling are legitimate functions of administering an agency's personnel benefits system, and therefore legitimate agency expenses. As the Service implements the proposed program, it should develop internal controls to ensure that the service for which reimbursement is sought meets the agency's definition of "advice and consultation services on investments, retirement issues and benefit programs from a financial planner."

DECISION

The Director of the U.S. Fish and Wildlife Service has requested an advance decision under 31 U.S.C. § 3529 on the propriety of using appropriated funds to reimburse employees for costs associated with individual financial planning for retirement as part of the agency's retirement education program. For the reasons set forth below, we have no objection to the Service's proposal to reimburse its employees for the costs of individual financial planning for retirement as part of its legitimate function of administering its personnel benefits system. Employee retirement education and retirement counseling are legitimate agency expenses. We note that the Service's proposed reimbursement program does not designate acceptable sources of financial planning, and we encourage the Service to develop internal controls to assess each employee request to ensure that the service for which reimbursement is sought meets the agency's definition of "advice and consultation services on investments, retirement issues and benefit programs from a financial planner."

BACKGROUND

The U.S. Fish and Wildlife Service (Service) is considering implementation of a program designed to educate its employees in planning for financial security in retirement and in making the best use of the federal benefit programs available to them. Letter from Marshall P. Jones, Jr., Director, FWS, to David M. Walker, Comptroller General, GAO, Aug. 12, 2003 (Jones letter). The director states that "[w]ith the increasing complexity of the Federal benefits program including long-term care insurance, additional options in the Thrift Savings Plan, and Flexible Spending Accounts, employees have a growing need for financial planning services related to the total compensation package." Id. As explained in a draft of the proposal enclosed with the Jones letter, the Service, instead of providing retirement counseling to employees, would permit employees to choose their own financial planner outside the agency and the Service will not endorse or recommend a financial service provider. Draft Director's Order § 6. The Service would reimburse 50 percent of the cost of permanent employees' financial planning expenses for the previous year, or up to $200, whichever is less. Draft Director's Order §§ 4, 8. Employees could receive the benefit once every 3 years, and within 12 months of retirement or other voluntary separation, regardless of the 3-year limit. Draft Director's Order §§ 4, 11. Financial planning expenses are defined as advice and consultation services on investments, retirement issues, and benefit programs sought by an employee from a financial planner. Draft Director's Order § 5.

The Service does not employ retirement counselors or financial planners and by offering the reimbursement program for financial planning for retirement it would avoid the staff costs of providing such services in-house. 2004 U.S. Fish & Wildlife Service Budget Request, Justification of Proposed Changes to the 2003 Program (enclosed with Jones letter). The proposed program would be funded from annual appropriations for "Resource Management," which currently fund the Service's general operations, including personnel compensation and benefits. See Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7, 117 Stat. 11, 220-221 (2003); see also Budget of the United States Government, Fiscal Year 2004 Appendix at 558 (United States Fish and Wildlife Service, Federal Funds, Resource Management). The Service has included the proposed reimbursement program for retirement financial planning in its fiscal year 2004 budget request as part of its "Responsible Employer Initiative," estimating that the program will cost $200,000 per year to service its 8,000 employees. 2004 U.S. Fish & Wildlife Service Budget Request.

In support of the proposed reimbursement program, the Director cites a GAO Report which surveyed retirement education programs that the Office of Personnel Management (OPM) and selected agencies provide to federal civilian employees covered by the Civil Service Retirement System or the Federal Employees' Retirement System. *Federal Retirement: Key Elements Are Included in Agencies' Education Programs* (GAO/GGD-99-27 March 29, 1999). Our report found, among other things, that agency retirement education programs play an important role in

helping federal employees make well-informed retirement planning decisions; that agencies believed that retirement education is a shared responsibility between agencies and employees; and that though the agencies surveyed generally contracted out for retirement education seminars, they relied on their own staff "benefits officers" to provide one-on-one counseling to employees. GAO/GGD-99-27 at 2-4. OPM and retirement experts also recommended that agencies design and implement their retirement education programs so as to provide employees with information on certain key topics using multiple presentation formats early and throughout their careers.[1] GAO/GGD-99-27 at 4. The Service now seeks to implement these recommendations by establishing a retirement education program that partially reimburses employees for individualized financial planning for retirement from an independent financial planner of their own choosing.

ANALYSIS

An agency may use appropriated funds only for the purposes for which appropriated. 31 U.S.C. § 1301(a). Even if a particular expenditure is not specifically provided for in the appropriation, under the "necessary expense doctrine" the expenditure is permissible if it is reasonably necessary to carry out an authorized function or will contribute materially to the effective accomplishment of the function, and if it is not otherwise prohibited by law. B-286457, Jan. 29, 2001. The necessary expense doctrine does not require that a given expenditure be "necessary" in the strict sense that the expenditure would be the only way to accomplish a given goal, rather that the expenditure will contribute to accomplishing the purposes of the appropriation charged. 50 Comp. Gen. 534 (1971). In this regard an agency should consider the benefit to the agency expected from an expenditure of appropriated funds for a necessary expense. 68 Comp. Gen. 127 (1988). The agency should also evaluate the anticipated benefits in light of the cost to assure itself that the amount expended for the necessary expense is reasonable. Id. We have held that whether or not a particular expense is necessary in fulfilling an authorized purpose is, in the first instance, a matter of agency discretion. B-223608, Dec. 19, 1988.

In a situation analogous to that at issue here, we held that employee outplacement assistance may be viewed as a necessary expense of administering the National Aeronautics and Space Administration's (NASA) personnel system. B-272040, Oct. 29, 1997. So long as NASA determined that the expenditure inured primarily to the agency's benefit and that the cost was reasonable in light of the anticipated benefits, we did not object to the agency's use of appropriations to fund outplacement assistance. In analyzing the anticipated benefits of an outplacement program in relation to its cost, we held that NASA may appropriately consider factors such as the need for and the size of a downsizing, the difficulty of locating other employment in a market where other agencies also are downsizing, and the monetary costs and

[1] GAO itself made no recommendations in the report. GAO/GGD-99-27 at 5.

negative effects on morale of a reduction in force that could be avoided by use of the proposed program. See also 72 Comp. Gen. 229 (1993) (outplacement assistance as necessary expense); see further B-286137 Feb. 21, 2001 (annual eye exams for employees performing tasks requiring visual acuity a necessary expense and authorized under 5 U.S.C. § 7901).

Like the outplacement assistance considered in B-272040, we view the Fish and Wildlife Service's proposed reimbursement program for financial planning for retirement as falling within its legitimate range of discretion to administer its personnel system. The proposal defines financial planning expenses as advice and consultation services on investments, retirement issues, and benefit programs sought by an employee from a financial planner. Employee education of retirement and benefits programs is a legitimate function of administering an agency's personnel benefits system, and therefore a legitimate agency expense.[2] Although the Service's appropriation for resource management does not explicitly provide funds for employee financial planning for retirement, the reimbursement program may be properly regarded as an expense reasonably necessary for administering the Service's personnel benefits system. Further, the expense is necessary in carrying out the legitimate function of administering the agency's retirement program.

The Service's proposed reimbursement program for financial planning for retirement is consistent with the purposes of the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. No. 99-335, 100 Stat. 514 (codified throughout chapters 83 and 84 of title 5 of the U.S. Code) and is not otherwise prohibited by law. FERSA confirms that providing federal employees with retirement counseling is a legitimate agency function.[3] The purposes of FERSA are, inter alia, "to provide options for Federal employees with respect to retirement planning" and "to encourage Federal employees to increase personal savings for retirement." 100 Stat. 514, 516 §§ 100A(4), -(6).[4]

---

[2] The analysis provided here would also be valid in addressing a reimbursement program for more general employee education of federal benefits.

[3] As a legitimate agency function, we need not analyze whether the proposed expenditure is personal or official. See, e.g. B-286137 Feb. 21, 2001 (discussion of personal versus official expenditure).

[4] We note that Section 8350 of Title 5 of the U.S. Code directs the Office of Personnel Management (OPM) to establish a training program for all retirement counselors of the federal government and further directs those retirement counselors to complete the OPM training annually. Section 8350(a) defines "retirement counselor" for the purposes of the OPM training as an "employee of an agency" who furnishes information and counseling services on benefits to other employees of the agency. The statute does not provide that agencies must have employees that provide retirement counseling or that retirement counseling be provided solely within the

(continued...)

As a legitimate agency function, therefore, the form or type of benefit and retirement counseling is not dispositive of whether appropriated funds may be used. See, e.g. B-272040, Oct. 29, 1997. The Service has discretion to determine whether it will provide such counseling in-house through its own staff or through a reimbursement program for outside financial counseling. We note that the Service's proposed reimbursement program does not designate acceptable sources of financial planning, and we encourage the Service to develop internal controls to assess each employee request to ensure that the service for which reimbursement is sought meets the agency's definition of "advice and consultation services on investments, retirement issues and benefit programs from a financial planner."

We express no opinion on the policy merits of reimbursing employees for outside retirement financial planning rather than providing the retirement counseling internally through agency employees. Nor do we judge the sufficiency of financial planning as a sole source of retirement counseling for federal employees considering the purposes FERSA. We address here the narrow legal question of whether appropriated funds are available for the proposed reimbursement program, and we find that they are available for that purpose.

Anthony H. Gamboa
General Counsel

(...continued)
agency to the exclusion of the Service's proposed reimbursement program. Rather, the provision was intended to ensure that agency personnel giving retirement information or advice were aware of annual changes in federal retirement law. See 131 Cong. Rec. 31,083 (1985) (statement of Sen. Trible introducing amendment number 985 to H.R. 2672, enacted as Sec. 205, Pub. L. No. 99-335, 100 Stat. 514, 592-3). See further 131 Cong. Rec. 14,359 (1985) (statement of Sen. Trible). The Service advises that while they do not employ retirement counselors, their human resources specialist does attend the OPM retirement counseling training annually.