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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Chemical Safety and Hazard Investigation Board—Membership Fees

File: B-305095

Date: December 8, 2005

DIGEST

The United States Chemical Safety and Hazard Investigation Board (Board) appropriation is available to pay the membership fee for the Board to become a Corporate Associate member of the Risk Management and Decision Processes Center of the Wharton School, University of Pennsylvania (Center). An agency may use its appropriation to pay fees for an agency's membership in a private association when the membership furthers the purpose of the appropriation. The Board's salaries and expenses appropriation is available for carrying out activities pursuant to section 112(r)(6) of the Clean Air Act. The Board has determined that a corporate membership in the Center will provide the Board access to facilities, experts, and research that will assist the Board in carrying out its section 112(r)(6) responsibilities. Therefore, GAO does not object to the Board using its appropriation to pay the Center's Corporate Associate fee.

DECISION

The United States Chemical Safety and Hazard Investigation Board (Board) has requested our decision on whether it may pay the membership fee required for the Board to become a Corporate Associate of the Risk Management and Decision Processes Center of the Wharton School, University of Pennsylvania (Center). Letter from Christopher W. Warner, General Counsel, U.S. Chemical Safety and Hazard Investigation Board, to Anthony Gamboa, General Counsel, U.S. Government Accountability Office, April 20, 2005 (Warner Letter). The Board believes that membership in the Center could assist it in carrying out its statutory authorities. As explained below, we conclude that the Board's appropriations are available to pay the Center's membership fee.

BACKGROUND

The Board was established as an independent agency by the Clean Air Act Amendments of 1990. Pub. L. No. 101-549, title III, § 301, 104 Stat. 2399, 2565 (Nov. 15, 1990) (amending section 112(r)(6) of the Clean Air Act), *codified at* 42 U.S.C. § 7412(r)(6). Generally, the Board seeks to enhance the health and safety of the public, workers, and the environment by investigating the causes of accidental chemical releases and using these findings to promote preventive actions by the private and public sectors. 42 U.S.C. § 7412(r)(6)(C)(i).

The Center has invited the Board to become a Corporate Associate. Letter from Paul R. Kleindorfer and Howard Kunreuther, Co-Directors, Wharton Risk Management and Decision Processes Center, to Carolyn W. Merritt, Chairman and CEO, U.S. Chemical Safety and Hazard Investigation Board, Apr. 15, 2005 (Wharton Letter). The Center promotes dialogue among industry, government, interest groups, and academics through its research and policy publications and through sponsored workshops, roundtables, and forums. University of Pennsylvania, *Risk Management and Decision Processes Center,* at http://opim.wharton.upenn.edu/risk (last visited Oct. 11, 2005). The Center's programs include conferences, industry/government roundtables, and seminars. *Id.*

The annual fee for a Corporate Associate membership is $10,000. Wharton Letter. The Board believes that joining the Center would aid it in accomplishing its mission, and it asks if its appropriated funds are available to pay the Center's membership fee.

ANALYSIS

The general rule regarding membership fees is that an agency may use its appropriation to pay for an agency membership in a private association when the membership furthers the purpose of the appropriation. 53 Comp. Gen. 429, 431 (1973); B-302548, Aug. 20, 2004; B-221569, June 2, 1986. The expenditure of appropriated funds to pay membership dues of federal employees in an organization, association, or society is generally prohibited by 5 U.S.C. § 5946. B-302548, Aug. 20, 2004; 53 Comp. Gen. at 430; B-221569, June 2, 1986. However, the prohibition of 5 U.S.C. § 5946 does not apply to memberships in an agency's name. 53 Comp. Gen. at 431. In such cases, the payment of membership fees is proper if it would constitute a necessary expense.[1] 53 Comp. Gen. 429, 430-31 (1973).

[1] For a complete discussion of the availability of appropriated funds to pay membership fees, see U.S. Government Accountability Office, *Principles of Federal Appropriations Law,* vol. 1, 3rd ed., GAO-04-261SP at 4-234 (Washington, D.C.: January 2004).

We have not objected to the use of appropriations to pay membership fees under circumstances similar to those under consideration here. For example, in 61 Comp. Gen. 542 (1982), we held that the Naval Air Development Center in Warminster, Pennsylvania, could pay for membership in the Warminster Rotary Club. The Commander of the Center stated that the weekly Rotary Club meetings provided the only forum for naval officials to discuss and resolve problems resulting from residential and industrial development with the Warminster business and civic leaders. He maintained that if these problems were left unattended or unresolved, it would reduce the Center's effectiveness. *Id.* at 544. We agreed that participation in the Rotary Club meetings contributed to the Center's effectively carrying out its mission. For that reason, we concluded that the Navy's appropriation was available to pay the Rotary Club membership fee as a necessary expense of the Center's operation. *Id.* at 544, 545. *See also* 31 Comp. Gen. 398 (1952) (Office of Price Stabilization could pay membership fees in a credit association to materially reduce the costs of obtaining credit reports needed to carry out agency mission); 20 Comp. Gen. 497 (1941) (Naval Academy appropriations were available to pay for membership in the American Council on Education in order to acquire publications on educational subjects); B-213535, July 26, 1984 (Federal Law Enforcement Center may pay for a membership in the Chamber of Commerce to facilitate its public affairs activities, permitting the exchange of information with the local business community, and to obtain information relating to community activities for the Center's students).

The Board's appropriation is available "[f]or necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended . . . $9,100,000." Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, div. I, title III, 118 Stat. 2809, 3322 (Dec. 8, 2004). Section 112(r)(6) of the Clean Air Act specifically authorizes the Board to conduct research and studies with nonprofit, industrial, and commercial associations and organizations. It provides that:

> "The Board is authorized to conduct research and studies with respect to the potential for accidental releases, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. *To the extent practicable, the Board shall conduct such studies in cooperation with* other Federal agencies having emergency response authorities, State and local governmental agencies and *associations and organizations from the industrial, commercial, and nonprofit sectors."*

42 U.S.C. § 7412(r)(6)(F) (emphasis added).

The Center conducts a program of basic and applied research to promote effective policies and programs related to events with catastrophic consequences, which would include accidental chemical releases. Wharton Letter. Its research focuses on the use of accident history data and the role of market mechanisms such as

third-party inspections to evaluate alternative risk management approaches. University of Pennsylvania, *Risk Management and Decision Processes Center,* at http://opim.wharton.upenn.edu/risk/core.html (last visited Oct. 11, 2005). A focus of the Center's research is to find ways to combine government and private sector efforts to achieve safety goals. Wharton Letter. By becoming a Corporate Associate, the Board would have priority access to the Center's faculty and to its research results, as well as have the ability to advise on and shape the direction of the Center's future research toward projects that would otherwise be beyond the Board's ability to carry out. Warner Letter; Wharton Letter.

Moreover, Center membership could better enable the Board to make recommendations to the Congress, governmental agencies, and other interested persons concerned with chemical safety, regarding measures to reduce the likelihood or the consequences of accidental chemical releases and to propose corrective steps to make chemical production, processing, handling, and storage as safe and free from risk of injury as possible. 42 U.S.C. § 7412(r)(6)(C)(ii). The Board points out that membership would give it "unique access to some of the most current and sophisticated research on risk management science and policy, which the agency could use to focus its prevention and research activities on areas where there is the greatest need or the greatest potential for benefit." Warner Letter.

The Board is currently examining how insurers can be better used as agents for accident and risk reduction in the chemical industry. Warner Letter. One of the Center's key areas of investigation is how insurance can be used in dealing with environmental hazard risk through public and private partnerships. University of Pennsylvania, *Risk Management and Decision Processes Center,* at http://opim.wharton.upenn.edu/risk/core.html (last visited Oct. 11, 2005). Membership would allow the Board to "tap into the Risk Center's extensive existing relationships with industrial insurers." Warner Letter. The Center would provide the Board with a single place to make contact with representatives of leading insurers and engage them in cooperative efforts to develop and implement measures to reduce the likelihood or the consequences of chemical accidents. *Id.* Consequently, we do not object to the Board using its appropriated funds to pay the Center's membership fee.

CONCLUSION

For the reasons stated above, we concur with the Board's determination that becoming a Corporate Associate in the Center could facilitate the carrying out of its responsibilities under section 112(r)(6)(C) of the Clean Air Act. Accordingly, we conclude that the Board's salaries and expenses appropriation, which is expressly

available for carrying out the Board's activities pursuant to section 112 of the Clean Air Act, is available to pay the membership fee to become a Corporate Associate member.

/signed/

Anthony H. Gamboa
General Counsel