



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: EEOC - Payment for Training of Management Interns

File: B-257977

Date: November 15, 1995

DIGEST

The Equal Employment Opportunity Commission may obligate its fiscal year funds in advance for the full cost of the two-year training program that the Office of Personnel Management (OPM) operates for the Presidential Management Intern (PMI) program. Since under the PMI program an agency can hire an intern noncompetitively only if the intern completes the full two-year program, the OPM training may be viewed as an entire, nonseverable undertaking. It is thus a bona fide need of the fiscal year in which EEOC appoints an intern under the program.

DECISION

The Director of the Financial Management Division of the U.S. Equal Employment Opportunity Commission requested an advance decision concerning whether the Commission should pay a bill from the Office of Personnel Management under the Presidential Management Intern program. Specifically, the Director questions whether the Commission may pay the entire cost of an intern's two year training program at the beginning of the program. For the reasons indicated below, we conclude that the training of interns under the Presidential Management Intern program is an entire, nonseverable undertaking and that the Commission may pay the full costs of the training in advance.

Background

The Presidential Management Intern program (PMI) is a recruitment and career development training program designed to attract individuals with graduate or professional degrees into federal service. Under the program, universities nominate students who then submit applications to the Office of Personnel Management (OPM). The successful candidates are referred to participating agencies that may then appoint them as interns.

Upon acceptance of an agency offer, interns begin a continuous two-year career development training program. During this period, interns receive training from their employing agency as well as centralized training from OPM. The training is

designed to expose interns to governmental issues and to assist them in applying management tools within their specific work environment. Interns who successfully finish the full two-year program are eligible to be considered for permanent employment by their agencies. The two-year training program must be completed by each individual intern. Substitution of one individual for another may not be made during the two-year period.

OPM carries out its coordination of the PMI program and its training of interns under the authority of Executive Order 12364, 47 Fed. Reg. 22931 (May 24, 1982),¹ and the Training Act, 5 U.S.C. §§ 4101-4118. It finances the program through its revolving fund established by 5 U.S.C. § 1304(e)(1). Prior to 1993, OPM charged each agency participating in PMI on a yearly basis for each intern the agency hired. In May 1993, however, OPM informed participating agencies that in the future they would each be required to pay for the costs of both years of the program in advance. Each agency was billed accordingly.

Discussion

The Director questions whether the Commission may, consistent with the bona fide need rule, obligate its one year appropriation to cover training and related services being provided by OPM over a two-year period. The bona fide need rule provides that an agency may obligate a fiscal year appropriation only to meet a legitimate, or bona fide, need arising in the fiscal year for which the appropriation was made. 70 Comp. Gen. 296 (1991); 64 Comp. Gen. 359, 362 (1985). Consistent with this rule, delivery of goods or performance of services in a fiscal year subsequent to the year in which a contract is executed does not necessarily preclude charging earlier fiscal year funds with the full cost of the goods or services. 70 Comp. Gen. at 297; 65 Comp. Gen. 741, 743 (1986). The test is whether the goods or services meet an immediate need of the agency, regardless of when the work is actually performed. Id.

As a general rule, service contracts are viewed as chargeable to the appropriation current at the time the services are rendered. 71 Comp. Gen. 428, 429 (1992). However, a need may arise in one fiscal year for services which, by their nature, cannot be separated for performance in separate fiscal years. Id. The question whether to charge the appropriation current on the date of contract award or to charge the appropriation current on the date the services are rendered turns on whether the services are "severable" or "nonseverable" (or "entire"). Id.; see 65 Comp. Gen. at 743. A severable service is one in which the government receives

¹Executive Order 12364, May 24, 1982, reconstituted the PMI program which was originally established by Executive Order 12008, 42 Fed. Reg. 43373 (August 25, 1977).

value as the service is rendered. A nonseverable or entire service is one in which the government receives value only when the entire service has been performed.

Training tends to be nonseverable (or entire). Thus, when a training obligation is incurred and training begins in one fiscal year, the entire cost of the training is chargeable to that year even if the training continues into the next fiscal year. See 70 Comp. Gen. 296, 297 (1991). We have further held that even if a training course does not begin until early in the next fiscal year, an agency may charge funds current at the time it enters into the training obligation so long as it has a valid need for the training at that time and the delay between the obligation and the start of the training is not excessive. Id.

We have developed our view that training is entire rather than severable in the context of single training courses. Thus, we view a course that extends over several sessions as an entirety; the government receives benefit for the course only when its employee has completed it. This rationale, however, would not apply, for example, to a training curricula consisting of several courses, leading to an advance degree from an accredited college or university. Although each of the individual courses may be viewed as entire, the curriculum itself is severable; the government presumably receiving a benefit as its employee completes each course.

In the PMI program, the services being rendered by OPM, for which it receives reimbursement from agencies, consists of centralized training for interns as well as management of the program. The training activities provided include an orientation seminar, cluster group meetings, special briefings and workshops, and an end of program seminar. Although this training may appear to be a series of separate activities and therefore severable, on close analysis, we think it is more properly viewed as a single, nonseverable undertaking.

In participating in the PMI program, agencies are seeking to recruit trained master or doctoral degree graduates to their staffs. Under the program agencies cannot offer permanent employment to an intern unless and until the intern has completed the two year program.² Thus, while in one sense the agency may benefit from the individual training activities attended by the intern, in another, greater sense, the agency receives no benefit from the individual OPM training activities until the program is completed. It is only when the intern has received all of the OPM training and is thus eligible to be hired permanently that the agency receives a benefit. Therefore, we do not object to viewing the services agencies receive from OPM under the PMI program as entire, rather than severable, and the agencies

²An intern who does not complete the training may, independent of the PMI program, apply for a vacancy at the agency and complete with other applicants for the position.

should charge the appropriation current at the time they engage an intern for the full cost of OPM's services.

Accordingly, the Commission may obligate its fiscal year funds for the full cost of OPM's two-year PMI training program at the time it engages an intern. To the extent required by OPM, it may make full payment in advance.

/s/Robert P. Murphy
for Comptroller General
of the United States