

DECISION



DIGEST - L - CP

**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

*B-182586, Dec. 17, 1974, 79
overruled in part*

FILE: B-198471

DATE: May 1, 1980

MATTER OF: , et al. - Meals at Headquarters
Incident to Attendance at Meeting

DIGEST: GAO headquarters employees attending annual meeting of President's Committee on Employment of the Handicapped in Washington, D.C., seek payment for luncheon and two banquets. Agency may pay for meals, provided it determines that meals were incidental to the meeting; that attendance at meals was necessary for full participation; and that employees were not free to take meals elsewhere without missing essential formal discussions, lectures or speeches concerning the purpose of the meeting. B-182586, December 17, 1974, will no longer be followed as to meals at headquarters.

This action is in response to a request by memorandum dated April 8, 1980, with attachment, from Mr. Ryan S. Yuille, Director, Equal Employment Opportunity Office, United States General Accounting Office (GAO), for a legal opinion as to whether the General Accounting Office may legally pay the costs of meals to be incurred by three GAO headquarters employees while attending a meeting in Washington, D.C.

Mr. Yuille states that Mr. . President. Handicapped Advisory Committee, Ms. and Mr. Equal Employment Opportunity Office, will be attending the 1980 annual meeting of the President's Committee on Employment of the Handicapped. The meeting will be held at the Washington Hilton Hotel, Washington, D.C., on April 30 thru May 2, 1980. The three employees will make a presentation at the meeting entitled "How to Organize a Handicapped Employees Advisory Committee."

The Director further reports, as stated in the Advance Program, that there is no charge or registration fee to attend the meeting, but there will be a charge for three meals. The theme

and content of the annual meeting is three-fold: First, to take a candid and objective look at what lies ahead for the handicapped people of America; Second, to emphasize activities of local communities; and Third, to spotlight many new topics that have not been covered in previous annual meetings. President Jimmy Carter has been invited to speak and to make awards presentations at the opening session on Thursday morning.

The meals involved are a luncheon and two banquets. Ms. Shirley Hufstедler, newly appointed Secretary of Education will be the featured speaker of the Opening Banquet on Wednesday evening. The Employers Banquet on Thursday evening features as Mistress of Ceremonies, Ms. Suzanne Somers, television star, and other guest speakers, and awards will be presented to this year's Employers of the Year. Mr. Richard Celeste, Director of the Peace Corps, will be the featured speaker at Friday's International Luncheon. The respective costs of the meals are \$24, \$26, and \$15, a total cost of \$65 for the three meals. The specific question asked is whether GAO can legally pay for these meals "which are an integral part of the overall conference and provide training at the same time."

While the Director refers to training in his memorandum, we assume that attendance of the employees will be authorized under section 4110, title 5, United States Code, 1976, pertaining to the expenses of attendance at meetings which are concerned with functions or activities for which the agency's appropriations are made. Compare, , B-195045, February 8, 1980.

The general rule is that an employee may not be paid a per diem allowance in lieu of subsistence at his permanent duty station. Paragraph 1-7.6a, Federal Travel Regulations (FPMR 101-7, May 1973). The subsistence expenses of civilian employees at their official duty stations are personal to the employees and, in the absence of specific statutory authority, may not be provided at Government expense, regardless of any unusual working conditions involved. 53 Comp. Gen. 457 (1974). On the other hand, we have held that the payment of a registration fee which includes the cost of meals--no separate charge being made for meals--incident to attendance at a conference held at an employee's headquarters, was proper. 38 Comp. Gen. 134 (1958); B-160579, April 26, 1978; and B-166560, February 3, 1970.

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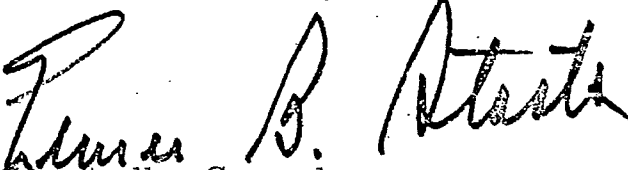
Where the meals are not included in a registration fee, as in the instant case, we have held that the cost thereof may be reimbursed only if there is a showing that the meals were incidental to the meeting; that the attendance of the employee at the meals was necessary to his full participation in the business of the conference; and that the employee was not free to partake of his meals elsewhere without being absent from essential formal discussions, lectures or speeches concerning the purpose of the conference. B-160579, supra; B-166560, supra; B-154912, supra; August 26, 1964.

An earlier decision of this Office, B-182586, supra, December 17, 1974, involved facts and circumstances very similar to the instant case. There, an employee of the General Services Administration (GSA) claimed reimbursement of the expenses he incurred for lodging and meals at his headquarters. We held that the payment of such items was improper. In that case the employee was invited by the President's Committee on Employment of the Handicapped to participate as an exhibitor at its Annual Meeting Exhibition which was held at the Washington Hilton Hotel, Washington, D.C., on May 1-3, 1974. While attending the meeting, the GSA employee expended \$37 from personal funds to cover the cost of two banquets and a luncheon held during the course of the meeting. Additionally, on one day of the meeting, the employee attended certain conferences and activities which lasted until 11:00 p.m. Since meetings and activities were scheduled to resume at 7:30 a.m. the following morning, and in view of the fact that his home was in Centerville, Virginia, agency officials directed the employee to secure lodging at the hotel. He did so at a cost of \$26.50. In denying reimbursement for meals and lodging, we based our decision on the general rule that in the absence of specific statutory authority, the Government may not pay subsistence expenses or per diem to civilian employees at their headquarters, notwithstanding the fact that such expenses were incurred at the direction of Government officials.

In B-182586, supra, we gave no recognition to the above-discussed rule permitting payment of meals at headquarters where certain specified conditions are satisfied. Thus, upon reconsideration we hold that the decision was too restrictive and will no longer be followed insofar as it pertains to reimbursement of meals at headquarters incident to attendance at meetings.

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eliminated

Accordingly, the meal expenses of the three employees herein, incurred at the annual meeting of the President's Committee on employment of the Handicapped, may be paid by GAO provided an administrative determination is made that the meals were incidental to the meeting; that the employees' attendance at the meals was necessary for full participation in the meeting; and that they were not free to take the meals elsewhere without missing essential formal discussions, lectures or speeches concerning the purpose of the meeting. B-166560, February 3, 1970, supra.


Thomas B. Starks
Comptroller General
of the United States