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DECISION



20888 Zelenyitz
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-206173

DATE: February 23, 1982

MATTER OF: Department of the Interior--Funding of
Receptions at Arlington House

DIGEST:

1. Funds appropriated to the Department of the Interior for salaries and expenses may not be used to pay for any portion of the expenses of a breakfast given by the wife of the Secretary of the Interior for the wives of high-level Government officials, or for a Christmas party given by the Secretary of the Interior for high-level Government officials and their guests. Entertainment expenses, unless specifically authorized by statute, are not properly chargeable to appropriated funds, 43 Comp. Gen. 305 (1963) and 47 Comp. Gen. 657 (1968).
2. Funds donated to the Cooperating Association Fund of the National Park Service may be used to fund a breakfast given by the wife of the Secretary of the Interior for the wives of high-level Government officials and a Christmas party given by the Secretary of the Interior for high-level Government officials and their guests only if the Secretary sustains the burden of showing that the receptions were given in connection with or to further official Park Service purposes. In this instance, from the information provided, the parties appear to be primarily social in nature.
3. To the extent funds are available in the Department of Interior's official reception and representation fund, they may be applied to the costs incurred for a Christmas party given by the Secretary of the Interior and to reimburse any amounts already spent from salary and expense accounts and from donated funds for that purpose. Unlike the Christmas party, which was attended by Government officials and their guests, the use of the fund for a breakfast given by the wife of the Secretary of the Interior for the wives of high-level Government officials would be inappropriate because the breakfast was hosted and attended entirely by private persons. The amount of any shortfall for expenses attributable to the Christmas party, as well as the expenses of the breakfast, must be paid by the officials who authorized the expenditures.

This responds to a request from the House Subcommittee on Oversight and Investigations of the Committee on Interior and Insular Affairs and the House Environment, Energy, and Natural Resources Subcommittee of the

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Committee on Government Operations concerning the funding of two receptions held at Arlington House (also known as the Custis-Lee Mansion). The receptions were hosted by the Secretary of the Interior, James G. Watt, and his wife in December 1981. We conclude that the use of appropriated funds, other than the Secretary of the Interior's discretionary fund for official reception and representation expenses (discretionary fund), is unauthorized. We conclude further that use of the Cooperating Association Fund of the National Park Service, a fund consisting entirely of monies donated to further official agency purposes, was also improper. Accordingly, the relevant appropriation accounts and the Cooperating Association Fund should be reimbursed for any expenditure directly attributable to these receptions.

On December 14, 1981, a breakfast was held at Arlington House hosted by the wife of the Secretary of the Interior. Attending this breakfast were the wives of the other Cabinet members and the wives of several assistants to the President. The exact purpose of this breakfast has not been specified by the Department. Information developed by our audit staff shows that the total estimated cost of the breakfast was \$1,921. Of this total amount, \$1,148.10 constituted catering expenses, \$325 was for table name cards, escort cards, and menu cards, \$48 was for six placards advising the public that Arlington House was temporarily closed for Mrs. Watt's breakfast, and \$400 constituted the labor costs of eight National Park Service employees who worked a total of 31 hours. The services of the eight employees during these 31 hours were apparently devoted exclusively to tasks associated with the breakfast.

The other reception, hosted by the Secretary and his wife, was held on the evening of December 17, 1981. The heading on the guest list obtained from the Department of the Interior reads "Arlington House Christmas Party." Approximately 220 persons attended the Christmas party, 62 of whom were high-ranking Interior officials. The other guests were Cabinet members and their spouses, members of the White House staff and their spouses or guests, other senior officials of the executive branch with spouses or guests and spouses or guests of the Interior officials.

Our audit staff determined that the total estimated cost of the Christmas party was \$6,921.20. Of this total amount, \$2,732.86 constituted catering expenses, \$2,325 was for the renting of a tent which was erected in front of Arlington House and which was where the reception was primarily held, \$55.96 was for the purchase of refuse receptacles, \$7.38 was for the purchase of coat check tickets, and \$1,800 constituted the labor costs of 20 employees of the National Park Service working a total of 135 hours, all of which was overtime associated with the party.

Our audit staff has determined that the labor costs of both these events have been charged initially to appropriated funds of the National Park Service, although it is apparently the intent of the Department to reimburse

these costs from the Secretary's discretionary fund or from the Cooperating Association Fund. Additionally, the other major items such as the catering expenses, the cost of the tent, and the costs of the invitations and cards, have been, or are intended to be, charged to the Cooperating Association Fund. Other incidental expenses were paid from the imprest fund of the National Park Service. The Park Service apparently intends to reimburse the imprest fund for the expenditures from the Cooperating Association Fund.

By letter dated February 8, 1982, we requested the views of the Department of Interior as to the propriety of the use of appropriated funds to pay the salaries of the employees who provided services at the two events under discussion here, the propriety of using Cooperating Association funds in support of these events, and the possible use of the Secretary's discretionary fund for official reception and representation expenses for these purposes. Although the Department did not respond directly to our request, we have been provided a copy of the Department's February 16 letter to Congressman Markey addressing these issues.

That letter states;

"The expenses for the events will be funded by the Secretary's Official Reception and Representation Expenses Fund which is authorized in the Department's Appropriation Act and the National Park Services' Director's Discretionary Fund."

(The latter fund is described by the Department as consisting solely of donations from Cooperating Associations.)

The letter also states;

"The NPS Director's Discretionary Fund was earmarked [for these events] at the planning stage because the Department's Appropriation Act had not been approved at the time and, therefore, resources were not readily available. Now that the Act has been approved, it is the intent of the Secretary to use a portion of his Official Reception and Representation Expenses Fund to fund the two events."

The letter does not specifically address the question of the relationship, if any, between the use of donated Cooperating Association Fund amounts in these circumstances and the mission of the National Park Service. It does, however, state that:

" * * * The guests' visits to the house were designed to acquaint them with the historic significance of the house

and to enhance their further understanding and appreciation of the Secretary's objectives concerning the NPS's role in historic preservation."

* * * * *

"The Arlington House provided a setting more conducive to social gatherings than would have the Interior building."

Finally, concerning restrictions on the use of the Cooperating Association Fund, the letter states:

"There are no specified uses in the Director's Discretionary Fund by the Office of the Secretary. * * *"

The use of appropriated funds to pay for the wages of employees earned while working at the breakfast held on December 14, and the December 17 Christmas party, or for any other expenses directly attributable to these two functions, constituted an unauthorized expenditure of these funds. We have consistently held that entertainment expenses, unless specifically authorized by statute, are not properly chargeable to appropriated funds. See 43 Comp. Gen. 305, 306 (1963). Entertainment expenses are not specifically authorized in Interior's current appropriation. See Department of the Interior and Related Agencies Appropriation Act, 1982, Pub. L. No. 97-100, 95 Stat. 1391 (1981).

Items such as the furnishing of meals or refreshments as well as the purchase of equipment to be used in the preparation of refreshments are considered entertainment expenses, 47 Comp. Gen. 657, 658 (1968). Likewise, all labor costs directly attributable to the furnishing of meals or refreshments or any other similar activity should be considered entertainment expenses. We perceive no distinction between the expenses incurred by Interior for the breakfast and the Christmas party, including the labor costs of the Interior employees who provided support services, and other types of expenses which we have previously determined to be entertainment expenses. For example, we have considered the serving of coffee or other refreshments at meetings or the providing of dinner at annual recognition ceremonies as prohibited entertainment expenses, 47 Comp. Gen., *supra*; 43 Comp. Gen. 305, *supra*. We conclude, therefore, that the expenditure of appropriated funds for expenses directly attributable to these two affairs was not authorized and that appropriate reimbursement to these appropriations should be made.

Unlike appropriated funds not specifically made available for entertainment purposes, there is no absolute prohibition against the use of donated funds for entertainment purposes. Rather, we have held that donated funds may be spent on entertainment where such expenses are in furtherance of official agency purposes. B-142538, February 8, 1961. This decision to the

National Science Foundation concluded that expenses for food and entertainment for luncheons and dinners incident to a conference for the interchange of scientific information among foreign and United States scientists appeared to be proper charges to a trust fund similar to the Cooperating Association Fund. The decision also stated that in deciding whether a particular expense is in furtherance of official agency purposes, great weight will be given to an administrative determination to that effect. The administrative determination was characterized as one which, based on the facts, "must reasonably justify the conclusion not only that the entertainment will further a purpose of the Foundation but that the Foundation's functions could not be accomplished as satisfactorily or as effectively from the Government's standpoint without such expenditures." Finally, the decision cautioned that the use of donated funds for entertainment, the purpose of which is "to cultivate cordial relations, manifest good will, or to reciprocate in kind hospitality extended by others" would be questionable.

In a similar case, we permitted the Foundation to use its donated funds to pay for refreshments of persons participating in panel discussions sponsored by the Foundation. 46 Comp. Gen. 379 (1966). We also permitted the National Credit Union Administration to use donated funds to pay for entertainment expenses incurred in hosting members of the National Credit Union Board where protocol required that the Administration incur those expenses. B-170938, October 30, 1972.

Our position on this issue was clarified in a 1980 letter to Senator Proxmire specifically concerning the use of the Cooperating Association Fund of the National Park Service, B-195492, March 14, 1980. We stated that while an agency's determination of whether a particular expense was justified would be accorded great weight, agencies do not "have blanket authority to use [donated] funds for personal purposes; each agency must justify its use of [donated] funds as being incident to the terms * * *" of the statutory authority permitting acceptance of said donations. We went on to state that "[t]he burden is on the [agency] to show that its * * * expenditures were to carry out [authorized statutory] purposes." The letter concluded by pointing out that a number of past expenditures from the fund for entertainment had been justified by the Department on the basis of an overbroad interpretation of the 1961 National Science Foundation case.

In this case, the use of the Cooperating Association Fund to pay for certain costs attributable to the breakfast and to the Christmas party is contemplated by the Department's February 16 letter. That use of these funds will be necessary is demonstrated by the fact that the Secretary's discretionary fund has only \$4500 remaining in it for the current fiscal year, substantially less than the cost of the two events.

To determine whether these expenditures are authorized, it is necessary to refer to the purpose of this Fund. As required by 16 U.S.C. § 6, the Fund must be used "for the purpose of the national park and monument system."

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The fundamental purpose of the national park and monument system as described in 16 U.S.C. § 1 is to:

"[C]onserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

A document entitled "National Park Service Donations Policy" submitted with one of the congressional requests in this case provides guidance on the kind of expenditures from the Cooperating Association Fund which may reasonably be considered as being in furtherance of Park Service purposes. The Policy states:

"* * * Disbursements from this Fund must be for projects directly related to National Park Service administration; support will not be provided for projects that are initiated outside of the Service and unrelated to the mission of the National Park Service. * * *"

The Policy provides as follows concerning expenditures for entertainment:

"* * * In accordance with the Comptroller General's decision of February 8, 1961, entertainment expenditures * * * are restricted to those occasions when the entertainment will further the purposes of NPS and that such purposes could not be served as satisfactorily or as effectively without such expenditures. (One use of the Fund which is inconsistent with the Comptroller General Decision is the expenditure for coffee or other refreshments for meetings attended solely or mostly by Service or other Government employees.)"

Applying the rules enunciated by our decisions and adopted by the National Park Service Donations Policy to the facts of the two questioned events compels the conclusion that the events were clearly unrelated to the furtherance of the Park Service's mission. Neither the breakfast nor the party were associated with any related Government conference or other meeting, as has usually been the case in prior cases in which we sanctioned the use of donated funds for entertainment purposes. In fact, no Park Service officials attended the breakfast and only a small percentage of the guests at the Christmas party were from the Park Service.

The only justification advanced by the Department to link the two events to official Park Service purposes is the statement in its February 16 letter that during the course of the two receptions, guests were free to tour the

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house, and thus could become acquainted with its historic significance and the Secretary's objective concerning historic preservation. In our view, this link with official purposes is too tenuous to justify the use of donated funds. The availability of tours of the building or general discussions of historic preservation objectives does not change the basically social nature of both gatherings, as characterized by the Department itself in its February 16 letter. In that letter, the Department offers as justification for the use of Arlington House rather than the Interior headquarters building that the former is "more conducive to social gatherings." Moreover, so far as we are aware, no finding was made detailing "why the purposes of the NPS could not be served as satisfactorily or as effectively without such expenditure," as required by the Donations Policy.

As stated in the Department's February 16 letter, the 1981 Department of Interior Appropriation Act provides the Office of the Secretary with not to exceed \$5000 for official reception and representation expenses. While questions could be raised about the use of this fund as well, agency heads have traditionally been accorded a great deal of discretion by the Congress in the expenditure of this type of fund. We will not object to the use of this fund for expenses related to the Christmas party. Unlike the Christmas party, which was attended by Government officials and their guests, the use of the discretionary fund for the breakfast, which was hosted and attended entirely by private persons, would be inappropriate.

Accordingly, to the extent funds are available in the official reception and representation fund, they may be applied to the costs incurred for the Christmas party, including the labor costs for Interior employees who worked at that event. The amount of any shortfall for expenses attributable to the Christmas party, as well as the expenses of the breakfast, must be paid by the Interior officials who authorized the expenditures.

for Milton J. Aroslan
Comptroller General
of the United States