

DECISION



118557 J. Cases
E. J. J.
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-205292

DATE: June 2, 1982

MATTER OF: Use of appropriated funds for Navy fireworks display

DIGEST: Navy base desires to use appropriated funds to pay for fireworks display provided for a public celebration of Independence Day. Fireworks constitutes "entertainment" and thus may not be paid for from appropriated funds. Further, while a fireworks display may be useful in establishing good relations with the surrounding community, it is not a necessary expense which can be charged to appropriated funds.

A disbursing officer at the Navy Undersea Warfare Engineering Station, Keyport, Washington (Keyport Station), through the Navy Accounting and Finance Center, has requested an advance decision on whether appropriated funds may be used to pay the costs of an Independence Day fireworks display. For the reasons indicated below, we conclude that appropriated funds may not be used for this purpose.

Statement of Facts

The Keyport Station has in the past contracted for, and provided fireworks displays for public enjoyment at annual Independence Day celebrations. These celebrations are opened to the public. For the 1981 celebration, Keyport Station entered into a contract with the Western Fireworks Company for a half-hour display at a cost of \$3250.

In early June 1981, the disbursing officer at Keyport Station informally asked the Comptroller of the Navy whether the expenditure of appropriated funds for fireworks was appropriate. The Comptroller replied in the negative. On June 27, 1981, after Keyport Station had already entered into the contract for the fireworks display, the Naval Sea Systems Command, Keyport Station's parent command, formally asked the Comptroller whether the expenditure for fireworks was appropriate. On July 2, 1981, the Comptroller of the Navy replied as follows:

"A. When display is for all assigned personnel, dependents and guests, costs are properly chargeable to nonappropriated recreation funds.

"B. In no instance will costs be charged to appropriated funds. Reason: Such display considered in nature of entertainment.* * *"

Despite the Comptroller's decision, the display was conducted the same evening. On July 17, 1981, the Naval Sea Systems Command asked the Comptroller to reconsider. On August 7, 1981, the Comptroller reaffirmed its decision that appropriated funds could not be used to pay for the fireworks.

Discussion

Keyport Station contends that expenditures for fireworks displays are authorized by paragraph 19d of chapter 6 ("Community Relations"), Public Affairs Regulations, SECNAV Instruction 5720.44., (June 14, 1974), which provides:

"d. Independence Day

"(1) The anniversary of the adoption of the Declaration of Independence is celebrated as the greatest secular holiday of the United States. Since 1776, Americans have traditionally celebrated the day of independence with parades, patriotic oratory, military displays, etc.

"(2) Naval commands are encouraged to host, participate in, and/or support, community celebrations as appropriate."

The Naval Sea Systems Command relied on this identical provision in its letter to the Navy Comptroller. The Comptroller replied as follows:

"2. With regard to national or public observances, [Instruction 5720.44] provides that commands will support their participation in such events with resources at hand. This participation includes the utilization of bands, troops, equipment and exhibits for parades, patriotic oratory and military displays. This in effect is the type of resources implied in the regulations * * *.

"3. It would be difficult indeed to categorize a fireworks display as a military display. Interpretations by the Chief of Information and the Public Activities Division, Assistant Secretary of Defense (Public Affairs) are that fireworks is an entertainment medium. * * *"

Thus the Navy itself has interpreted its own regulation as not authorizing fireworks displays as part of public observances. Further, the Navy considers fireworks to be entertainment.

We have consistently held that funds appropriated for Government departments or agencies may not be used for entertaining individuals except when specifically authorized by statute and we have refused to certify payments in those instances. See, e.g., 58 Comp. Gen. 202, 205 (1979). Since the Navy has classified fireworks as "an entertainment medium," and since we are aware of no statute which specifically authorizes it, we must agree with the Navy Comptroller's conclusion that appropriated funds may not be used to pay for the fireworks display.

Even had the Navy not defined fireworks as entertainment, we would come to the same result. We have defined entertainment as "a source or means of amusement, a diverting performance, especially a public performance * * *," or "that which serves for amusement and amusement is defined as a pleasurable occupation of the senses, or that which furnishes it * * *." 58 Comp. Gen. supra. Under these definitions, fireworks are clearly entertainment.

Keyport Station admits that fireworks displays are entertaining, but contends that the primary purpose of their fireworks displays is not entertainment, but the observation of an important national holiday which provides the major impetus to draw the community to Keyport Station's annual open house. The consequent benefit is the establishment of good public relations between Keyport Station and the surrounding community.

Several Comptroller General decisions have rejected similar reasoning. In 37 Comp. Gen. 360 (1957) a request to approve a voucher for Christmas cards to be distributed by the United States Information Agency (USIA) was denied. While the USIA asserted that the purpose of the cards was "to secure the recipient's good will and cooperation" in carrying out USIA's work, this Office noted that "[s]uch justification likely could be used by most Government agencies similarly to justify such expense." Also of relevance is 55 Comp. Gen. 346 (1975) concerning the use of appropriated funds for the distribution of marble paperweights and walnut plaques as part of the United States Army Criminal Investigation Command's (USACIDC) "community relations program". In denying the request, we noted that:

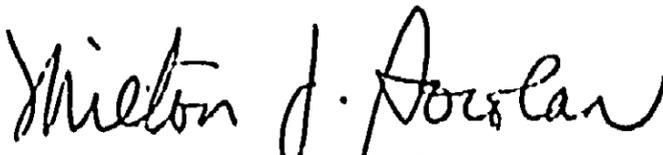
"* * * While distribution of paperweights and plaques may be desirable when used as described in USACIDC's justification, it would seem that, at best, it has an indirect and somewhat conjectural bearing upon the purposes for which USACIDC's appropriation was made."

Accordingly, while we do not doubt that a fireworks display may act as an impetus for attracting people and provide the basis of good public relations, there is no indication that a fireworks display is

necessary to the operation and maintenance of the Navy. The use of appropriated funds for an Independence Day fireworks display must therefore be denied.

The Keyport Station requests a "one-time waiver" in the event we determine that appropriated funds are not available for the fireworks. We deny this request. Under 31 U.S.C. § 628 appropriated funds may be spent only for the purposes for which they were appropriated. As discussed above, we have frequently held that vouchers covering proposed expenditures of appropriated funds for entertainment are unauthorized and may not be certified for payment. See, e.g., 58 Comp. Gen. 202, supra. See, also, 58 Comp. Gen. 385 (1978). This case is particularly egregious in that an order was issued attempting to obligate appropriated funds, notwithstanding advice from the Navy Comptroller's Office that appropriated funds were unavailable for this purpose. While we have, in a few instances, declined to take exception to an expenditure on which the GAO had never ruled and where the agency was unaware of its impropriety (see, e.g., 58 Comp. Gen. 202, 206 (1979)) this is not such a case.

Since it appears that Western Fireworks acted in good faith in putting on the display, we suggest that nonappropriated recreation funds be used to pay the invoice.

for 
Comptroller General
of the United States