



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Veterans Administration Funding of Federal
Executive Boards

File: B-219742

Date: October 26, 1987

DIGESTS

1. A government-wide restriction against using appropriated funds from more than one agency to finance boards or commissions applies to Federal Executive Boards (FEBs), which do not have specific authority that would overcome the restrictions. However, one agency may lawfully pay the Board's expenses in a particular region if that agency has a substantial stake in the outcome of the interagency venture and the success of the interagency undertaking furthers the agency's own mission, programs, or functions. The Office of Personnel Management, which has oversight responsibility for the establishment and guidance of FEBs, would not usually be the appropriate agency to assume the financing burden since its role may not involve any direct participation in FEB activities, once a particular Board is established.

2. A government-wide restriction against using appropriated funds from more than one agency to finance boards or commissions, such as Federal Executive Boards, prohibits both cash and in-kind financial support such as contributions of supplies or staff support, but agency participation at Board meetings does not constitute financial support of the Board as a separate entity.

DECISION

The Administrator of the Veterans Administration (VA) has requested clarification of our July 1, 1986 decision, 65 Comp. Gen. 689 (1986), on Federal Executive Boards. In that decision, we agreed with the VA legal analysis that a general government-wide appropriation act restriction^{1/} on

^{1/} The restriction was contained in section 608 of the Treasury, Postal Service, and General Government Appropriations Act for fiscal year 1986, H.R. 3036. For fiscal year 1987, the restriction is provided by section 608 of the Treasury, Postal Service and Federal Government Appropriations Act for fiscal year 1987, H.R. 5294

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the use of appropriated funds for interagency financing of boards or commissions applies to the Federal Executive Boards. The restriction covers boards and commissions "which do not have prior and specific statutory approval to receive financial support from more than one agency or instrumentality." The Boards do not have statutory approval for interagency financing. However, we also stated that the interagency funding restriction did not "prevent a single entity with a primary interest in the success of the interagency venture from picking up the entire cost." 65 Comp. Gen. 689, 692 (1986). In this respect, we disagreed with the VA legal advice to "immediately discontinue" all VA financial support to the Board operating in the Dallas-Fort Worth, Texas area to the extent that it was based on the belief that such financial support would be illegal. We left open the possibility that VA could elect to fully fund the Board's activities.

The Administrator is unclear whether an entity with a "primary interest in the success of the interagency venture" would only describe the Office of Personnel Management (OPM), the agency charged with the oversight responsibility for the Boards, or could describe some other federal agency that normally would be only one of several participants in a particular Board's activities. The Administrator also asked for clarification on whether the interagency funding restriction would prohibit in-kind (non-cash) Board support rendered by agencies in the form of supplies, support staff and the time of executive participation.

DISCUSSION

Single Agency Funding

As we stated in 65 Comp. Gen. 689 (1986), financial support of the Boards is lawful as long as only one agency pays the costs involved. However, in order to justify an expenditure of appropriated funds for an interagency venture, an agency must have a substantial stake in the outcome of the interagency endeavor and the success of the interagency venture must further the agency's own mission, programs or functions. This is what we meant when we stated that an agency financially supporting an interagency undertaking must have a "primary interest in the success of the interagency venture" for such funding to be authorized. Of course, if more than one agency has an equal stake in the success of the venture, an agreement must be reached as to which one

1/(...continued)
(incorporated by reference into Pub. L. No. 99-500,
October 18, Pub. L. No. 99-591, October 30, 1986).

will assume the total burden. If this is not feasible, a legislative designation of appropriate funding sources should be obtained.

With respect to Federal Executive Boards, we do not think that funding is limited to OPM or even that OPM is the most appropriate agency to assume the single funding source responsibility.^{2/} As we understand the Presidential memorandum establishing FEBS, the role of the oversight agency^{3/} was to "facilitate" and encourage the establishment of FEBS and provide "guides and objectives" for their activities. Once established, OPM itself may have no particular interest in participating in FEB activities.

Non-cash Support

The Administrator interpreted our decision as indicating that the restriction against interagency funding would apply only to cash support. This is not the case. Our decision clearly stated that interagency financing of Federal Executive Boards was prohibited under fiscal year 1986 appropriations (and now under fiscal year 1987 appropriations). This restriction prohibits the use of any appropriated funds to support interagency financing of a Board. Therefore, both cash and in-kind (non-cash) financial support would be prohibited. In other words, any interagency contribution in direct support of a Board, such as office supplies or staff support, would not be authorized.

However, we want to make it clear that agency participation on the Board such as attendance at Board meetings and functions does not constitute financial support of the Board as a separate entity or organization. Agency participation is a direct benefit to the participating agency and Board attendance at meetings by agency representatives normally

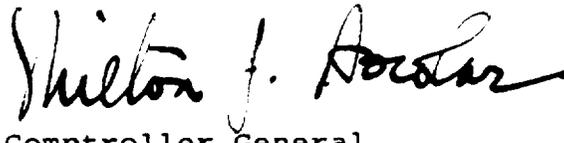
^{2/} OPM has determined that the funding of the Boards by member federal agencies promotes a feeling of responsibility and commitment and thereby increases the effectiveness of the Board. 49 Fed. Reg. 34193 (1984).

^{3/} Originally, the responsibility was assigned to the Office of Management and Budget. In June of 1982, it was transferred to OPM.

involves no additional expense to the agency. The 1961 Presidential memorandum creating the Boards provided that:

"Each Executive department and agency is directed to arrange for personal participation by the heads of its field offices and installations in the work of these Federal Executive Boards." Memorandum on the Need for Greater Coordination of Regional and Field Activities of the Government, 1961 PUB. PAPERS 717, 718 (Nov. 14, 1961).

We can see no restriction on agencies receiving the benefits of attending Federal Executive Board meetings and sharing information at these meetings. This is distinguishable from those efforts and expenditures that go toward supporting a Federal Executive Board function or which provide administrative assistance to the Board itself.

for 
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