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**DECISION**



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

**FILE:** B-213415

**DATE:** April 2, 1984

**MATTER OF:** Department of the Army, Ohio River  
Division, Corps of Engineers -  
National Federation of Federal  
**DIGEST:** Employees, Local No. 892

There is no authority for the agency to enter into an agreement with the employees' labor organization to expend appropriated funds to purchase eyeglasses for employees who must use video terminals since the agency finds no safety standard, relates to the employees' operation of video display terminals and does not consider such operation hazardous. Further, only certain employees need glasses to operate the terminals, and there is no evidence of an immediate benefit to the Government through the use of eyeglasses.

The Department of the Army, Corps of Engineers, has requested a decision concerning the legality of expending appropriated funds to reimburse employees who purchase special eyeglasses for use in the operation of video display terminals.<sup>1</sup> We conclude that funds may not be used for this purpose under the circumstances described.


Facts and Issues

The Army Corps of Engineers and Local 892 of the National Federation of Federal Employees are negotiating over the impact on affected employees of the agency's decision to install video display terminals in the Finance and Accounting Branch at the Little Miami Center, Mariemont, Ohio. We understand that certain employees who have not worn glasses may need corrective lenses to operate video

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<sup>1</sup>The request was made by the Commander, U.S. Army Engineers Division, Ohio River, Cincinnati, Ohio, under authority delegated by the Secretary of the Army. See 4 C.F.R. Part 22 (1983). Since this is a matter of mutual concern to the agency and Local 892 of the National Federation of Federal Employees, the labor organization has been served with a copy of the request in accordance with 4 C.F.R. § 22.4.

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display terminals. Because of the positioning of display screens others may find that their regular prescriptions do not provide proper correction and they may need glasses for intermediate range correction. Still others may require no correction or their own prescription lenses may provide the correction necessary. The glasses would be used during working hours and would be left at the worksite. Examination by an eye specialist would determine whether it would be necessary to prescribe glasses for particular employees.

The agency has concluded that the principal initial benefit from use of the glasses is to the employee, although the Government may receive a long-range benefit. The agency does not consider work with the video display terminals to be hazardous, and the chief of its occupational health unit has concluded that no greater visual acuity is required to operate the terminals than to read the fine print in a textbook. Under these circumstances, the agency is uncertain whether it may reimburse employees who find it necessary to purchase corrective lenses for use in operating video display terminals.

#### Analysis

Before submitting the question the agency considered four possible sources of legal authority for payment. Since eyeglasses are not part of a uniform prescribed by the agency to be worn in the performance of official duties, the agency correctly determined that 5 U.S.C. §§ 5901-5903 was inapplicable. The second authority considered by the agency was the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq. Under 5 U.S.C. § 668 the head of a Federal agency is required to establish and maintain a comprehensive occupational safety and health program consistent with standards set forth in the act. If an agency head determines that certain items of protective equipment are required under any applicable standard to protect employees from certain hazards, the agency may expend appropriated funds to procure the equipment. The Secretary of Labor's standards for protective eye equipment designed to meet particular hazards are set forth in 29 C.F.R. § 1910.133. 57 Comp. Gen. 379 (1978); 51 Comp. Gen. 446 (1972).

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In this case, the agency's occupational and health unit has determined that health and safety standards do not require eyeglasses for operators of video display terminals. The agency does not consider the task of looking at video display terminals to be imminently hazardous and it has not been shown that standards have otherwise been promulgated for this purpose. Since the agency has been unable to make the determinations required, the Occupational Safety and Health Act cannot be used as authority to expend appropriated funds for eyeglasses. The General Accounting Office has no jurisdiction to question the agency's findings or to determine whether the agency has complied with the applicable standards. Matter of Garrison, B-193559, April 27, 1979.

The third source of authority considered by the agency is 5 U.S.C. § 7903 under which appropriations are made available for the purchase and maintenance of "special clothing and equipment for the protection of personnel in the performance of their assigned tasks." For protective equipment to be purchased under this authority, the employee must be engaged in hazardous work and the item must be "special" as opposed to an item the employee ordinarily is expected to provide for himself as a personal item rather than for the benefit of the Government. 51 Comp. Gen. 446 (1972). For this statute to apply, the agency must make a determination that the employee's job is hazardous. In this case since the agency has not determined that video display terminals pose a hazard, section 7903 may not be used as authority to pay for eyeglasses. Compare 42 Comp. Gen. 626 (1963), in which we approved use of appropriated funds for the purchase of prescription ground safety glasses where the agency, after a thorough review of its safety program, determined that the employees working with toxic chemicals, abrasives and radioactive materials were engaged in hazardous duties and that use of the glasses was required for their protection.

The fourth source of authority is the rule that appropriated funds may be spent for the purchase of certain items which could be considered personal equipment if the criteria established by a Comptroller General decision are met. See generally 3 Comp. Gen. 433 (1924); 56 Comp. Gen. 398 (1977); 61 Comp. Gen. 635 (1982).

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In applying that rule the first question is whether the Government or the employee receives the primary benefit. The test of benefit is whether, from the Government's standpoint, the purpose of the expenditure can be accomplished as expeditiously and satisfactorily without such equipment. For example, in 45 Comp. Gen. 215 (1965), we approved the use of public funds to pay the cost of special prescription filter spectacles for highly trained employees operating precision stereoscopic map plotting instruments. Although as here, there was evidence of increased long-range manpower utilization, the long-range benefit was only incidental to a finding that use of the spectacles materially increased the employees work output. The material increase in work output satisfied the first test that the use of equipment result in the expeditious and satisfactory accomplishment of work to the immediate and continuous benefit to the Government. Speculative long-range benefit alone does not satisfy the test.

Although failure of the benefit test alone prevents approval, we note the glasses in this case also fail the second test--whether the item is personal to the employee. Here, only certain of the employees who operate the terminals will require use of the glasses and the glasses are in the nature of ordinary corrective lenses which are personal items that should be furnished by the employees who need them. See 61 Comp. Gen. 634 (1982). Therefore, because of the absence of benefit to the United States, and the personal nature of the glasses, their use fails the essential tests of 3 Comp. Gen. 433, cited above.

#### Conclusion

The requisite determinations for invoking authority in the Occupational Safety and Health Act, and 5 U.S.C. § 7903, have not been made by the agency. No other statutory authority is applicable to the facts. Since only certain of the employees need the glasses, and in the absence of evidence that work output of the employees operating the terminals would increase through their use, the equipment must be viewed as personal to those employees who need them, and,

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therefore, they do not satisfy the tests of 3 Comp. Gen. 433, cited above. Under these circumstances there is no basis for the agency to enter an agreement with the union to expend appropriated funds on the equipment.

*for Milton J. Fowler*  
Comptroller General  
of the United States