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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Use of Appropriated Funds to Purchase Kitchen Appliances

File: B-302993

Date: June 25, 2004

DIGEST

The U.S. Pacific Command (USPACOM) may use appropriated funds to purchase refrigerators, microwaves, and commercial coffee makers for central kitchen areas in its new headquarters building. Appropriations are available to pay for items ordinarily considered to be personal in nature, such as kitchen appliances, when the primary benefit of their use accrues to the agency, notwithstanding a collateral benefit to the individual. USPACOM has demonstrated that equipping the workplace in this manner is reasonably related to the efficient performance of agency activities and provides other benefits to the agency, including assurance of a safe workplace. Earlier GAO decisions reflecting similar proposed uses of appropriations, such as B-276601, June 26, 1997, B-210433, Apr. 15, 1983, and 47 Comp. Gen. 657 (1968), are modified accordingly.

In applying this decision, agencies should develop an agency policy to ensure uniformity in the use of appropriations to acquire this equipment and determine the usefulness of appliances such as these in light of operational benefits, such as employee health and productivity, and the responsibility to provide a safe work environment.

DECISION

The Chief of Staff of the U.S. Pacific Command (USPACOM), U.S. Army, has requested an advance decision under 31 U.S.C. § 3529 on the propriety of using appropriated funds to procure major kitchen appliances, such as refrigerators, microwaves, and commercial quality coffee makers, that would be placed in common areas for the use of personnel at the site. As explained below, because we have determined that the appliances contribute to the efficient operation of the agency, and USPACOM, not individual employees, receives the primary benefit of the

expenditure, USPACOM's operation and maintenance appropriation is available to purchase the appliances for general employee use.

BACKGROUND

On March 7, 2004, USPACOM moved into its new headquarters in the Nimitz-MacArthur Pacific Command Center (Center). The new facility has about 20 inter-division kitchen areas complete with plumbed sinks, cupboards, and storage cabinets. Although the Center has a small concession area, it is not adequate to meet the needs of the 1,100 military and civilian personnel who work in the building. Further, USPACOM has directed that, in the interest of fire safety and for the protection of Center personnel and property, personnel are not allowed to have personal coffee makers in their offices. In light of this restriction, USPACOM installed commercial grade coffee makers into the existing plumbing in the kitchen areas, at a cost of $12,210.95. In making the decision to install the coffeemakers, USPACOM determined that it was the minimum necessary to support the building's working population, since personnel "in the USPACOM secure Command Center who are unable to leave the working area will be provided with essential refreshment," thus increasing employee productivity and morale while enhancing fire safety. Memo J02-002-04 from Major General Ronald L. Lowe, U.S. Army, Chief of Staff, USPACOM, to Tom Armstrong, Assistant General Counsel, GAO, April 16, 2004, at 2. However, based on prior GAO case law, USPACOM has deferred purchasing other appliances, such as refrigerators and microwaves, to outfit these kitchen areas pending GAO's decision. *Id.* at 1.

In support of these equipment purchases, USPACOM submits that:

> "[I]n today's environment, the agency to employee relationship has changed significantly. Current federal practice reflects an acknowledged responsibility by the agency-employer to provide a workplace that provides basic necessities and amenities for the agency-employee; mess or break areas and snack or luncheon facilities are illustrative of this recognition. Likewise, the agency-employee has a corresponding expectation that these basic needs will be provided. The agency-employer has found that to do otherwise imperils productivity."

Id. at 2. USPACOM requests that GAO review its prior case law involving the use of appropriated funds to purchase such appliances in light of this evolving federal employer-employee relationship.

DISCUSSION

The general rule is that where an appropriation is not specifically available for a particular item, its purchase may be authorized as a necessary expense if there is a

reasonable relationship between the object of the expenditure and the general purpose for which the funds were appropriated, so long as the expenditure is not otherwise prohibited by law. 66 Comp. Gen. 356 (1987). This rule, the necessary expense rule, recognizes an agency's discretion in using its appropriation to fulfill its purposes. *Id.* However, appropriated funds generally are not available for personal furnishings of employees without specific statutory authority if such items are "for the personal convenience, comfort, or protection of such employees, or are such as to be reasonably required as a part of the usual and necessary equipment for the work on which they are engaged or for which they are employed." 3 Comp. Gen. 433 (1924).

The issue presented in matters such as this is the availability of the public's money to supply equipment and services that inure in a very real sense to the benefit of individuals. We generally resolve this issue by assessing the benefits to the agency from any such expenditure. Appropriations are available to pay for items ordinarily considered to be personal in nature when the primary benefit of the expenditure accrues to the agency, notwithstanding a collateral benefit to the individual. Of course, an individual is likely to attain at least some collateral benefit from most expenditures such as this, but the potential receipt of a benefit, however real, is not the determining factor. The determining factor is whether, on balance, the individual receives the primary benefit. If the primary beneficiary of an expenditure of public funds is the individual, not the agency or government, the well-established rule is that such expenditures are personal in nature and hence not an authorized use of appropriated funds. *See, e.g.,* B-286137, Feb. 21, 2001; B-243411, July 30, 1991; 41 Comp. Gen. 387 (1961).

In the past, except where an agency could identify a specific need, we generally viewed kitchen equipment, such as refrigerators, microwaves, and coffee makers, as a personal expense that an employee was expected to bear from his or her own salary. 47 Comp. Gen. 657 (1968). To conclude that the cost of such equipment was a proper use of appropriated funds, the agency had to demonstrate that it was difficult for employees to obtain food from local restaurants or other commercial vendors in a reasonable amount of time, and that this affected their ability to adequately carry out their jobs. For example, in B-276601, June 26, 1997, we concluded that the Central Intelligence Agency could purchase a refrigerator for employee use because the headquarters' on-site cafeteria was open only for breakfast and lunch, while employees were required to work during evening hours, and the nearest commercially available eating facility was 10--15 minutes away. In this case, the purchase was reasonably related to the efficient performance of agency activities and was not just for the personal convenience of individual employees. In a similar decision, we did not object to the Naval Medical Command, Department of the Navy, purchasing a microwave oven because the facility operated on a 7 days a week, 24-hour basis, and eating facilities were not readily accessible to department employees. B-210433, Apr. 15, 1983.

Obviously, there is a very real and immediate benefit to employees who are provided the use of kitchen equipment like refrigerators, microwaves, and coffee makers. For example, employees bring their own food into the workplace for a variety of personal reasons, including dietary considerations, food preferences, budgetary concerns, religious observations, medical needs, and time considerations. Nevertheless, providing such equipment for employee use also inures to the benefit of the agency in a number of ways, including increased employee productivity, health, and morale, that when viewed together, justify the use of appropriated funds to acquire the equipment. With kitchen facilities available, employees, facing deadlines and emergencies, often find that they can more easily accommodate these deadlines. Indeed, in a sense, it is the employee's use of the equipment itself, rather than use of alternatives, that accrues to the agency's benefit.[1]

In considering the availability of an agency's appropriation for kitchen equipment, it also is important to take notice of what our society expects of its employers. We expect an agency to use appropriated funds to satisfy basic fundamental needs of employees such as potable water, clean air, sufficient light, and certain facilities, such as restrooms. Today, refrigerators, microwaves, and centralized coffee makers are common in many workplaces. Federal offices reflect this expectation, except that, for the most part, employees have purchased these items with their own funds.

Over time, we have reconsidered whether particular expenditures that we once viewed as personal expenses of the employee may in certain circumstances be considered an official expense of the agency. For example, in B-280759, Nov. 5, 1998, we overruled our earlier decisions holding that business cards were a personal expense. We concluded that business cards may be considered a necessary expense of the agency where the agency head determines that the appropriate use of business cards by agency employees who deal with outside organizations will further the agency's statutory mission. In B-286026, June 12, 2001, based on a reassessment of the training opportunities afforded by professional examination review courses, we overruled our earlier decisions holding that an agency may not use appropriated

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[1] In addition, agencies, including USPACOM, have specific authority to promote and maintain the health and physical fitness of their employees, for example, by establishing preventive health programs, such as a fitness center, and to provide flu shots and other vaccines. 5 U.S.C. § 7901. Making use of a refrigerator and a microwave is consistent with this. Some employees are unable to eat certain types of food or need to store temperature-sensitive medications. A microwave permits other employees attempting to lose weight to heat frozen low calorie meals, or reheat specially prepared meals from home.

funds to pay for employees to attend examination review courses and to provide on-the-job study time.[2]

Because of the varied purposes for which employees might use kitchen equipment, we believe their availability will contribute to the efficient operations of the agency and the health of personnel, and is one of many small but important factors that can assist federal agencies in recruiting and retaining the best work force and supporting valuable human capital policies. Further, having centralized appliances and therefore fewer extension cords or overloaded circuits will permit USPACOM to better manage the safety of the building. Accordingly, USPACOM may use its operations and maintenance appropriated funds to purchase refrigerators, microwaves, and central coffee makers to equip kitchen areas in USPACOM's new headquarters for general employee use.

However, since this determination is a departure from prior decisions, we recommend that USPACOM develop an agency policy to ensure uniformity in the use of appropriations to acquire this equipment and determine the usefulness of such appliances for the agency in light of both operational benefits discussed above and the responsibility to provide a safe work environment. In developing a policy, USPACOM should address the ongoing need for specific equipment throughout the headquarters, the amount of USPACOM's appropriation budgeted for this purpose, price limitations placed on the equipment purchases, and whether the equipment should be purchased centrally or by individual units within headquarters. It is important that the policy ensure that appropriations are not used to provide any equipment for the sole use of an individual, and that USPACOM locate refrigerators, microwaves, and coffee makers acquired with appropriated funds only in common areas where they are available for use by all personnel. It should also be clear that appropriated funds will not be used to furnish goods, such as the coffee itself or microwaveable frozen foods, to be used in the kitchen area. These remain costs each employee is expected to bear.

CONCLUSION

USPACOM may use appropriated funds to purchase refrigerators, microwaves, and commercial coffee makers for central kitchen areas in its new headquarters building. Appropriations are available to pay for items such as these, ordinarily considered personal in nature, when the primary benefit of their use accrues to the agency, notwithstanding a collateral benefit to the individual. USPACOM has demonstrated

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[2] *Cf.* 71 Comp. Gen. 527 (1992). Although we denied the use of appropriated funds for eldercare costs, we based our decision, in part, on the fact that eldercare benefits were not provided to the nonfederal workforce and were not historically offered by federal agencies.

that equipping its new headquarters building with these appliances is reasonably related to efficient performance of agency activities and provides other benefits, including, importantly, the assurance of a safe workplace.

Since this decision represents a departure from prior relevant GAO case law, earlier decisions such as B-276601, June 26, 1997, B-210433, Apr. 15, 1983, and 47 Comp. Gen. 657 (1968) are modified to conform with the views expressed herein.

/signed/

Anthony H. Gamboa
General Counsel