



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Purchase of Baseball Caps by the Department of Energy

File: B-260260

Date: December 28, 1995

DIGEST

The Department of Energy may not use appropriated funds to purchase baseball caps for personnel recruitment purposes since the caps are in the nature of personal gifts.

DECISION

Patricia L. Criss, an authorized certifying officer for the Department of Energy, Chicago Operations Office, has requested an advance decision concerning the use of appropriated funds for the payment of a voucher in the amount of \$1,087.50 for an order of 250 baseball caps to assist the department in its recruiting efforts. As explained below, appropriated funds may not be used to pay for the baseball caps.

Background

According to the certifying officer, the Department of Energy's Information Management and Support Division's (Energy) contracting officer ordered 250 caps imprinted with the words "DOE - Valuing Diversity." The caps, according to Energy, were to be used for "recruitment purposes" in furtherance of Energy's implementation of a strategic plan for diversity, which aims to recruit, hire, and retain a diverse work force. It appears that Energy intends to give the caps to non-employees incident to its employee recruitment program. The certifying officer questions the appropriateness of the expenditure.

Analysis

Appropriated funds may be used only for authorized purposes. 31 U.S.C. § 1301(a). In this case, there is no indication that Energy's appropriations or authorizing acts

provide direct authority for this expenditure.¹ If the objects are neither expressly authorized nor prohibited, they are permissible only if reasonably necessary or incident to the proper execution of an authorized purpose or function of the agency. 66 Comp. Gen. 356, 359 (1987). The application of this "necessary expense rule" is a matter of agency discretion. However, agencies do not have unfettered discretion. Therefore, when we review an expenditure to determine whether it falls within an authorized purpose or function, we consider whether, under the circumstances, the relationship between the authorized function and the expenditure is so attenuated as to take it beyond the agency's legitimate range of discretion. B-247563.2, May 12, 1993.

Since the baseball caps have some, however modest, intrinsic value, and since Energy intends to give the baseball caps to non-employees, the caps are in the nature of a personal gift. An agency may not purchase items in the nature of gifts or souvenirs for non-employees unless there is a direct link between the items and the purpose of the appropriation charged. *Id.* Stated differently, in order to justify purchasing items in the nature of a personal gift, an agency must demonstrate that the items will directly further its mission. *See* B-193769, Jan. 24, 1979 (purchase of lava rocks by National Park Service for visitors justified to discourage removal of rocks in national monument); B-201488, Feb. 25, 1981 (purchase of winter caps by National Weather Service for Weather Observation Program Volunteers not justified).

In some cases, expenditures for functional items of nominal value have directly furthered an agency's mission. For example, in B-247686, Dec. 30, 1992, we did not object to the Environmental Protection Agency's (EPA) purchase and distribution of informational buttons and magnets inscribed with messages regarding indoor air quality at an EPA sponsored conference. We distinguished the EPA expenditure from other cases involving expenditures for items of nominal value distributed outside the agency, typically to the public in general, on the basis of EPA's specific statutory mission to promote public information and education concerning indoor air quality. In another example, the National Oceanic and Atmospheric Administration (NOAA) proposed to offer either \$5 in cash or a baseball cap with the reward program logo to any individual returning fish tags to the agency. Given

¹An example of such direct authority can be found in a recently enacted statute giving the Secretary of Veterans Affairs discretionary authority to:

" . . . purchase promotional items of nominal value for use in the recruitment of individuals under this chapter [Veterans Health Administration - Personnel]. . . ."

38 U.S.C.A. § 7423(f) (West Supp. 1994).

the direct relationship and value of such information to NOAA's statutory required research on fish conservation and management, we viewed the expenditures as a necessary program expense. 70 Comp. Gen. 720 (1991).

In this case, DOE has not claimed that the caps further any specific agency mission, and the relationship between giving away caps and the general DOE activity to be furthered—recruiting a diverse workforce—is, at best, tenuous. Without a more direct link between the purchase of a personal gift and the purpose of the appropriation to be charged, we do not consider the expenditure to be appropriate.

/s/Robert P. Murphy
for Comptroller General
of the United States