



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Defense Reutilization and Marketing Service Awards Ceremonies

File: B-270327

Date: March 12, 1997

DIGEST

Vouchers for luncheon expenses incurred by the Defense Reutilization and Marketing Service (DRMS) for employees attending worldwide DRMS awards ceremonies may be paid. We have approved the payment of reasonable ceremonial expenses, including food, incurred in connection with the presentation of awards under the Government Employees' Incentive Awards Act. 65 Comp. Gen. 738 (1986). The \$20 per employee expense limitation set by DRMS in connection with presentation of the awards is not inconsistent with the Incentive Awards Act or implementing regulations.

DECISION

Mr. Richard F. Keevey, Director of the Defense Finance and Accounting Service (DFAS), requests an advance decision regarding the propriety of paying certain vouchers for the expenses of luncheons provided to Defense Reutilization and Marketing Service (DRMS) employees attending awards ceremonies recognizing the accomplishments of DRMS employees around the world. For the reasons set forth below, DFAS may pay these vouchers.

BACKGROUND

DRMS is a field activity of the Defense Logistics Agency (DLA), whose primary mission is to redistribute or sell surplus personal property generated by the Department of Defense. Prior to fiscal year 1994, DRMS consumed substantially more funds than it generated. For example, in fiscal year 1993, DRMS' expenditures exceeded its deposits by \$91.7 million. In an effort to reduce DRMS' operating cost, the Department of Defense designated DRMS as a "Re-invention Laboratory" with a charter to explore new and more business-like practices. For fiscal year 1994, DRMS deposits exceeded its expenditures by \$17 million, a swing of nearly \$109 million.

In recognition of this performance, DRMS granted awards to each of its employees, designated each Defense Reutilization and Marketing Office (DRMO) as "DRMO of the Year," and authorized each DRMO to host luncheons to recognize the accomplishments of its employees. The December 7, 1994 message from the Commander of DRMS announcing the "DRMS Celebration Day" states, in part, as follows:

"Since every person on the world-wide DRMS team deserves recognition for these spectacular achievements, 13 January 1995 has been formally designated as 'DRMS Celebration Day.' On that date, DRMS will host luncheons for all its employees around the world and will provide each employee a specially designed 'Bucks Bunny' and 'Reut Rabbit' t-shirt. Upon conclusion of these luncheons, I want each of you to enjoy a well deserved four hours of administrative leave."

In addition to the luncheon, tee-shirts, and leave, DRMS paid out over \$4.1 million in monetary awards agencywide. Nearly all of DRMS' employees received a monetary award.

A December 9, 1994 DRMS message provided guidance for the January 13, 1995 "Awards Recognition Ceremony." The message, which cited our decision at 65 Comp. Gen. 738 (1986), authorized each DRMS location to spend up to \$20 per person for accommodations and "incidental refreshments" in connection with the award ceremonies.

DFAS described the vouchers submitted to it by DRMS as follows:

"In almost all cases, the vouchers are annotated as being for refreshments incident to an awards ceremony. The vouchers generally contain no information concerning the awards ceremony. The receipts supporting the vouchers, however, typically reflect the fact that groups of DRMS employees went to a local restaurant, hotel, or other party establishment for the luncheon that was described by the DRMS Commander in his December letter. In one case, the voucher and supporting receipts is for a luncheon cruise for 135 employees. In another case, DRMS entered into a contract with a Golf Club to host the luncheon for all the employees of the DRMS headquarters."

DRMS takes the position that the luncheon expenditures were appropriate "incidental expenditures" to the presentation of awards, and as such are authorized by the Government Employees' Incentive Awards Act (GEIAA or the Act), 5 U.S.C. §§ 4501-4507 (1994). In its submission to us, DFAS notes that "what constitutes refreshments has not been clearly defined." Accordingly, DFAS asks whether it may consider "payment of full meals for every employee of the agency . . . as a

necessary expense under the Incentive Awards Act if done in conjunction with the presentation of monetary and nonmonetary awards recognition to all the employees of the agency."

DISCUSSION

The GEIAA authorizes an agency head to pay a cash award or grant time off to an employee who "by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of government operations or achieves a significant reduction in paperwork," or "performs a special act or service in the public interest in connection with or related to his official employment." 5 U.S.C. § 4503. The Act authorizes an agency to use its operating appropriations to cover the "necessary expense for the honorary recognition of" the employee or employees receiving the awards. *Id.* The Act directs the Office of Personnel Management to prescribe regulations and instructions to govern agency awards programs. 5 U.S.C. § 4506.

The provision of food or refreshments at an awards ceremony is an exception to the general rule prohibiting an agency from feeding its employees at taxpayer expense. 65 Comp. Gen. 738 (1986) (buffet luncheon incident to Social Security Administration (SSA) annual awards ceremony). As noted in 65 Comp. Gen. 738, the prohibition is premised on the notion that since "[f]eeding oneself is a personal expense," statutory authority is needed to utilize appropriated funds to provide food to employees at their permanent duty station. *Id.* at 739. We have interpreted the authority in the GEIAA to incur expenses necessary to honor the awardees to include refreshments where the agency determines that a reception with refreshments would materially enhance the effectiveness of its awards ceremony. 5 U.S.C. § 4503; 66 Comp. Gen. 536 (1987) (reception honoring an IRS employee's promotion); 65 Comp. Gen. 738 (1986) (buffet luncheon incident to SSA annual awards ceremony); and B-167835, Nov. 18, 1969 (awards banquet honoring Apollo 11 astronauts).

OPM's regulations issued to implement the Act, 5 C.F.R. Part 451, purposely leave it up to the agencies to design their award programs and make their own award decisions. In its supplementary information accompanying the latest revision to its awards regulations, OPM characterized the rules presently in effect as providing "a few basic requirements with which agencies can design award programs to meet their individual cultures and needs." 60 Federal Register 5544 (January 27, 1995). For purposes of our role in investigating and settling the use of appropriated funds, we must respect and defer to OPM's regulatory decisions and the implicit delegation of authority to agencies to make implementing decisions *vis-a-vis* their incentive awards programs so long as such decisions are consistent with the essential requirements of the Act.

With the foregoing context in mind, the issue is whether DRMS has exceeded the authority Congress has provided agencies in the GEIAA. Although the employee coverage provided in connection with the "DRMS Celebration Day" is broader than we have typically encountered in our prior decisions, unless arbitrary and capricious, differences in degree do not invalidate the decisions made.

With respect to the payment of meals for every employee in connection with the presentation of awards recognition to all DRMS employees, the record indicates that the actual practice of DRMS installations varied. The sites of the luncheons covered the entire spectrum. Some of the smaller installations purchased sandwiches from local delicatessens and held the award ceremony at DRMS installations. Others held the awards ceremony at non-federal locations. One installation contracted for a luncheon cruise. Regardless of the location, there is no evidence that any of the awards ceremonies exceeded the \$20 per person authorized by the commander of DRMS.

Agencies have reasonable discretion to decide how to spend their operating appropriations to satisfy their statutory duties, B-235163, B-235163.11, February 13, 1996, including how to conduct their awards programs. Cf. 66 Comp. Gen. 536, 537 (1987). In the context of the Act, determining whether an expense is a "necessary" one requires measurement "not by reference to an expenditure in a vacuum, but by assessing the relationship of the expenditure to the specific appropriation to be charged." 65 Comp. Gen. at 740. For example, when President Nixon awarded the Medal of Freedom to the three Apollo 11 astronauts, the National Aeronautics and Space Administration charged its Research and Program Management appropriation for \$60,000 to cover its share of the cost of the banquet. In commenting on NASA's discretion to use appropriated funds for an awards ceremony under the Act, we observed that the "act does not establish a dollar limitation nor does the legislative history indicate that such a limitation was considered." B-167835, Nov. 18, 1969. In this case, we cannot say that the \$20 per person maximum set in the December 9, 1994 DRMS message is inconsistent either with the dollar value of expenditures or the type of ceremonial expenses previously considered by this Office. Nor does it offend any OPM regulatory guidance or express provisions of the Act. Accordingly, the vouchers submitted to DFAS may be paid.

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