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DECISION

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

MAY 14 1981

FILE: B-202028 DATE:

MATTER OF: Use of appropriated funds for attendance at awards ceremony and dinner

DIGEST: The expenditure of appropriated funds ~~by the Internal~~ Revenue Service for ~~the~~ purchase of tickets to ~~an~~ awards ceremony and dinner of the National Association of Black Accountants was not authorized, even though purpose for attending was to show support of the agency's equal opportunity program and to make contacts for possible future employment. 5 U.S.C. § 5946 prohibits the use of appropriated funds for attendance at such an event except in limited circumstances (such as training) and those circumstances are not here present. While that statute does not prohibit performance of an official Government function such as delivering a speech, these employees attended the banquet on substantially the same basis as the organization's members and supporters. Therefore, the prohibitions of 5 U.S.C. § 5946 must apply and bar payment of these expenses.

An authorized certifying officer of the Internal Revenue Service (IRS) has requested a decision as to the propriety of the Service's expenditure of $240 for eight corporate tickets to the Fourth Annual Awards and Scholarship Dinner of the National Association of Black Accountants (NABA), Cleveland Chapter, held on November 1, 1980. Her letter indicates that IRS agents attended the banquet in order to establish contacts for recruitment purposes and to demonstrate the commitment of the Internal Revenue Service to its Equal Opportunity Program. Because the use of appropriated funds for this purpose is prohibited, we find the payment improper.

In a memorandum submitted to us along with the request for a decision, the Assistant Regional Counsel for the Internal Revenue Service's Central Region argues that although any charge made specifically for meals at the NABA banquet would not be payable from appropriated funds, the entire fee is payable under the given circumstances since the $30 ticket price is not divisible into portions covering the cost of the meal and the cost of attendance at the remainder of the program. It is correct that in the absence of authorizing legislation, the cost of meals or refreshments furnished to Government employees may not be paid with appropriated funds. B-182527, February 12, 1975. It is incorrect, however, that the

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entire fee is payable here. The rule of this Office, relied upon by IRS, is that in training situations, if the cost of the meal may not be separated from the cost of the training program, the entire fee may be paid. However, for the reasons discussed below we do not feel that the provisions of the Government Employee Training Act apply in these circumstances.

Section 5946 of Title 5, United States Code, provides that:

> "Except as authorized by a specific appropriation, by express terms in a general appropriation, or by sections 4109 and 4110 of this title [5 U.S.C. §§ 4109 and 4110], appropriated funds may not be used for payment of--
>
> "(1) membership fees or dues of an employee as defined by section 2105 of this title [5 U.S.C. § 2105] or an individual employed by the government of the District of Columbia in a society or association; or
>
> "(2) expenses of attendance of an individual at meetings or conventions of members of a society or association."

IRS contends that it falls within one of the exceptions set forth in this statute. We disagree. Nothing in the agency's appropriations authorizes the payment of employee incurred expenses at meetings or conferences of a society or association. Neither are the provisions of 5 U.S.C. §§ 4109 and 4110, part of the Government Employees Training Act, applicable. We have frequently held, as IRS points out, that when the cost of a meal is included without segregation in a training course registration fee, the total sum can be paid. However, in the instant situation it is clear that the attending IRS employees are not being trained and so these statutory exceptions to 5 U.S.C. § 5946 are not applicable.

In the latter regard, the Assistant Regional Counsel contends that "the restrictions of 5 U.S.C. § 5946 could also be avoided by the purchase of tickets to the NABA banquet in the name of the agency itself." Three of our previous opinions are cited in support of this position: 57 Comp. Gen. 526 (1978); 53 Comp. Gen. 429 (1973); and 52 Comp. Gen. 495 (1973).

All three cases stand for the proposition that although the first paragraph of 5 U.S.C. § 5946 prohibits the use of appropriated funds for the payment of membership fees of employees of the Government as

individuals (except as authorized in an appropriation act or in connection with employee training under § 4109), the prohibition does not "* * *prevent a Federal agency as such from becoming a member of a society or association when the primary purpose of the membership is to obtain direct benefits for the Government necessary to the accomplishment of the functions or activities for which an appropriation has been made." 52 Comp. Gen. 495, 496 (1973). These cases are not significant for our purposes, however, since the purchase of eight tickets to an awards banquet under the given circumstances cannot be construed as the payment of membership dues. Rather, the second paragraph of 5 U.S.C. § 5546, relating to attendance at conferences, is for application, and, as discussed above, it prohibits this expenditure.

We do not feel, however, that 5 U.S.C. § 5946 is applicable to situations in which attendance at a meeting is part of the employee's official functions. The restrictions of that statute are directed at paying an employee's dues to an organization and at paying his or her expenses of attending that organization's conventions, whether or not the attendee is one of that organization's members. Attending a meeting on official Government business and as part as one's official functions is not, however, precluded. For example, 5 U.S.C. § 5946 does not prohibit the agency, when it deems it appropriate, from paying the expenses of an employee to address a convention when the topic is related to and in furtherance of the agency mission. It would similarly not preclude an agency from sending a representative to an assemblage of potential employees, which meeting is held for the purpose of providing information on job opportunities. On the other hand, see B-198720, June 23, 1980, in which we held that designation of an employee by the Federally Employed Women, Inc., as regional representative of her agency was not sufficient to take her out of the prohibition of 5 U.S.C. §5946.

In the instant situation the IRS employees attended this assemblage in the same manner as everyone else. As we understand it, from the viewpoint of the association, their attendance was virtually indistinguishable from that of the association's members and other supporters. While it is true that their attendance was intended to demonstrate the agency's commitment to its equal opportunity program and to establish contacts, if possible, for recruitment purposes, we do not believe that this is sufficiently related to the agency mission to take this out of the statutory prohibition against the payment of expenses of attending a convention or meeting.

Accordingly, the purchase of tickets to the NABA banquet with appropriated funds should not have been authorized. While we do not agree with the IRS Regional Counsel, Central Region, that our decisions

provide no definitive guidance on this type of question, we recognize that our decisions permitting payment of registration fees which include the cost of a meal under 5 U.S.C. § 4110 may have been mistakenly perceived as applicable even in a non-section 4110 situation. Therefore, we need not insist on recoupment of the improperly used monies in this instance.

MILTON J. SOCOLAR
Acting Comptroller General
of the United States