

DECISION



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

FILE: B-211404

DATE: April 17, 1984

MATTER OF: Department of Interior--Purchase of Physical Exercise Equipment

- DIGEST:**
1. Purchase of physical exercise equipment to be used in mandatory physical conditioning program by Bureau of Reclamation firefighters is approved. Equipment is not for "recreational" or "personal" use. Equipment is principally for benefit of Government and could not reasonably be supplied by firefighters themselves.
 2. Employee who paid for equipment pending determination of whether purchase was authorized can be reimbursed since agency would have been authorized to pay for the equipment and was willing to do so, and the Government used and retained the equipment.

This decision is in response to a request for an advance decision from an authorized certifying officer of the Department of the Interior, Bureau of Reclamation (Bureau), as to whether a voucher submitted by Mr. Arthur L. Isherwood, a Bureau employee, may be certified for payment. Mr. Isherwood, an administrative officer at the Bureau's Grand Coulee Project, issued Government purchase orders for the procurement of exercise equipment for use by Bureau firefighters as part of a physical fitness program. He used \$512.06 of his personal funds to pay the invoices for the equipment because doubts were raised by the certifying officer regarding the propriety of the procurement at Government expense. Mr. Isherwood is seeking reimbursement of his personal funds. We agree that the exercise equipment was neither an impermissible employee recreation expense nor an impermissible "personal expense" in view of the evidence supporting the Bureau's determination that the equipment was a necessary expense of Bureau operations, principally benefitting the Government. We therefore conclude that the voucher may be certified for payment.

The exercise equipment in question was purchased for use in a mandatory physical fitness program for firefighters at the Grand Coulee Project in the State of Washington. The program is made necessary by the high levels of strength and endurance which firefighters must maintain to fulfill their duties. The submission describes the program in detail, and includes the following information:

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"--Physical fitness is a requirement of the firefighters' job as mandated by position description. The program is monitored by supervisors.

"--Specific levels of physical fitness for each firefighter are identified and evaluated in an ongoing program relative to established performance standards.

"--The physical fitness program in use for Project firefighters is identified in the National Fire Codes which are the guidelines for all fire protection activities at this Project.

"--Our program is administered and monitored by a local doctor and an annual evaluation of each firefighter is conducted by the doctor.

"--The firefighters work shifts which require they be on duty 24 hours at a time. It is not practical for them to furnish their own equipment and transport it back and forth each shift. The only practical and logical means of insuring an adequate physical fitness program is for the Government to provide the necessary equipment.

"--It is common practice within fire departments to provide physical fitness equipment to achieve lower injury claims and medical retirements."

The certifying officer nevertheless raises two issues: (1) is the purchase of the exercise equipment an impermissible use of appropriated funds for recreational equipment and (2) is the equipment primarily a personal expense?

In the present circumstances, we do not think that the physical fitness program contemplated for the Grand Coulee Project can be described accurately as a "recreation" program. In a 1965 case, this Office adopted a definition of "recreation" as "refreshment of the strength and spirits after toil; diversion; play; a means of getting diversion or entertainment." B-157851, October 26, 1965. Here, the equipment being purchased is not for the "diversion" or "entertainment" of the firefighters, although it may have that incidental effect, but rather is for use in a mandatory physical training

program, necessary to the efficient operations of the Bureau of Reclamation.)

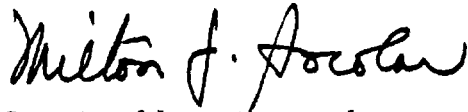
The general rule on personal expenses is that (an agency may not use appropriated funds to buy special equipment or furnishings to enable an employee to perform his or her official duties unless there is specific statutory authority. 61 Comp. Gen. 634 (1982). Obviously, this prohibition does not apply to the purchase of a great range of equipment used by employees in their work such as desks and chairs. The question of whether an expense is personal turns on whether the equipment primarily serves the needs of an individual or group of individuals that are not shared by the majority of other employees in the same circumstances. Id.

The record indicates that the physical training of the firefighters is an objective of the Bureau of Reclamation that cannot be accomplished expeditiously and satisfactorily without the equipment. Due to the nature of their job, firefighters must maintain an unusually high level of physical strength and endurance to perform satisfactorily. The exercise equipment in question appears to be reasonably calculated to maintain that high level of fitness. The equipment will be available to all firefighters. It appears that the Government, rather than the firefighters, receives the principal benefit from the equipment, in the form of improved physical capabilities on the part of its firefighters. See 45 Comp. Gen. 215 (1965). Moreover, the firefighters could not be expected to engage in the requisite physical training as effectively without special equipment, and we accept the Bureau's determination that, because of their schedules, it would be unreasonable to require them to furnish their own exercise equipment for use in the mandatory training program. The program must be conducted at the project site to provide the necessary monitoring and supervision.

Accordingly, the use of appropriated funds to purchase the exercise equipment in question would have been proper and the reimbursement may be made.

Finally, although the issue is not raised in the submission, we note that Mr. Isherwood used his personal funds to pay the invoices in question, and is now seeking payment on his own behalf. It has historically been the position of this Office that someone who makes a payment from personal funds, ostensibly on behalf of the Government, which he or she is not legally required or authorized to make, takes a chance that he may not be reimbursed. See 62 Comp. Gen. 419 (1983). In 62 Comp. Gen. 595 (1983), however, we permitted reimbursement

of an employee who had paid for repairs under circumstances where the agency would have paid for the repairs but for the intervention of the employee. Similarly, here, the agency would have paid for the equipment except for the questions resolved earlier in this decision. Given the fact that the Government has received the benefit of the equipment, we have no objection to paying him for the equipment. See 62 Comp. Gen. 419. id. We must caution that had we disapproved the questioned expense, payment could not be made. Accordingly, the voucher may be certified for payment.

for 
Comptroller General
of the United States