-- Mr. Bogart -

The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Invoice to IRS for that Agency's Share of CFC Solicitation Expenses Incurred in Northern Utah in 1985

File: B-225860

Date: February 12, 1988

DIGEST

An agency may use its administrative discretion to spend a reasonable portion of appropriated funds to provide its employees with the opportunity to contribute to the Combined Federal Campaign (CFC). Such an expenditure furthers governmental interests because the CFC is a legitimate, government-sanctioned charity fund-raising campaign.

An interagency financing scheme to administer the Combined Federal Campaign (CFC) in the Ogden, Utah area in fiscal year 1985 was prohibited by a general prohibition on such financing enacted by the Congress for that fiscal year and each subsequent year. Because this scheme required payment to support a separate organization established to provide CFC services to all participating agencies, the amounts of which did not necessarily correspond to the value of the goods or services actually received by each agency, it also fails to qualify as an exception to the statutory prohibition in 31 U.S.C. § 1532, known as the "Economy Act" which permits one federal agency to provide goods or services for another federal agency on a reimbursable basis.

DECISION

An Internal Revenue Service (IRS) certifying officer requests a decision as to whether he may properly certify for payment a voucher for $3,788.70, covering IRS's estimated share of the cost of services provided in fiscal year 1985 by an organization established to conduct the Combined Federal Campaign (CFC) for a group of contributing agencies. For the reasons specified below, we conclude that although the IRS may use a reasonable amount of appropriated funds to support the operation of the CFC, it may not do so through interagency financing of a CFC coordinating organization or group. Therefore, the voucher may not be certified for payment.

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BACKGROUND

On February 12, 1986, Hill Air Force Base, Ogden, Utah, submitted a voucher for $3,788.70 to the regional IRS office in Dallas, Texas, for overhead expenses incurred by the Northern Utah Area Combined Federal Campaign Fund-Raising Program Coordinating Committee (Committee) during fiscal year 1985. These expenses and subsequent billings reflect an interagency agreement among the Ogden Air Logistics Center, IRS Ogden Service Center, Defense Depot Ogden, and USDA Forest Service, Ogden, to share CFC solicitation expenses in the northern Utah area incurred by the Committee for fiscal year 1985. The IRS signed the agreement on October 29, 1984.

Payment for the voucher submitted would be made from an appropriation for fiscal year 1985 to the IRS under the general heading "Processing Tax Returns," portions of which are allocated to regional IRS offices. This appropriation was available for various enumerated purposes, one of which was for necessary expenses of the IRS not otherwise provided for. Title I of the Treasury, Postal Service, and General Government Appropriation Act for fiscal year 1985, H.R. 5798 (incorporated by reference into the continuing resolution for fiscal year 1985, Pub. L. No. 98-473, 98 Stat. 1837, 1963).

The certifying officer takes the position that such an appropriation is not available for CFC solicitation expenses. In his request for a decision, the officer cites a 1985 General Accounting Office (GAO) report, which indicates that agencies commonly donate employee services to the CFC campaign each year. GAO, "Fiscal Management of the Combined Federal Campaign" at 11, 12 (GGD-85-69, B-202792, July 29, 1985). He argues that, since the report fails to recount a prior practice of agency donations of cash as opposed to people, donations of cash are not authorized by the appropriation for fiscal year 1985.

ANALYSIS

Appropriated funds may be used solely to accomplish ". . . the objects for which the appropriations were made except as otherwise provided by law." 31 U.S.C. § 1301(a) (1982). However, we have held that an appropriation made for a particular object, by implication, confers authority to incur expenses which are reasonably necessary or incident to the proper execution of the object. B-214833, August 22, 1984; 50 Comp. Gen. 534, 536 (1971); 29 Comp. Gen. 419, 421 (1950). Consistent with this position, we have found authority for the general agency practice of permitting employees to solicit funds for government-sanctioned

charities during working hours. B-155667, January 21, 1965; B-154456, August 11, 1964; B-119740, July 29, 1954. We have also found authority for the expenditure of funds for the preparation of campaign instructions and mailing labels and for the distribution of campaign materials. B-154456, supra.

This Office views the CFC as a legitimate, government-sanctioned charity fund-raising campaign with which government agencies may cooperate. B-154456, supra. In this regard, the CFC has the endorsement of both the President and the Congress. In 1957, President Eisenhower established the forerunner of today's CFC by setting forth general procedures and standards for a uniform fund-raising program within the executive branch. Executive Order No. 10728, 3 C.F.R., 1954-1958 Comp., p. 387. President Kennedy formalized the CFC in 1961 and it has been maintained by presidents ever since. See Executive Order No. 10927, 3 C.F.R., 1959-1963 Comp., p. 454; revoked and covered by Executive Order No. 12353, 3 C.F.R., 1982 Comp., p. 139. In addition, a law governing the internal administration of the Congress ensures that its own employees have the opportunity to contribute to the CFC fund in conjunction with executive branch employees. 2 U.S.C. § 60e-1c(a), (b) (1982). As a further expression of its concern with this campaign, the Congress recently enacted guidelines for the future administration of the CFC by the executive branch. Section 618 of the Treasury, Postal Service, and General Government Appropriation Act, 1988, Pub. L. No. 101-202, 101 Stat. ___ (December 22, 1987). We therefore find that agencies may expend appropriated funds to support efforts to solicit contributions to the CFC from their employees.

The question remains whether an agency may spend appropriated funds to purchase CFC solicitation services from an interagency entity. In this case, the voucher submitted would entail the IRS contributing to the expenses of the Committee in performing these services. The Congress has enacted two restrictions which apply to such purchases. First, the Congress has enacted a general prohibition on interagency financing, effective during each fiscal year since 1971. See 65 Comp. Gen. 689, 690 (1986). During fiscal year 1985, the prohibition in effect read as follows:

> "No part of any appropriation contained in this or any Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have prior and specific statutory approval to receive financial support from more than one agency or instrumentality." (Emphasis added.)

Section 610 of the Treasury, Postal Service, and General Government Appropriation Act 1985, H.R. 5798 (incorporated by reference into the continuing resolution for fiscal year 1985, Pub. L. No. 98-473, 98 Stat. 1837, 1963 (1984)).

We are aware of no applicable prior and specific statutory approval for the operation of the Committee. Therefore, we conclude that this prohibition extends to payments based on the interagency agreement to purchase CFC solicitation services entered into by the IRS, among other agencies, on October 29, 1984.1/

The certifying officer indicates that the ordering office contends that this sort of interagency agreement is similar to the operation of the Federal Executive Boards and should therefore be permitted. In fact, this Office has held interagency financing of the Federal Executive Boards to be prohibited by the same statutory language, applicable in fiscal year 1986. 65 Comp. Gen. 689 (1986).

Even if one could successfully argue that this restriction did not apply to the voucher in question, payment on this voucher would still have to satisfy another restriction pertaining to an agency's purchase of services from another government entity. This is the statutory restriction on the crediting of one appropriation account with funds withdrawn from another. 31 U.S.C. § 1532. This provision requires that such reimbursements be authorized by law. In certain circumstances, the so-called Economy Act, 31 U.S.C. § 1535, could provide this authority by allowing one agency to purchase goods or services from another. That provision reads:

> "1535. Agency Agreements
>
> "(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if-

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1/ Even though the voucher in question names only Hill Air Force Base as receiving funds, the voucher is based on an interagency agreement. The Articles of Association of the Committee stipulate that Hill Air Force Base will initially incur all costs of the Committee "and then bill the other members annually." Articles of Association of the Northern Utah Federal Fund Raising Program Coordinating Committee at paragraph IV,J,3 (February 27, 1978).

"(1) amounts are available;

"(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

"(3) the agency or unit to fill the order is able to provide the ordered goods or services; and

"(4) the head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise."

The legislative history of this provision indicates that the Congress intended that one agency use this authority to purchase services from another to effect "substantial economies" in "proper cases." H. Rep. No. 1126, 72d Cong., 1st Sess. 15. Such a situation exists where services "can be furnished by another department at less cost or more conveniently than the department ordering those services." Id.

The voucher reflects a per capita funding method, as outlined in the interagency agreement and in the Articles of Association of the Committee. Such a method of allocating costs does not necessarily relate to the goods or services that any one agency actually received during the year. Without the ability to ascertain exactly what goods and services its money is purchasing, there is no way that an agency can determine that it is receiving services at less cost and more conveniently than it could have provided for itself. Hence, per capita funding arrangements which do not identify what goods or services each participant actually receives, such as employed in the case at hand, will not satisfy this requirement of 31 U.S.C. § 1535.

Accordingly, we conclude that the voucher for $3,788.70 presented in this case may not be certified for payment.

for Comptroller General
of the United States