

D. Hilton



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Golden Spike National Historic Site--  
Request for Imprest Fund Reimbursement for  
Musical Entertainment

**File:** B-234298

**Date:** July 12, 1989

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### DIGESTS

1. U.S. Department of the Interior appropriations for the operation of the National Park System may be used to reimburse the Golden Spike National Historic Site imprest fund for the cost of musical entertainment provided at the Site's 1988 Annual Railroader's Festival. Under 16 U.S.C. § 1a-2(g), the Secretary of the Interior may contract for interpretive demonstrations at Park Service sites. The Golden Spike National Historic Site commemorates the 1869 completion of the first U.S. transcontinental railroad and the musical entertainment was representative of nineteenth century railroad and western U.S. music. We have no basis for questioning the agency's judgment that there was a meaningful nexus between the music and the purpose of the Golden Spike site. Further, the music was part of a program determined by the agency to advance the commemoration of Golden Spike, and was not elaborate or extravagant.
2. Music and other artistic events may constitute interpretative demonstrations at National Park Service (NPS) sites for which appropriated funds may be used. While our decisions provide some criteria for determining the propriety of entertainment expenses, we do not believe that a single rule can delineate the circumstances under which music and other artistic events constitute interpretative demonstrations. Rather, whether a particular event sufficiently interprets an NPS site must be determined on a case-by-case basis. Therefore, to assist NPS units in determining when entertainment may constitute an interpretative demonstration for an NPS site, we recommend that the NPS adopt guidelines consistent with our decisions.

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## DECISION

The Acting Chief of the Division of Finance for the Rocky Mountain Regional Office, U.S. Department of Interior, National Park Service (NPS), has asked for an advance decision on whether a \$300 imprest fund reimbursement voucher submitted by the Golden Spike National Historic Site ("Golden Spike") should be certified for payment. The voucher covers an expense for musical entertainment provided to the general public at the 1988 Annual Golden Spike Railroader's Festival. For the reasons stated below, this voucher may be paid.

## BACKGROUND

On August 13, 1988, Golden Spike held its twelfth annual Railroader's Festival. According to the Superintendent of Golden Spike, the festival celebrates the role of railroading in the settlement and development of the western United States. The annual festival was an "open house" with the public admitted to Golden Spike free of charge. The 1988 Festival featured reenactments of the 1869 completion of the first U.S. transcontinental railroad, railroad track laying demonstrations, the World Champion Spike Driving Contest, and various games and contests typifying recreational events of the period. The 1988 Festival also included two and one-half hours of musical entertainment by a band which specializes in railroad and nineteenth century western American music.

On October 13, 1988, a \$300 bill submitted by the band was paid out of Golden Spike's imprest fund. The Superintendent of Golden Spike then submitted a voucher to NPS's Rocky Mountain Regional Office to reimburse the imprest fund for this expense. The voucher submitted by the Superintendent would charge the entertainment expenses to an account for interpretation activities within the Department of Interior's appropriation for operation of the National Park System. According to the Division of Finance for the NPS's Rocky Mountain Regional Office, NPS interpretation activities at a park site involve educating and presenting information about--and trying to foster public appreciation of--the park site's purpose and/or resources.

In light of our decisions which generally prohibit use of an agency's appropriated funds for entertainment, the Division of Finance asked two questions. First, the Division asked for our opinion on whether the specific voucher may be paid. Second, the Division asked for:

"a ruling as to whether live music or similar artistic events can be considered a necessary interpretation expense in the absence of clear statutory authority where there does appear to be a connection between the artistic event and the mission of the NPS unit."

#### LEGAL ANALYSIS

Our Office has long held that agencies must have statutory authorization in order to use their appropriated funds for entertaining individuals. E.g., 64 Comp. Gen. 802 (1985). Our decisions have specifically classified live musical performances as entertainment which is subject to the general rule. See 58 Comp. Gen. 202 (1979), overruled on other grounds 60 Comp. Gen. 303 (1981). Thus, there must be a statutory basis for NPS having contracted for the music performed at Golden Spike in order for this voucher to be paid.

The Secretary of the Interior is authorized by 16 U.S.C. § 1a-2(g) to "enter into contracts . . . with respect to . . . interpretive demonstrations" at NPS sites.<sup>1/</sup> Since the NPS's interpretation activities and contracts in support of those activities generally are authorized, the issue of whether the voucher should be certified for payment depends upon whether this entertainment should be considered a demonstration interpreting the significance of Golden Spike under 16 U.S.C. § 1a-2(g).

In B-226781, January 11, 1988, we concluded that some entertainment will not be considered proper NPS interpretation activities. That case involved two types of expenses, those used to decorate an historic ranch house for the Christmas season and those used to conduct an open house (including refreshments and a visit from Santa Claus). Although we agreed that decorating the ranch properly interpreted how the ranch celebrated Christmas during the frontier era, we stated that the goal of generally attracting visitors to an NPS site through the open house had only an indirect and conjectural bearing upon the NPS's interpretation mission. We concluded that the expenses for the open house were not allowed under the general rule against paying for entertainment.

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<sup>1/</sup> The Secretary of the Interior is directed to effectuate the national policy of preserving historical sites "for the inspiration and benefit of the people of the United States" through NPS. 16 U.S.C. §§ 461, 462 (1982).

On the other hand, the legislative history of 16 U.S.C. § 1a-2(g) makes clear that some entertainment will be proper interpretation activities. According to the House Report on the bill which became section 1a-2(g), Congress contemplated that the Secretary of the Interior would use the power to contract for interpretive activities to "enter into cooperative agreements to permit the presentation of programs and performances at areas like Wolf Trap Farm Park and Ford's Theater." H. Rep. No. 1265, 91st Cong., 2d. Sess. 5 (1970). Wolf Trap Farm Park was created specifically as a park for the performing arts. 16 U.S.C. § 284 (1982). Also, the legislative history of Public Law 91-288, which established the Ford's Theatre National Historical Site, states that Ford's Theatre was intended to be a living exhibit accommodating live theater performances. H. Rep. No. 1099, 91st Cong., 2d Sess. 2 (1970). Thus, where the statute authorizing a National Park Service unit, and/or the statute's legislative history, expressly states that the unit will be interpreted through entertainment, we will allow expenses for the entertainment contemplated.

The expense at issue here, however, is distinguishable from the clearly allowable entertainment expenses at Wolf Trap or Ford's Theatre and the unallowable open house expenses in B-226781. First, the statute authorizing the creation of the Golden Spike National Historic Site does not expressly authorize interpretation through entertainment. Act of July 30, 1965, Pub. L. No. 89-102, 79 Stat. 426 (1965). Further, the legislative history of the statute does not show Congress's contemplation that Golden Spike would be interpreted through entertainment. Thus, interpreting Golden Spike through entertainment does not have direct legislative support like interpreting Wolf Trap or Ford's Theatre does.

Second, the expense at issue here is also distinguishable from the expenses in B-226781. The purpose of Golden Spike is to commemorate the completion of the first U.S. transcontinental railroad. 70 Stat. 426. The expense was for musical entertainment which, according to the Superintendent of Golden Spike, was representative of railroad and western U.S. music at the time that the railroad was completed. Unlike the Christmas open house expense in B-226781, this expense has more than an indirect and conjectural bearing upon interpreting Golden Spike's purpose. Thus, this expense does not fall squarely within the type of entertainment expense which we considered unallowable in B-226781.

Our research has not uncovered any dispositive guidance on how to evaluate entertainment expenses which (like the

expenses here) fall between the two extremes discussed above. The legislative history of 16 U.S.C. § 1a-2(g) does refer to performances "at areas like Wolf Trap Farm Park and Ford's Theatre." H. Rep. No. 1265, 91st Cong., 2d Sess. 2 (1970) (emphasis added). However, the report does not describe the salient features which will define which other areas were like those two. The report only states that the performances "would be consistent with the park programs contemplated at these areas," would be "compatible with the Government's development, investment and park programs," and that they "will operate so as to complement and supplement the park programs at their respective areas." *Id.* at 5-6. The most that can definitely be concluded from these comments is that Congress has contemplated some level of entertainment as an appropriate means of interpreting for the public the significance of at least some NPS units. Without any more specific legislative guidance, we must look to our own decisions on entertainment expenses to determine if this expense should be allowed.

As the Division of Finance notes, we considered a similar question of whether entertainment could be considered an appropriate expense in our decisions at 58 Comp. Gen. 202 (1979) and 60 Comp. Gen. 303 (1981). In 58 Comp. Gen. 202, we considered whether ethnic music and dance presentations could be paid for by appropriated funds when the presentations were a part of an agency's Equal Employment Opportunity ("EEO") education program. We noted that the educational entertainment was very similar to the kinds of activities which are considered unallowable appropriation expenses. 58 Comp. Gen. at 206. We concluded that while we would not question past agency characterizations of entertainment as part of EEO programs, future EEO entertainment would not be allowable unless the entertainment conformed with statutory or regulatory guidelines to ensure that it was in fact a proper EEO education expense. 58 Comp. Gen. at 207.

In 60 Comp. Gen. 303, we reconsidered the question in light of Office of Personnel Management specific guidelines on how ethnic entertainment could be included in EEO programs. After reviewing these guidelines, we stated that:

"[W]e now take the view that we will consider a live artistic performance as an authorized part of an agency's EEO effort if, as in this case, it is a part of a formal program determined by the agency to be intended to advance EEO objectives, and consists of a number of different types of presentations designed to promote EEO training

objectives of making the audience aware of the culture or ethnic history being celebrated."

60 Comp. Gen. at 306.

Entertainment as part of Golden Spike's interpretation of the completion of the first U.S. transcontinental railroad is analogous to entertainment as part of agency EEO programs. In both cases, the entertainment can be an integral part of the educational purpose of helping the audience understand the event, culture, or resource being commemorated. For example, a dramatic reenactment of the completion of the transcontinental railroad is entertaining, but it also is a clear aid to the public's understanding of the event which Golden Spike commemorates. This can be distinguished from entertainment which is only intended to entertain, or which is so loosely connected with an educational purpose that it becomes a mere public relations tool. It is this latter form of entertainment which our previous decisions have held is not an appropriate expense. E.g. B-205292, June 2, 1982.

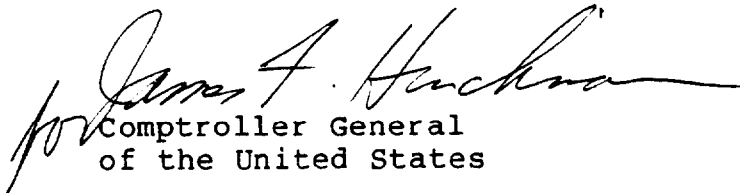
For the reasons discussed below, we conclude that the music performed at Golden Spike can be considered an interpretative demonstration and not mere entertainment. First, there is nothing in the record or other materials we reviewed which causes us to question NPS's judgment that a meaningful nexus exists between the nineteenth century railroad and western music and the completion of the transcontinental railroad. Second, the music was one part of a full day of interpretive and commemorative events. Thus, the music here, as in 60 Comp. Gen. 303, was part of a program involving different types of activities determined by the agency to advance an authorized objective. Finally, the music was not elaborate or extravagant and cannot reasonably be viewed as an isolated event designed solely to entertain or attract visitors to the site. Therefore, in response to the first question raised by the Division of Finance, we will allow the \$300 voucher in this case to be paid.<sup>2/</sup>

The Division of Finance also asked us to rule generally on whether live music or similar artistic events are proper interpretation expenses when there is a connection between

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<sup>2/</sup> We emphasize, however, that our conclusion in B-226781 is still applicable. Entertainment which only has an indirect and conjectural bearing upon interpreting an NPS unit cannot be reasonably characterized as a proper interpretation expense.

the artistic event and the mission of the NPS unit. Our decision here reflects our judgment that music and other artistic events may constitute interpretative demonstrations under 16 U.S.C. § 1a-2(g) for which appropriated funds may be used. However, while this decision and the other decisions cited herein provide some criteria for determining the propriety of entertainment expenses, we do not believe that a single rule can delineate the circumstances under which music and other artistic events constitute interpretative demonstrations. Rather, whether a particular event sufficiently interprets an NPS site must be determined after examination of the particular facts involved. Therefore, to assist NPS units in determining when entertainment may constitute an interpretative demonstration for an NPS site, we recommend that the NPS adopt guidelines consistent with the criteria contained in this and the other decisions issued by our Office.

  
Comptroller General  
of the United States