



## Decision

AF

**Matter of:** IRS Purchase of T-Shirts for Employees  
Contributing Certain Amounts to the Combined  
Federal Campaign

**File:** B-240001

**Date:** February 8, 1991

### DIGEST

1. The Government Employees Incentive Awards Act, 5 U.S.C. §§ 4501-4514, provides no authority for the Internal Revenue Service (IRS) to purchase T-shirts for employees contributing certain amounts to the Combined Federal Campaign.
2. The IRS may not use appropriated funds to purchase T-shirts for employees contributing certain amounts to the Combined Federal Campaign. The T-shirts are personal gifts and, as they are not essential to the accomplishment of an authorized purpose, the expenditure does not constitute a necessary and proper use of appropriated funds.

### DECISION

The Fiscal Management Officer for the Southeast Region of the Internal Revenue Service (IRS) requests an advance decision on whether to certify for payment a voucher for \$662.50 to Creative Advertising for T-shirts stamped with the Combined Federal Campaign (CFC) logo. IRS purchased 150 T-shirts for distribution to employees contributing five or more dollars per pay period to the 1989 CFC. For the reasons stated below, we conclude that the expenditure is not authorized under applicable statutes and regulations.

### BACKGROUND

In connection with the 1989 CFC, the Memphis Service Center of IRS purchased 150 T-shirts stamped with the CFC logo from Creative Advertising. The T-shirts were distributed to Memphis Service Center employees contributing five or more dollars per pay period to the CFC.

The Director of the Memphis Service Center argues that the T-shirts were properly purchased as part of IRS's Incentive Awards Program to motivate employees to support the CFC. The Director also argues that the purchase was consistent with our decision "that agencies may expend appropriated funds to support efforts to solicit contributions to the CFC from their employees." 67 Comp. Gen. 254 (1988).

PUBLISHED DECISION

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70 Comp. Gen. 248

The senior certifying officer for the Southeast Region refused to certify the voucher for payment. The certifying officer acknowledges that we have authorized agencies to spend appropriated funds to support efforts to solicit CFC contributions from employees. However, he doubts that 67 Comp. Gen. 254<sup>4</sup> authorizes IRS to spend appropriated funds to reward employees for specific pledges to the CFC.

Payment for the voucher would be made from an appropriation to IRS for fiscal year 1990 under the general heading "Processing Tax Returns," portions of which are allocated to regional offices. This appropriation was available for various enumerated expenses, one of which was for necessary expenses of IRS "not otherwise provided for." Title I of the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1990, Pub. L. No. 101-136, 103 Stat. 783, <sup>4</sup>87 (1989).

#### DISCUSSION

##### Legality of Expenditure Under Incentive Awards Program

Generally, agency award programs are authorized by the Government Employees Incentive Awards Act ("act"), 5 U.S.C. §§ 4501-4514<sup>4</sup> (1988). The act assigns responsibility for prescribing regulations and instructions for carrying out awards programs to the Office of Personnel Management (OPM). 5 U.S.C. § 4506.<sup>4</sup> Under the act, agencies may provide awards<sup>1/</sup> to employees who perform special acts or services in the public interest in connection with or related to their official employment. 5 U.S.C. § 4503.<sup>4</sup> OPM's regulations provide that a "special act or service" may be a contribution or accomplishment "either within or outside of job responsibilities." However, like the act itself, the regulations require that the act or service be "connected with or related to official employment." See 5 C.F.R. § 451.103<sup>4</sup> (1990). Thus, although agencies may recognize employees for

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<sup>1/</sup> The applicable statutes and regulations do not expressly address whether a T-shirt is an appropriate award under an agency's Incentive Awards Program. However, under regulations and guidance promulgated by OPM, a non-monetary award means a medal, certificate, plaque, citation, badge, or other similar item that has an award or honor connotation and can be worn or displayed. 5 C.F.R. § 451.103<sup>4</sup> (1990); Federal Personnel Manual, ch. 451, § 1-5<sup>4</sup> (Inst. 265, Aug. 14, 1981). Further, according to the July-August 1987 edition of OPM's Incentive Awards Notes, shirts with emblems and/or logos are appropriate non-monetary awards.

acts performed outside of their job responsibilities, such acts must be connected with or related to official employment.

The act and regulations do not authorize awards to employees for their contributions to private charitable organizations through the CFC. The CFC is a government-sanctioned charitable fundraising campaign, providing federal employees with a convenient means of contributing to a variety of recognized charitable organizations. See 67 Comp. Gen. at 256. Nevertheless, a federal employee's decision on whether to contribute to charity, like that of other individuals, is a purely personal one, and is neither related to nor connected with official employment.

Further, the act and regulations require agency officials to give "due weight" to incentive awards when considering employees for promotion. 5 U.S.C. § 3362, 5 C.F.R. § 451.104(h). Also, under 5 C.F.R. § 451.104(e)(3), an official at a higher level than that of the individual recommending the award must approve each incentive award. These regulations presume supervisory knowledge of the action for which the employee receives the award. To award T-shirts for contributions to the CFC under its Incentive Awards Program, IRS officials would have to obtain information on employees' contributions to make award decisions and then consider the awards when considering employees for promotions. Such practices would clearly violate statutory and regulatory provisions prohibiting employee coercion in the context of the CFC. See Title VI of the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1988, Pub. L. No. 100-202, 101 Stat. 1329-391, 1329-423 (1987) (5 U.S.C. § 1101 nt); 5 C.F.R. § 950.108.2/ Since IRS's recognition of its employees' contributions to the CFC under its Incentive Awards Program is inconsistent with the act and OPM's regulations, we conclude that IRS's purchase of T-shirts for that purpose is not authorized.3/

2/ E.g., IRS's compliance with regulations for incentive awards programs would require it to violate the prohibition in 5 C.F.R. 950.108(b) against supervisory inquiries about an employee's participation in and amount of contribution to the CFC.

3/ Our conclusion does not mean that all awards relating to the CFC are improper. OPM's regulations require that the Principal Combined Fund Organizations administering the local campaigns design and implement awards programs which are accessible to all employees and which reflect the government's commitment to non-coercion. 5 C.F.R. § 950.105. However, such awards are paid for with the local campaigns' (continued...)

### Legality of Expenditure Under Necessary Expense Rule

Under 31 U.S.C. § 1301(a) (1988), appropriated funds may be used only for authorized purposes. However, we have long 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. 66 Comp. Gen. 356 (1987); 50 Comp. Gen. 534 (1971); 29 Comp. Gen. 419 (1950). The necessary expense rule does not provide authority for expenditures that are prohibited by a provision of law or legal principle, for such expenditures do not fall within the agency's legitimate range of discretion. See 67 Comp. Gen. at 257 (holding that although IRS could spend a reasonable portion of its appropriated funds to support the solicitation of contributions to the CFC, it could not do so through interagency financing of a CFC coordinating organization or group when such interagency financing was prohibited by law).

The CFC is a legitimate, government-sanctioned charitable fundraising campaign to which federal agencies may lend their support. *Id.* at 256. The necessary expense rule therefore permits agencies to use appropriated funds to the extent reasonably necessary to demonstrate that support. There are certain activities, such as preparing and distributing campaign materials, publicizing the campaign, and permitting federal employees to solicit and accept contributions during business hours, that are clearly integral to agency support of the CFC. In this regard, we have approved the use of appropriated funds under the necessary expense rule to support

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3/(...continued)

gross receipts rather than with appropriated funds. See 5 C.F.R. § 950.106. In addition, while prohibiting fundraising activities not specifically authorized, OPM's regulations do not bar kick-offs, victory events, awards, and other non-fundraising events to build support for the CFC. 5 C.F.R. § 950.602. Agency awards such as pen and pencil sets to employees who carry out the agency's activities in support of the CFC or plaques to offices that meet their CFC goals, which do not identify particular employees based on their contributions to the CFC and thus do not present the potential for coercion of individuals who do not contribute, are not prohibited.

the CFC and other government-sanctioned activities for which appropriations were not expressly provided.<sup>4/</sup>

However, we are not convinced that purchasing personal items for individual employees is an integral and necessary part of supporting the CFC. We have consistently held that, even where personal items serve a legitimate function or the agency's overall objective is laudable, personal items may not be purchased with appropriated funds unless they are essential to the achievement of an authorized purpose. 55 Comp. Gen. 346 (1975); B-195247, Aug. 29 (1979). For example, in 57 Comp. Gen. 385 (1978), we considered the Environmental Protection Agency's (EPA) purchase of novelty plastic garbage cans containing candy representing items of solid waste to attract people to its exhibit at an exposition on waste management. We found that the purchase was not essential to EPA achieving its authorized mission and thus was not proper.

In contrast, we held that the National Park Service was authorized to purchase and distribute lava rocks to park visitors. The Service's appropriation was expressly available for maintaining parks and conserving natural objects, and the Service found that the "gift" of lava rocks was directly connected with, and was essential to, the carrying out of the purpose of the appropriation. B-193769, Jan. 24, 1979. More recently, we found that the Army was authorized to purchase framed posters as "prizes" for the winners of drawings held at national conventions of student organizations attended by the Army. B-230062, Dec. 22, 1988. The Army was statutorily required to "conduct an intensive recruiting campaign" and received funds for that purpose. The availability of "prizes" prompted individuals attending the convention to provide recruiters with information essential to the Army's recruiting effort, i.e., name, address, and telephone number. We found that the Army's purchase of posters to use as "prizes" to facilitate its acquisition of necessary information from potential recruits was directly related to the accomplishment of its statutory mandate.

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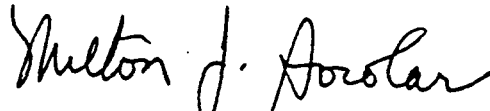
<sup>4/</sup> See, e.g., B-225006, June 1, 1987 (permitting IRS to use appropriated funds for promotional materials for the annual United States savings bond campaign); B-155667, Jan. 21, 1965 (permitting the Post Office to display posters and offer special mail delivery for the Eleanor Roosevelt Memorial Foundation); B-154456, Aug. 11, 1964 (permitting the Department of the Navy to use appropriated funds for instructions, mailing labels, and campaign materials for the John F. Kennedy Library fund drive); B-119740, July 29, 1954 (permitting federal employees to collect for charity campaigns during business hours).

Unlike the National Park Service and the Army in the cases discussed above, federal agencies have no express statutory mandate to conduct the CFC. Rather, federal agencies are merely authorized to support the CFC. To this end, we have concluded that reasonable expenditures of appropriated funds are permissible.

The CFC is not an expressly-mandated IRS program or activity. IRS was not required to ensure the success of the campaign and had no authority to generate contributions. Thus, IRS would be authorized to use its appropriated funds for gifts or promotional items only if such items were essential to supporting the CFC. While IRS has asserted that the T-shirts were to motivate its employees to contribute to the CFC, the availability of the T-shirts was unrelated to the legitimate elements of agency support for the CFC, e.g., fostering an atmosphere conducive to convenient giving and providing employees with opportunities to contribute that were not otherwise available. Since the T-shirts were not essential to IRS's support of the CFC, we find that the necessary expense rule provides no authority for this expenditure of appropriated funds.

#### CONCLUSION

We find that IRS cannot justify its use of appropriated funds under its Incentive Awards Program or under the necessary expense rule. Therefore, we conclude that IRS's purchase of T-shirts for certain employees was improper. Accordingly, the voucher for \$662.50 to Creative Advertising may not be certified for payment.



Acting Comptroller General  
of the United States

1. APPROPRIATIONS/FINANCIAL MANAGEMENT
  - Appropriation Availability
  - Purpose availability
  - Necessary expenses rule
  - Awards/honoraria
2. APPROPRIATIONS/FINANCIAL MANAGEMENT
  - Appropriation Availability
  - Purpose availability
  - Specific purpose restrictions
  - Personal expenses/furnishings