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**Comptroller General  
of the United States**

**United States Government Accountability Office  
Washington, DC 20548**

# Decision

**Matter of:** Department of the Navy—Lunch for Volunteer Focus Group

**File:** B-318499

**Date:** November 19, 2009

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## DIGEST

As part of an assessment of readiness and quality of life concerns for Department of Navy activities in Japan, a Navy Inspector General (IG) team led a focus group in which volunteer ombudsmen, generally spouses of active duty command members, participated. A certifying officer asks whether his command could have used appropriated funds to pay for lunch for the ombudsmen in order to increase participation at the focus group. In general, an agency may not use appropriated funds for a personal expense, such as lunch. Consideration of whether to provide food as an incentive for focus group participation must be addressed on a case-by-case basis, taking into account all the factual circumstances and the particular statutory objective the agency is trying to achieve. In the present instance, the command has not identified a specific statutory objective, just a general responsibility to cooperate with an IG investigation, conducted under the IG's authorities. Accordingly, under the facts presented, we cannot conclude that the command could have used its appropriated funds in this manner.

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## DECISION

A certifying officer with the United States Navy Fleet Activities at Okinawa, Japan, requests a decision regarding the provision of lunch at a Navy Inspector General focus group. Letter from Supervisory Financial Management Analyst, Commander, Fleet Activities Okinawa, Japan, to GAO, July 1, 2009, at 1 (July Letter). Specifically, the certifying officer asks whether his command could have used appropriated funds to provide lunch to volunteer command ombudsmen at a Navy Inspector General (IG) focus group. July Letter, at 1. Consideration of whether to provide food as an incentive for focus group participation must be addressed on a case-by-case basis, taking into account all the factual circumstances and the particular statutory objective the agency is trying to achieve. Here the focus group was conducted under the IG's authority, and the command did not identify a specific statutory objective.

Accordingly, under the facts presented by the command, we cannot conclude that such a use of appropriated funds would be proper.<sup>1</sup>

## BACKGROUND

In May 2009, a Navy Inspector General (IG) team visited Okinawa, Japan as part of the IG's assessment of readiness and quality of life concerns for Navy activities in Japan. July Letter at 1. The Navy IG team led fifteen focus groups with various personnel groups. *Id.* One such focus group consisted of ombudsmen, whose hour-long meeting was scheduled for noon on a Sunday. *Id.* Ombudsmen are volunteers and are not employees of the Navy. *Id.* They are generally spouses of active duty or selected reserve command members. July Letter, enclosure 2, at 3. Ombudsmen help give commanding officers a better understanding of the welfare of the command's families, and provide communications, outreach, resource referral, information, and advocacy to and for command families. *Id.* at 2--3.

The Navy IG team held the focus group meeting in order to help gain insight, from a customer's viewpoint, into readiness and quality of life concerns in Japan. July Letter, enclosure 3, at 1. The eventual goal underlying this attempt to get focus group participants' views and inputs was the improvement of the quality of life for Navy personnel, family members, and civilian employees. *Id.* The information gathered from such meetings was expected to help ensure that the Navy IG team accurately captured the concerns of Navy personnel in Japan. *Id.*

The certifying officer notes that ombudsman participation at the focus group was voluntary, and only five ombudsmen participated. July Letter at 1. The certifying officer suggests that providing lunches for a Sunday noon focus group meeting "would have benefited the Navy by encouraging participation in this assessment meeting, would be reasonable as a necessary cost to gain sought-after Ombudsmen perspectives on readiness and quality of life concerns, and would have helped further overarching Navy objectives by reaching the maximum audience possible in their assessments that affect their Sailors and employees worldwide." *Id.* at 2.

The certifying officer asked whether his command could have used Operation & Maintenance, Navy appropriations<sup>2</sup> to provide lunch to volunteer command

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<sup>1</sup> Our practice when rendering decisions is to obtain the views of the relevant federal agency to establish a factual record and to elicit the agency's legal position on the subject matter of the request. GAO, Procedures and Practices for Legal Decisions and Opinions, GAO-06-1064SP (Washington, D.C.: Sept. 2006). In this instance we used the information provided in the letter requesting the decision. July Letter.

<sup>2</sup> The Navy is currently operating under a Continuing Resolution. Continuing Appropriations Resolution, 2010, Pub. L. No. 111-68, 123 Stat. 2023, 2044 (Oct. 1, 2009), as amended by Pub. L. No. 111-88 (Oct. 30, 2009). For fiscal year 2009, its Operation and Maintenance funds were available "[f]or expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the

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ombudsmen at the Navy IG focus group meeting in order to encourage participation and to gain their unique perspectives. *Id.* at 1–2.

## ANALYSIS

As a general rule, agencies may not use appropriated funds to pay for personal expenses. B-247966, June 16, 1993. Because of the clear potential for abuse, we find exceptions to the general rule only rarely. We have allowed such exceptions when a particular expenditure for an item that is ordinarily considered personal in nature primarily benefits the government, notwithstanding the collateral benefit to the individual. B-302993, June 25, 2004. In cases such as this, the issue presented is the availability of the public’s money to supply goods or services that inure to the benefit of individuals. *Id.* We generally resolve this issue by assessing the benefits to the agency from any such expenditure. *Id.* The determining factor is whether, on balance, the agency or the individual receives the primary benefit. *Id.* If the primary beneficiary is the individual, not the agency or the government, the well-established rule is that such expenditure is not an authorized use of appropriated funds. B-309604, Oct. 10, 2007. We will consider exceptions to the general rule only after careful consideration of the particular factual circumstances. Any exception, therefore, is necessarily case-specific.

In 2005, we did not object to the use of appropriations to provide food as an incentive at focus group meetings conducted by the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs during which veterans and members of veterans’ families provided feedback on VBA benefit programs. B-304718, Nov. 9, 2005. VBA had a statutory requirement to measure and evaluate veterans benefit programs to assess their effectiveness.<sup>3</sup> *Id.* While VBA obtained information from a variety of sources, it determined that the use of focus groups was the best method of gathering certain feedback to assess program effectiveness. Studies showed that the best

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Marine Corps, as authorized by law.” Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Pub. L. No. 110-329, 122 Stat. 3574, 3606 (Sept. 30, 2008).

<sup>3</sup> *See also* B-242391, Sept. 27, 1991 (the National Oceanic and Atmospheric Administration, which was statutorily required to maintain a program of fishery research, could use appropriated funds to offer rewards for fish tags returned to the agency); B-286536, Nov. 17, 2000 (the General Services Administration, which was required by statute to make a continuing survey of the public building needs of the federal government, could hold a drawing with prizes in order to increase the response rate to its surveys).

chance of assembling a representative group was in the early evening, and providing food improved the quality of information collection.<sup>4</sup> *Id.*, at 2, 4.

In the present instance, however, the command, unlike VBA, has not identified a specific statutory objective, imposed on the command, to gather information for the IG investigation. While the command clearly has a responsibility to cooperate with an IG investigation, *see* 32 C.F.R. § 700.332(a)(3), the investigation in this case was an IG investigation, conducted under the IG's authorities, 10 U.S.C. § 5020(b).<sup>5</sup> We are not aware that IG has had concerns, either before or after the focus group meeting, about the degree of participation or the quality of information presented, or otherwise felt the need for food as an incentive to encourage participation. In this regard, we do not prejudge any argument the IG might have made, or might present in the future, on behalf of providing food as an incentive for encouraging participation of nongovernmental employees in focus groups. We recognize that focus groups are a valuable tool for information collection.

As we noted above, however, consideration of whether to provide food as an incentive for focus group participation cannot be approached in a generalized manner; it must be addressed on a case-by-case basis, taking into account all factual circumstances and the particular statutory objective the agency is trying to achieve. In this case, for example, we wonder if the scheduling of the ombudsmen focus group was dictated, at least in part, by the limited time during which IG investigators were in Okinawa. It is not clear whether IG weighed options in determining that it was necessary to hold this focus group on a Sunday during the normal lunch hour. IG may very well have decided that of all the focus group meetings to be scheduled while in Okinawa, it was willing to accept the trade-offs of scheduling the ombudsmen meeting at noon on a Sunday.

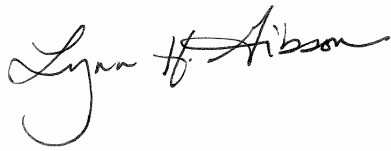
We recognize that offering a meal or refreshments to the focus group participants indeed might have increased the participation rate at the lunchtime meeting. We further acknowledge that gaining the perspectives of these volunteer ombudsmen may have bestowed some benefit upon the command. These facts by themselves, however, are not enough to show that the provision of meals at the focus group would primarily benefit the government by meeting specific statutory objectives. As a result, we cannot conclude that the command could have used appropriated funds in this manner.

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<sup>4</sup> *See also* B-242391, Sept. 27, 1991 (the National Oceanic and Atmospheric Administration identified other entities that had successfully used reward drawings with prizes in order to increase the return rate on fish tags); B-286536, Nov. 17, 2000 (the General Services Administration conducted a pilot test, demonstrating statistically that using a drawing for prizes in conjunction with its survey significantly increased the response rate).

<sup>5</sup> In making this point, we do not intend to minimize in any way the importance and necessity of command cooperation with the IG investigation.

We caution that any conclusion in the future to use appropriations to provide food as an incentive should be consistent with this decision and with Navy policy, and that neither the IG, a command, nor other Navy activity should proceed in the absence of an appropriate, enforceable policy, with procedures for approval to ensure that incentives are provided only when necessary and that appropriations are used in a judicious manner. Because federal employees have a duty to provide information to agency officials, including an IG, about the programs, projects, and activities with which they work, any policy should ensure that when incentives are used, they are used strictly for nonemployee focus groups and not for internal employee meetings or focus groups.

A handwritten signature in black ink, reading "Lynn H. Gibson". The signature is written in a cursive style with a large initial "L" and a stylized "H".

Lynn H. Gibson  
Acting General Counsel