

Memorandum

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Date: January 10, 1990
To: Director, Office of Recruitment - Frances Garcia
From: General Counsel - James F. Hindman

Subject: Use of Appropriated Funds For Various Recruitment Expenses - B-236763

You have asked for a legal opinion regarding the availability of appropriated funds to pay for various recruitment expenses. The Agency has recently begun a campus executive program in which senior GAO management participate in recruiting and selecting candidates. In fulfilling their responsibilities, campus executives and other recruiters have incurred various expenses including the following:

- the cost of refreshments provided to students and faculty during career seminars hosted by recruiters;
- the costs of participating in panel discussions and job fairs with other employers set up by college and university placement offices; and
- the purchase of business cards and name tags used when recruiting.

In addition to whether GAO may reimburse the expenses mentioned above, you have asked whether GAO may distribute pen and pencil sets, notebooks, calculators or other token gifts to students attending career or job fairs; pay travel costs for candidates participating in second interviews at the recruiting unit; and pay student volunteers for local travel expenses incurred while visiting audit sites. You also inquired whether we can pay fees for recruiters to join professional organizations, and whether we can pay travel expenses to bring students to GAO for day long seminars on GAO's mission and functions.



Based on a review of past decisions of the Comptroller General, we conclude that payment is authorized for the costs of recruiters participating in recruiting seminars, panel discussions, and job fairs; for the travel expenses of candidates who come to GAO for a second interview; for name tags; and for the Agency's membership in professional organizations. The other expenses, including refreshments (where such expenses are specifically identifiable), business cards, gifts distributed at job fairs, travel expenses to bring students to GAO for seminars, and local travel expenses for student volunteers, may not be reimbursed. The legal restrictions on these expenditures are discussed below.

A. Recruiter Participation in Panels and Discussions

One method of disseminating information about GAO is through participation in seminars or panel discussions and job fairs. GAO recruiters host career seminars for students and faculty members to discuss the merits of employment with and provide information about GAO. Refreshments are generally considered to be part of such seminars. Recruiters also participate in college placement office panel discussions or job fairs with other employers and are subsequently charged for their share of the cost of the event. You asked if the Agency may legally reimburse the recruiters for these recruitment-related expenses.

Refreshments such as those provided during career seminars are considered to be entertainment. Comptroller General decisions have prohibited the use of appropriated funds for entertainment of both federal and non-federal personnel unless an appropriation specifically authorizes such expenditures. See 47 Comp. Gen. 657 (1968); 26 Comp. Gen. 281 (1946); 5 Comp. Gen. 455 (1925). In 43 Comp. Gen. 305 (1963), for example, we held that appropriated funds could not be used to pay for refreshments at "recognition ceremonies" for volunteers at Veterans Administration hospitals. The ceremonies were designed to maintain the volunteers' interest in the Agency. The Comptroller General also denied the use of appropriated funds to pay for a reception for Hispanic leaders during an Equal Employment Opportunity Commission (EEOC) planning conference. The reception was to stimulate informal discussion of Hispanic employment discrimination problems. We held in that case, B-193661, January 19, 1979, that there was no provision in EEOC's appropriation act authorizing payment of entertainment expenses and that the provision authorizing educational or promotional activities did not encompass providing refreshments at receptions.

GAO can reimburse recruiters for other expenses incurred when they participate in panel discussions, job fairs or seminars conducted at colleges and universities. Recruiters are currently being charged for a portion of the room rental, publicity, hand-outs and related fees, as colleges and universities no longer absorb those costs. Those expenses are analogous to the procurement of short-term conference or meeting facilities and as such could be procured by GAO. See 54 Comp. Gen. 1055 (1975). Since GAO could procure the use of facilities and hold the meetings directly, we see no reason why GAO cannot procure the same facilities indirectly by paying a pro rata share of the expenses.

We understand that some of the bills presented in these circumstances are itemized and others are not. Additionally, the types of charges included vary from school to school, and sometimes may include charges for refreshments. Lump sum bills presented to a GAO recruiter may be paid, even if they include charges for refreshments. This situation is analogous to the training of government employees where the cost of an employee's meals that is otherwise not reimbursable is included in a lump-sum payment for an authorized training session. Because the meal is an intrinsic part of the training program and included in the overall cost of the training program, reimbursement is proper. Here, recruiters may be reimbursed because they cannot control all the elements of the program and cannot separate the charges if the bill is rendered as a lump-sum charge. If amounts for entertainment in the form of food can be identified, they may not be paid from appropriated funds.

B. Business Cards and Name Tags

While on official recruiting trips, GAO recruiters give out cards with their name, address, and telephone number to potential applicants and to officials from other employing organizations in order to facilitate further contact. Currently, recruiters pay for their own business cards and would like to be reimbursed for this expense.

The case law on this point is well-settled. Appropriated funds may not be used for the purchase of business cards. Decisions dating from as early as 1913 establish that the printing of business cards is a personal expense and cannot be paid for with appropriated funds, even when it is clear that the cards are being used only for official purposes. 12 Comp. Gen. 565 (1933); 20 Comp. Gen. 248 (1913).

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The most recent case denying the use of funds for business cards is B-231830, June 5, 1989. There, the Forest Service called its cards "information" cards. The Agency sought reimbursement for cards used by one of its Public Affairs Officers, who stated that the cards, which identify the Forest Service and include his name, title, and office address and telephone number, were essential to the conduct of public information business. The Agency also sought approval for another type of information card that did not contain the name or title of any specific individual. We denied reimbursement for both types, as constituting personal expenses which may not be paid from government funds.

You also asked whether we can provide name tags to be worn by recruiters who represent GAO at college campus events. We found no cases addressing name tags, and we believe that they may be purchased with appropriated funds. In Comptroller General decisions concerning business cards, we have considered them to function primarily as calling cards introducing the bearer to the person to whom the card is presented, or to be left as reminders or records of names, addresses and telephone numbers. X B-231830, supra. Such business cards can be used to serve a purely personal purpose, and as discussed above, we have always viewed them as personal in nature. Name tags will be used at job fairs or seminars where GAO recruiters will be appearing with representatives of other employers, or during recruiting interviews with prospective employees. Name tags carrying the GAO logo or seal will make the GAO representatives more easily recognizable among the representatives of various employers and will assist in establishing a positive atmosphere during interviews. We cannot envision a personal or private use of GAO recruiter name tags, and, therefore, we believe that appropriated funds may be used to procure them.

C. Promotional Gifts

While attending recruiting fairs and career symposiums at colleges and universities, recruiters distribute brochures describing GAO. Your office would also like to distribute token gifts such as pen and pencil sets, notebooks, or calculators to potential GAO applicants as a favorable reminder of GAO. Other employing organizations hand out similar gifts.

The law with regard to gifts is similar to that of business cards. Gifts are considered personal items and, therefore, in the absence of specific statutory authority, may not be purchased with appropriated funds. Under the general rule,

appropriated funds may be used for objects not specifically set forth in an appropriation act only if there is a "direct connection" between the objects to be purchased and the purpose for which the appropriation was made. The expenditure must be essential to carrying out such purpose. 55 Comp. Gen. 346, 347 (1975).

A long line of Comptroller General decisions holds that items intended to be remembrances or to engender goodwill for the agency are personal gifts and may not be purchased with appropriated funds. In 53 Comp. Gen. 770 (1974), the Small Business Administration requested authorization to purchase ashtrays to be distributed at a conference it sponsored. The ashtrays, which were imprinted with the agency's seal, were to serve as a reminder to the participants of the purpose of the conference. The ashtrays were found to be in the nature of personal gifts and could not be purchased with appropriated funds. A similar rationale was used in denying authorization to use appropriated funds to purchase specially-made keychains which were given to college and university educators who attended Forest Service seminars designed to obtain advice on regional and national issues. 54 Comp. Gen. 976 (1975). The Agency's rationale, that the keychains would foster positive future psychological responses from participants, was not found to be persuasive. This expense was not a necessary expense that could be paid from the Agency's appropriation.

In 57 Comp. Gen. 385 (1978), the Environmental Protection Agency distributed novelty plastic garbage cans containing candy in the shape of solid waste at an exposition. EPA considered the garbage cans and the candy to be a means of attracting people to its exhibit, thereby promoting solid waste management. We did not find a sufficiently direct connection between the purposes of EPA's appropriation and the gifts that is necessary to approve the use of appropriated funds for the purchases. Other items found to be personal gifts include photographs taken by the National Park Service at a dedication ceremony to be sent as mementos to participants (B-195896, October 22, 1979); buttons purchased by the General Services Administration and distributed to the public to show GSA's support of certain energy policies (B-192423, August 21, 1978); and cuff links and bracelets purchased as promotional material under the

International Travel Act of 1961 (B-151668, X
December 5, 1963).^{1/}

The pen and pencil sets, notebooks and calculators that your office wishes to purchase for distribution at recruitment fairs fall within the "personal gift" rule. Although such gifts might serve as promotional tools to enhance our recruitment efforts, under precedential Comptroller General decisions, they are not a necessary expense of carrying out any GAO program activity. Therefore, such gifts may not be purchased with appropriated funds.

D. Travel Expenses

After recruiters see students at colleges and universities, GAO conducts a second interview for those applicants the Agency seriously considers hiring. These interviews take place at the recruiting unit, either GAO headquarters or a regional office. You have inquired about our authority to pay travel expenses for students' second interviews. Additionally, you have proposed amendments to GAO Order No. 2571.1⁴ to allow payment for an applicant's travel expenses for second interviews when the applicant resides 250 or more miles from the site of the interview. The Office of Recruitment would issue the travel orders for such travel. Currently, selecting officials are not allowed to pay for a student's expenses unless the interview is for a shortage category position.

In our decision 60 Comp. Gen. 235 (1981), at the request of the Office of Personnel Management (OPM), we reviewed our prior decisions on payment of interview-related travel expenses of applicants for positions in the competitive service. OPM's request was based upon the provisions of the Civil Service Reform Act of 1978 (CSRA) which permitted OPM to delegate hiring authority to individual agencies. We held that these interview-related travel expenses could be paid because the agencies had been delegated OPM's responsibility for determining whether the applicants were qualified. Earlier decisions had held that travel expenses

^{1/} In an example of a case where the use of appropriated funds was approved, our Office has found that purchase of a particular gift was so closely related to a program activity that there was a direct connection between the expenditure and the purpose for which the appropriation was made. In B-193769, January 24, 1979, we allowed the National Park Service to purchase and distribute specimen lava rocks to visitors as a means of preventing park visitors from taking similar rocks from natural areas of the park.

could be paid for applicants for positions in the excepted service, since individual agencies must determine whether the applicants are qualified for the excepted service positions. 38 Comp. Gen. 483 (1959); 31 Comp. Gen. 480 (1952). In light of these decisions, GAO may pay travel expenses of applicants for interviews that are necessary to determine their qualifications.

Under proposed revisions to GAO Order No. 2571.1, the Office of Recruitment would determine which student's travel expenses would be paid by the Office of Recruitment by issuing an appropriate travel order. You may wish to consider the guidelines set forth by OPM in the Federal Personnel Manual (FPM), Chapter 571 (Inst. 262, May 7, 1981, and Inst. 343, April 6, 1988), regarding authorizing pre-employment travel. FPM Chapter 571, "Travel and Transportation for Pre-employment Interviews and Recruitment" contains several restrictions on the use of travel funds for pre-employment interviews. Interviews are to be conducted only when necessary for a final determination of an applicant's qualifications. For positions filled competitively, travel expenses are paid for no more than the three best-qualified candidates. For positions filled non-competitively, travel expenses are paid for a reasonable number of top-ranking candidates, usually no more than three or, in rare cases, up to five. Emphasis is placed on equity in determining whether to pay expenses for more than one candidate. "Agencies have a responsibility to give full and fair consideration to all candidates within reach for appointment." FPM Chap. 571, Subchap. 1-5b(1)(b).

You have asked whether we can pay the transportation expenses of students from colleges and universities outside of Washington, D.C. so that they can come to GAO Headquarters for a day long seminar on the Agency's mission, methods, and accomplishments. The purpose of the seminar would be to raise the interest of students in GAO as an employer. While GAO may pay pre-employment interview travel expenses as stated above, it may not pay an individual's travel or subsistence expenses for the purpose of interesting him or her in or persuading him or her to accept a government position. 31 Comp. Gen. 175 (1951). Such expenses are considered extraordinary and unnecessary for accomplishment of the purposes of general agency appropriations. In addition, we believe that 31 U.S.C. § 1345, which prohibits the use of appropriated funds to pay the travel, transportation and subsistence expenses of non-government personnel to attend meetings unless specifically authorized by statute, is applicable to the issue you raise.

Thus, GAO may not pay transportation for groups of students to attend recruiting seminars.

E. Recruiters' Memberships in Professional Organizations

You asked whether GAO may pay fees for memberships in professional organizations or college- or university-affiliated clubs. For example, one campus executive has been invited to serve as a member of the Board of Directors of the Accounting Roundtable of a state university. As we understand it, the membership would be in the name of GAO. Service as a member of the Board of Directors requires attendance at the annual meeting, nomination of two Associate Directors to the Roundtable, and payment of a \$1,500 annual fee. Membership entitles the official to attend seminars and receive a newsletter, as well as to participate in the annual meeting. The GAO campus executive for this university has provided us with a memorandum outlining the benefits of GAO's membership in this organization.

Agencies are prohibited by 5 U.S.C. § 5946 from using appropriated funds to pay employees' membership dues in societies or associations, except as authorized by the Government Employees Training Act, a specific appropriation, or express terms in a general appropriation. Section 5946 is intended to prevent payment of employee membership fees for a club or organization, not to prevent an agency from joining an organization that will benefit its programs. See 24 Comp. Gen. 814 (1945).

In 61 Comp. Gen. 642 (1982) we considered the case of a Naval installation that, in an effort to improve relations with the surrounding community, joined the local Rotary Club, which the Commander of the installation stated was the only available forum for its officials to resolve problems with local business leaders. The Commander also determined that good community relations were essential to carrying out the mission of the installation. The Comptroller General found that the membership would benefit the installation, rather than individual employees, and that employees who participated in the meetings were acting solely as representatives of the installation.

Under this analysis, membership by GAO in the Roundtable and in other similar organizations is permissible if that membership will contribute to the fulfillment of GAO's mission. The brochure describing the Roundtable describes a "firm membership" and notes that the firm members may be featured in the Firm Showcase of the student newsletter. The brochure also includes in its benefits the establishment

of professional networks, and the opportunity to meet with "selected graduate and undergraduate students at an annual reception." The memorandum from the campus executive points out the university involved has been picked as a target school for GAO recruiting efforts. These features all aid in recruitment endeavors.

Title 5 U.S.C. §5946 prohibits reimbursement for individual membership in organizations. However, in those instances where a firm or corporate membership is available, there is no objection to GAO paying membership fees and subsequently designating certain GAO employees to attend functions for recruitment purposes where such memberships will contribute to the fulfillment of GAO's mission.

F. Local Travel Expenses for Student Volunteers

You have questioned GAO's policy of not reimbursing student volunteers for local travel expenses incurred when they visit audit sites. Case law clearly establishes that reimbursement for travel expenses of volunteers is not permitted.

The authority for the use of services of student volunteers is found in 5 U.S.C. §3111(b) (1988). Prior to the passage of the Civil Service Reform Act (CSRA), the government was prohibited from using the services of individuals on an uncompensated basis. The CSRA authorized the limited use of student volunteers for the purpose of enhancing their educational experiences. The scope of this statute is very narrow. We found in 60 Comp. Gen. 456 (1981) that the statute and its legislative history establish no basis to pay traveling expenses of the student volunteers. "The congressional intent was not to authorize the students to travel at Government expense but rather to limit the expense of the educational programs to payment of the students' injury compensation and of tort claims arising from their activities." *Id.* at 459. We could not locate authority to pay the expenses in any other provision of law. For example, 5 U.S.C. §5703 provides authority to pay travel expenses for persons serving the government without pay. We concluded that section 5703 allows payment of expenses only for those individuals providing a "direct benefit" to the government, such as experts and consultants, which would not necessarily include high school and college students participating in educational programs under 5 U.S.C. §3111. *Id.* at 459.

Conclusion

In conclusion, payment for recruitment expenses is authorized for participation in recruiting seminars and panel discussions, for candidates' travel expenses to come to GAO for a second interview, for name tags worn by recruiters at career and job fairs, and for membership in professional organizations by the Agency. Reimbursement is not authorized for refreshments, business cards, gifts to be distributed at job fairs, travel expenses to bring students to GAO for seminars, or local travel expenses for student volunteers.

APPROPRIATIONS/FINANCIAL MANAGEMENT

Appropriation Availability

Purpose availability

Necessary expenses rule

Miscellaneous expenses

Recruitment