

DOCUMENT RESUME

02878 - [A1892969]

[Emergency Food Purchases]. B-179003. July 5, 1977. 3 pp.

Decision re: Richard D. Rogge; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.  
Budget Function: General Government: Central Personnel Management (805).

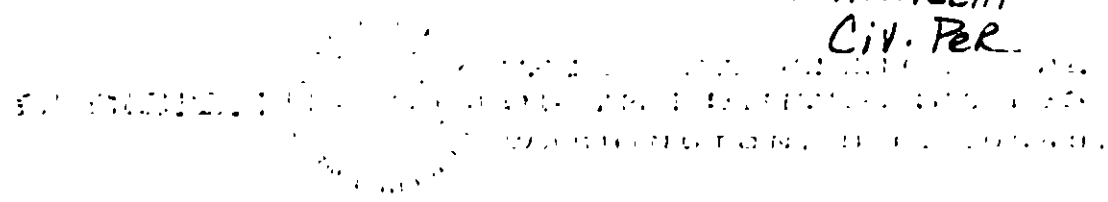
Organization Concerned: Federal Bureau of Investigation.

Authority: 53 Comp. Gen. 71. 42 Comp. Gen. 149.

D. E. Cox, Authorized Certifying Officer, Federal Bureau of Investigation, requested a decision on the claim of manager of Buffalo office who purchased food for employees unable to leave office and travel home during blizzard. It was also necessary to maintain office during emergency on 24-hour basis. In such circumstances, involving danger to human life, claim was payable, notwithstanding general prohibition on payment of employees' meals from appropriated funds.  
(Author/DJM)

2/16/79

IANNICELLI  
Civ. Per.



02878

FILE: B-18900?

DATE: July 5, 1977

MATTER OF: Richard D. Rogge - Emergency Food Purchases

DIGEST: Employee claims reimbursement of expenditures for food for employees stranded in FBI office during blizzard. Special Agent in Charge determined that weather conditions prevented employees from leaving and that it was necessary to keep office open on 24-hour basis during emergency, and, therefore, authorized food purchase. In such circumstances, involving danger to human life, claim may be paid notwithstanding general prohibition on payment for employees' meals from appropriated funds.

This action is in response to the request of May 2, 1977, from Mr. D. E. Cox, an authorized certifying officer, Federal Bureau of Investigation (FBI), regarding the claim of Mr. Richard D. Rogge for reimbursement of expenses totaling \$100.46 relating to emergency purchases of food for employees of the FBI's Buffalo, New York, Division.

The record reveals that commencing January 28, 1977, Buffalo, New York, was hit by a severe blizzard, and many employees were forced to remain in the Buffalo office due to dangerous weather conditions. The entire area was in a state of emergency and was later declared to be a national disaster area by the President of the United States. On January 28, 1977, the Mayor of Buffalo banned all nonessential vehicles from the city's streets. This ban remained in effect until the second week in February. Throughout the entire period of the emergency, the FBI's Buffalo office remained open 24 hours a day in order to maintain its essential functions so that an emergency response could be made if necessary. Since all public eating facilities in the area of the office were closed, Mr. Rogge sent some employees to purchase emergency food supplies for the employees who were not only stranded but who were maintaining the essential functions of the office. The necessary food was purchased on January 31 and February 1, 1977, on Mr. Rogge's authority, only after he became convinced that allowing the employees to leave the office would be inconsistent with his sworn duties and would constitute an act of gross negligence on his part.

B-139003

The authorized certifying officer questions whether the voucher submitted by Mr. Richard D. Rogge, Special Agent in Charge of the Buffalo office, in the amount of \$100.46, may properly be certified for payment.

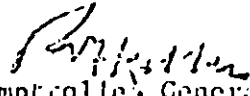
It is a well-established rule that the Government may not pay the subsistence expenses of or furnish free food to civilian employees from appropriated funds without specific authority of law. 53 Comp. Gen. 71 (1973). This rule has been applied even though the employees may have been working under unusual circumstances. It is also well established that no person is authorized to make himself a voluntary creditor of the United States by incurring and paying obligations of the Government which he is not legally required or authorized to incur or pay, and reimbursement therefor is generally not authorized. 42 Comp. Gen. 149 (1962).

However in decision 53 Comp. Gen. 71 our Office allowed reimbursement of food expenses where the expenditure was made under exceptional circumstances. In that case, food was provided to Federal Protective Services Officers of the General Services Administration who were assembled in readiness to reoccupy a building of the Bureau of Indian Affairs which had been occupied by force. We stated that we would not object to a determination by the agency that the expenses in question were necessary during an extreme emergency and we emphasized the existence of an emergency involving danger to human life and the destruction of Federal property. The decision stated that "such cases are rare", but did not attempt to describe the circumstances under which similar payments would be deemed proper. We also indicated that whether payment of such expenses would be proper in similar future cases would depend on the facts and circumstances present in each case.

We believe that the facts of the present case warrant an exception to the general prohibition on payment for employees' meals from appropriated funds. The emergency conditions clearly presented "danger to human life." Moreover, it was necessary to maintain the essential functions of the office during the emergency, and the stranded employees assisted in this function. Again, we emphasize, however, that such cases are an exception to the general rule.

B-189003

Accordingly, the voucher on behalf of Mr. Richard D. Rogge, in the amount of \$100.46 for emergency food supplies, may be certified for payment if otherwise proper.

  
Deputy Comptroller General  
of the United States