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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-201186

DATE: March 4, 1982

MATTER OF: Use of appropriated funds for Marine Corps
Highway Safety Program

DIGEST: Expenditure of appropriated funds to stock highway rest stations with coffee and doughnuts as part of Marine Corps Highway Safety Program is not objectionable, since Congress has authorized Secretary of Navy to use appropriated funds for accident prevention, and Marine Corps has determined that availability of rest stations stocked with food items decreases number of traffic accidents involving Marines. However, unless Marine Corps determines that making highway rest stations provisions available to non-Marines contributes to Marine safety, any refreshments for non-Marines should be provided on reimbursable basis only.

The Commandant of the Marine Corps has asked, through the Office of the Comptroller, Department of the Navy, whether appropriated funds may be used to purchase coffee, doughnuts, and related items used in conjunction with the Marine Corps Highway Safety Program. For the following reasons, we believe that appropriated funds may be expended to furnish Marines on active duty with such items. However, unless the Marine Corps determines that making the highway rest stations provisions available to non-Marines contributes to Marine safety, any refreshments for non-Marines should be provided on a reimbursable basis only.

Since 1971, the Marine Corps has established rest stations on highways leading to Camp Lejeune on the final evening of six holiday weekends. The personnel staffing the rest stations encourage cars with Marine Corps stickers to pull over and take advantage of free coffee, doughnuts, and soda. In addition, cots are provided for those in need of sleep. Civilians also stop at the rest stations, and, according to the submission, approximately one-quarter of the persons who stopped at the rest stations during the final evening of the Memorial Day weekend of 1980 were civilians. The estimated annual costs for the food and beverages provided the travelers is \$1200 (\$200 for each of the six holiday weekends.)

The command at Camp Lejeune established the rest stations after statistics revealed a large number of accidents involving Marines on the final stretch of the highways leading to the base. Until 1980, the Marines purchased provisions for the highway safety program with non-appropriated funds. In 1980, however, the Deputy Chief of Staff

for Manpower, Headquarters Marine Corps, advised that appropriated funds should be expended for the supplies, since the rest stations were part of an official safety program.

Generally, appropriated funds are not available for the purchase of food and coffee in the absence of specific statutory authority, 43 Comp. Gen. 305 (1963). We do not think that this rule bars the purchase of doughnuts, coffee, and soda for Marine Corps rest stations, however, since such an expenditure is in fact authorized by statute.

Section 7205 of Title 10, United States Code, provides that:

"(a) The Secretary of the Navy may make such expenditures as he considers appropriate to prevent accidents and to promote the safety and occupational health of—

"(1) members of the naval service on active duty;

* * * * *

"The expenditures may include payments for clothing, equipment, and other materials necessary for the purposes of this section. Any appropriation available for the activities in which the personnel are engaged shall be available for these purposes.

"(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive re-delegations."

The submission notes that Marines are members of the naval service and that the Secretary has delegated to the Commandant of the Marine Corps the authority conferred upon him by this section. There is thus statutory authority for the expenditure of appropriated funds to prevent traffic accidents involving Marines.

The submission argues that there is regulatory, as well as statutory, authority for the use of appropriated funds to support the Marine Corps Highway Safety Program. DOD Directive 1000.3 calls upon DOD components to implement comprehensive programs to protect DOD personnel from accident, death, injury, or occupational illness, and the Secretary of the Navy has done so in SECNAV Instruction 5100.10D. Furthermore, DOD Instruction 6055.4 states "[i]t is Department of Defense policy that an effective, comprehensive traffic safety program will be established and maintained as an element of the overall DoD mishap prevention program prescribed in DoD Directive 1000.3.* * *"

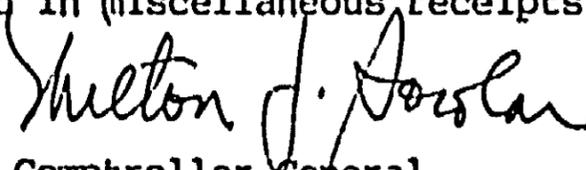
The Instruction governs all DOD activities which are involved with, among other things, "the off-duty safety of military personnel," and provides that each DOD installation shall analyze DOD traffic mishaps on all on-base and nearby off-base road networks and apply corrective measures to reduce the frequency and severity of such accidents.

The submission indicates that the Corps "considers" the highway rest stations to have helped significantly in lowering the rate of traffic accidents among Marines. In 17 Comp. Gen. 674 (1938), we concluded that funds appropriated to the Post Office for "accident prevention" could be used to purchase medals and insignia to be awarded mail truck drivers for careful driving, if "the administrative experience supports the conclusion [that such awards] would encourage 'accident prevention.'" We think that the same rule governs in the case now before us; if administrative experience supports the conclusion that rest stops stocked with coffee, doughnuts, and soda help to decrease the accident rate among Marines, appropriated funds may be used to purchase the food. Since the submission indicates that the administrative experience of the Marines does indeed support such a conclusion, we do not object to the expenditure of appropriated funds for rest stations provisions for Marines on active duty.

The Marine Corps submission was accompanied by a memorandum of law, prepared by the Counsel for the Commandant, which justified the expenditure of appropriated funds for highway rest stations. The memorandum ended as follows:

"* * *There is no authority, on the other hand, for supplying coffee and doughnuts to persons other than Marines. We should put an end to participation in the program by persons other than Marines on active duty."

We are aware of no statute which expressly authorizes the Secretary of the Navy or the Commandant of the Marine Corps to expend appropriated funds to prevent accidents among members of the general public. However, since members of the public are sharing the highways with the Marines, it is logical to conclude that the Government also has a stake in preventing sleepy civilians from causing accidents that could involve Marines. If the Marine Corps comes to this conclusion too, we would not object to continued participation in the program, at Government expense, by non-Marines. If the Commandant cannot make this determination, any refreshments which the Marine Corps wishes to provide to non-Marines should be provided on a reimbursable basis only. Proceeds collected should then be deposited in miscellaneous receipts.

for 
Comptroller General
of the United States