



GSA Office of General Counsel

JUL 22 2005

MEMORANDUM FOR HEADS OF SERVICES AND STAFF OFFICES AND
REGIONAL ADMINISTRATORS

FROM: ALAN R. SWENDIMAN
GENERAL COUNSEL 

SUBJECT: Use of Agency Funds for Meals and Refreshments

We recently received a question regarding the use of agency funds to pay for lunch for associates participating in a Continuation of Operations (COOP) exercise. We are attaching a memorandum and Frequently Asked Questions (FAQs) that outline the circumstances when agency funds may be used to pay for meals and refreshments. The purpose of the memorandum and FAQs is to provide updated guidance that can be used consistently nationwide. The FAQs specifically address emergency situations and the COOP exercise scenario. The attached memorandum replaces the Office of General Counsel memorandum of November 15, 2001 on the same subject.

We hope the attached memorandum and FAQs will be useful to you. If you have any questions please feel free to contact me or your regional counsel.

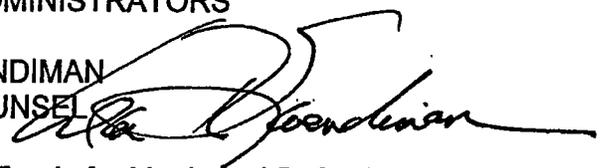
Attachment



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SUBJECT: Use of Agency Funds for Meals and Refreshments

This memorandum is issued to provide guidance regarding the use of agency funds to purchase meals and refreshments. The following guidelines along with the attached Frequently Asked Questions are given to assist you in determining what is or is not legally permissible.

In general, government funds may not be used to purchase meals or refreshments for government employees or others. There are exceptions to this general rule, such as:

- When employees are attending a *bona fide* awards ceremony authorized under the Government Employees Incentive Awards Act (5 U.S.C. §§ 4501 - 4509), light refreshments may be provided to enhance the ceremony.
- When employees are attending a cultural awareness program, light refreshments consisting of samples of ethnic foods may be served for the purpose of promoting Equal Employment Office (EEO) objectives by increasing employee appreciation for the cultural heritage of ethnic groups.
- When employees are on official travel –
 - The cost of meals may be reimbursed as authorized by the Federal Travel Regulation (FTR), 41 C.F.R. Chapters 300 and 301, and
 - The cost of light refreshments for employees at a government-sponsored conference may be paid with agency funds as authorized by Part 301-74.11 of the FTR.
- When employees are attending training under the Government Employee's Training Act (GETA) (conducted either by the government or a non-governmental organization) that meets the definition of training set out in 5 U.S.C. § 4101(4), meals or refreshments may be paid for by the government if—

- The meals or refreshments are incidental to the training; and
 - Attendance of the employees at the meals is necessary in order to obtain the full benefit of the training; and
 - The employees are not free to take the meals elsewhere without being absent from essential formal training sessions.
- When employees are attending a formal meeting or conference that is authorized under 5 U.S.C. § 4110 (*i.e.*, a meeting or conference that is related to official business, but does not meet the definition of "training") meals or refreshments may be paid for by the agency –
 - If the meeting or conference is sponsored by a non-government organization, and if a single fee is charged covering both attendance at the conference and meals and refreshments, and no separate charge is made for meals or refreshments; or
 - If the meeting or conference is sponsored by a Federal entity or if it is sponsored by a non-government organization and a separate charge is made for meals, the agency may pay for the meals and refreshments if –
 - The meals and refreshments are incidental to the meeting or conference;
 - Attendance at the meals or when refreshments are served is important to ensure the employees' full participation in the meeting or conference; and
 - The meals or refreshments are part of a formal meeting or conference that includes not just the meals and refreshments and discussions or speeches that may take place when they are served, but also substantial functions separate from when the food is served.

It should be noted that if the employees are on official travel to attend training or a formal meeting or conference, and meals are furnished at nominal or no cost to the employees or are included within the registration fee, the per diem allowance for meals and incidental expenses must be adjusted in accordance with the FTR at 41 C.F.R. ¶ 301-11.18.

We hope this information will be useful to you. If you have any questions about the use of agency funds for meals or refreshments, please contact your servicing legal office.

Attachment

USE OF AGENCY FUNDS FOR MEALS AND REFRESHMENTS FREQUENTLY ASKED QUESTIONS

LIGHT REFRESHMENTS

Q. What are light refreshments?

A. Light refreshments are modest items of food and drink that are offered other than as part of a meal. Examples are coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips or muffins. See FTR Part 301-74.11.

Q. Can these types of refreshments be served at a cultural awareness program?

A. Light refreshments may be served at a cultural awareness program, but the purpose of serving refreshments at cultural awareness programs is to make the audience aware of the cultural or ethnic history being celebrated. The refreshments served at a cultural awareness program must be samples of the food of the culture and must be offered as part of a larger program to serve an educational function.

TRAINING

Q. Since it is permissible to use government funds to pay for meals or refreshments for associates who are attending "training" sessions, what is a "training" session?

A. Training is defined in the Government Employees Training Act (GETA) (5 U.S.C. §§ 4101 – 4109) as follows:

"Training" means the process of providing for and making available to an employee, and placing or enrolling the employee in a planned, prepared, and coordinated program, course, curriculum, subject, system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other fields which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals." (5 U.S.C. § 4101(4))

Q. Is a "meeting" a "training" session?

A. In order for a "meeting" to qualify as a "training" session, the meeting must, at a minimum, be a planned, prepared and coordinated program directly related to improving the performance of official duties. This means that there must be a presenter giving prepared instruction to associates. A "roundtable discussion" or "working session" wherein associates exchange information and ideas with one another is not "training" under the GETA. See, 68 Comp. Gen. 606 (1989); B-168774, September 2, 1970.

Q. Is it always all right to provide food and refreshments at "training" sessions?

A. No. Even if a seminar, conference or presentation meets the definition of training, you may pay for food and refreshments with government funds only if it is determined that providing the meals or refreshment is necessary to achieve the objectives of the training. Typically this means that prepared instruction must be provided *during* the meal, and associates are not able to take their meals or snacks elsewhere if they are to obtain the full benefit of the training.

Q. Is it permissible to structure a training session around a meal so that the meal could be provided by the government?

A. No, the meal must be incidental to the training. While it may be permissible to provide meals during a daylong session, or a training session that will last several days, it is not permissible to schedule a short meeting or training session of 2-3 hours or less during a mealtime and pay the expenses of the meal with agency funds. See, 64 Comp. Gen. 406 (1985).

MEETING OR CONFERENCE

Q. What is a "formal" meeting or conference?

A. A formal meeting or conference typically involves topical matters of interest to, and the participation of, multiple agencies and/or nongovernmental participants. A formal meeting or conference also usually entails registration, a published agenda and scheduled speakers or discussion panels. See B-300826 (Mar. 3, 2005).

Q. What does it mean for the meals or refreshments to be "incidental" to the meeting or conference?

A. It means that the meals and refreshments are part of a meeting or conference that includes not just the meals and refreshments and discussions, speeches, or other business that may take place when the meals and refreshments are served, but also includes substantial functions occurring separately from when the food is served. See B-300826 (Mar. 3, 2005).

Q. Can an office schedule a "working lunch" for associates at their official duty station to discuss internal agency business and use agency funds to pay for the meal?

A. No. Agency funds cannot be used to pay for the lunch. Associates at their official duty station are responsible for providing their own meals unless they are attending a required training session or formal meeting or conference where meals are provided as discussed above. See 65 Comp. Gen. 508 (1986).

OFFICIAL TRAVEL

Q. Can the government pay for the meal if the associate is on official travel to attend training or a formal meeting or conference?

A. Yes, if an associate is on official travel to attend the meeting or conference the government may pay for the meal. If the meal is furnished at nominal or no cost to the government or if the cost of the meal is included within the registration fee, the per diem allowance for meals and incidental expenses must be adjusted in accordance with the FTR at 41 C.F.R. ¶ 301-11.18.

EMERGENCIES

Q. Can an office use appropriated funds on food during an emergency?

A. Yes, but the emergency must involve a danger to human life and/or destruction of federal property. If that is the case, then an agency may purchase food. See B-234813, November 9, 1989.

Q. Can an office use agency funds to provide food during a Continuation of Operations (COOP) exercise?

A. Yes, but only if the exercise meets one or more of the criteria discussed above -- that is, it qualifies as training under the Training Act and/or employees are on official travel to participate in the exercise.

Q. Can an office use agency funds to purchase food and water in anticipation of an emergency?

A. Yes, agency funds may be used to purchase non-perishable food and water as part of its emergency planning and preparation. These emergency rations are for consumption only in the event of a true emergency threatening life or property.

ADDITIONAL INFORMATION

Q. How can I get additional information?

A. This overview is based on a long line of decisions of the Comptroller General of the United States. A more detailed discussion can be found in the U.S. General Accounting Office, Principles of Federal Appropriation Law, (GAO Redbook) (3d Ed. 2004) Vol. 1, Chapter 4.b., pp. 4-102 to 4-120. The Redbook can be accessed online at www.gao.gov. You should also consult your servicing legal office before using agency funds to purchase meals or refreshments in any situation other than those outlined above.