



United States Department of the Interior


FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

In Reply Refer To:
FWS/CFM

APR - 6 2005

Memorandum

To: Assistant Regional Directors, Regions 1 – 7

From: Assistant Director – Business Management and Operations 

Subject: Use of Appropriated Funds to Purchase Kitchen Appliances

The Department has issued new policy that allows the use of appropriated funds to purchase kitchen appliances such as refrigerators, microwaves, and commercial coffee makers for central kitchen areas (see Attachment 1). Before purchasing any new appliances, please review and follow the attached guidelines (see Attachment 2).

The following Federal acquisition and property management requirements apply to the acquisition of kitchen appliances:

- compete acquisition when appropriate,
- report property items, if applicable,
- follow labeling, inventory, and disposal requirements,
- obtain commercial warranties, including extended warranties (when appropriate and in the Government's best interest),
- only buy ENERGY STAR® appliances,
- obtain pre-approval from Building/Facility Manager
- tag all appliances as property of U.S. Government.

This policy does not authorize the use of appropriated funds to acquire appliances for the sole use of an individual employee, nor to furnish goods such as coffee, disposable coffee filters, plates and cups, napkins and other paper products, or food. This policy excludes using appropriated funds to construct kitchenettes, galleys, or mess areas, and purchasing vending equipment or facilities that would conflict with the requirements of the Randolph-Sheppard Act and/or contracts with on-site cafeterias. The Department of the Interior's policy is not retroactive and forbids employee reimbursement for prior personal expenditures for common use kitchen appliances.

For additional information, contact Ramona Polk, Procurement Analyst, Branch of Policy and Information Management, at (703) 358-1783 or Ramona_Polk@fws.gov, or contact Kathy Daum, Chief, Branch of Facilities and Property Management, at (703) 358-2289, or Kathy_Daum@fws.gov.

cc: Chief, Division of Financial Management
Chief, Division of Safety and Health
Chief, Division of Engineering

ATTACHMENT 1

December 14, 2004

Memorandum

APR -- 6 2005

To: Associate Directors – Administration
Acquisition Managers’ Partnership
Department of the Interior Facility Managers
Property Management Partnership

From: Debra E. Sonderman, Director
Office of Acquisition and Property Management and
Senior Procurement Executive

Subject: Use of Appropriated Funds to Purchase Kitchen Appliances

In a June 25, 2004 decision (File B-302993, Matter of: Use of Appropriated Funds to Purchase Kitchen Appliances (copy attached)), the Comptroller General, modifying earlier decisions regarding the use of appropriated funds, concluded that appropriated funds could be used to purchase kitchen appliances such as refrigerators, microwaves, and commercial coffee makers for central kitchen areas, as follows:

Over time, we have reconsidered whether particular expenditures that we once viewed as personal expenses of the employee may in certain circumstances be considered an official expense of the agency ... Because of the varied purposes for which employees might use kitchen equipment, we believe their availability will contribute to the efficient operations of the agency and the health of personnel, and is one of many small but important factors that can assist federal agencies in recruiting and retaining the best work force and supporting valuable human capital policies. Further, having centralized appliances and therefore fewer extension cords or overloaded circuits will permit [agency] to better manage the safety of the building.

The decision advised that agencies should establish a policy to “ensure uniformity in the use of appropriations to acquire this equipment and determine the usefulness of appliances such as these in light of operational benefits.”

For the reasons cited in Comptroller General Decision B-302993, it is the Department’s policy that appropriated funds may be used to purchase kitchen appliances such as microwave ovens, refrigerators, and commercial coffee makers for use by employees, subject to the following conditions:

- (1) The appliances are for office locations where there is a central kitchen facility or common area authorized for use by multiple employees;
- (2) For appliances covered by an ENERGY STAR® standard, any kitchen appliances purchased with appropriated funds must be ENERGY STAR® qualified products, even if the appliance purchase price is more expensive for the ENERGY STAR® model. (ENERGY STAR® qualified appliances

incorporate advanced technologies that use 10 – 50% less energy and water than standard models, and are therefore less expensive to operate and maintain. For further information on ENERGY STAR® products, access the website at: www.energystar.gov; and

- (3) The purchase must be supported by a document that:
- Describes the appliance(s) to be purchased and its intended location in the building, and
 - Determines the on-going need and usefulness of such appliances for the office(s) in light of *both*: operational benefits (e.g., accommodation of deadlines and emergencies, increased employee productivity, health, and morale), *and* (2) the office's responsibility to provide a safe working environment for employees by equipping central kitchen facilities or common areas and reducing or eliminating the number of personally-owned appliances, extension cords, and other potentially hazardous and energy inefficient items for the work area.

The written description/determination must be signed by an authorized representative of the requisitioning office and forwarded to the designated Building/Facility Manager for review and approval that the appliance(s) and its(their) placement comply with any applicable facility policies or standards. The Building/Facility Manager may require the requisitioning office(s) to reduce the existing number of personally-owned appliances used in the office area as a condition of his/her approval to acquire appliances with appropriated funds. The Building/Facility Manager's approval must be obtained before an appliance purchase is made. The original description/determination document, as signed by the Building/Facility Manager, must be maintained with the buyer's purchase card statement or, as appropriate, be forwarded to the servicing Procurement Office as part of the requisition's supporting documentation. Federal acquisition and property management requirements apply to the acquisition of kitchen appliances with appropriated funds, e.g., competition where appropriate, property reporting, labeling, inventorying, and disposal requirements, acquisition of commercial warranties, including extended warranties, where appropriate and in the Government's best interest.

This policy does not authorize the use of appropriated funds to acquire appliances for the sole use of an individual employee, nor to furnish goods, such as coffee, disposable coffee filters, plates and cups, napkins and other paper products, or food to be used in the kitchen areas. These remain costs each employee is expected to bear. It does not authorize the use of appropriated funds for the acquisition of vending equipment or facilities that would conflict with the requirements of the Randolph-Sheppard Act and/or contracts with on-site cafeterias. In addition, the policy does not authorize bureaus/offices to construct kitchenettes, galleys or mess areas.

Individual bureaus, components or facilities may establish more restrictive policies and additional approval procedures, to provide greater fiscal control or when needed to comply with General Services Administration, state and local government, and individual lease requirements related to appliance energy usage and facility safety.

This policy is effective upon issuance. It is not retro-active and cannot be used to authorize the reimbursement of employees for prior personal expenditures for common use kitchen appliances. If you have any questions regarding this policy, please contact Patricia Corrigan of this office on 202-208-1906.

Attachment



G A O

Accountability • Integrity • Reliability

**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Use of Appropriated Funds to Purchase Kitchen Appliances

File: B-302993

Date: June 25, 2004

DIGEST

The U.S. Pacific Command (USPACOM) may use appropriated funds to purchase refrigerators, microwaves, and commercial coffee makers for central kitchen areas in its new headquarters building. Appropriations are available to pay for items ordinarily considered to be personal in nature, such as kitchen appliances, when the primary benefit of their use accrues to the agency, notwithstanding a collateral benefit to the individual. USPACOM has demonstrated that equipping the workplace in this manner is reasonably related to the efficient performance of agency activities and provides other benefits to the agency, including assurance of a safe workplace. Earlier GAO decisions reflecting similar proposed uses of appropriations, such as B-276601, June 26, 1997, B-210433, Apr. 15, 1983, and 47 Comp. Gen. 657 (1968), are modified accordingly.

In applying this decision, agencies should develop an agency policy to ensure uniformity in the use of appropriations to acquire this equipment and determine the usefulness of appliances such as these in light of operational benefits, such as employee health and productivity, and the responsibility to provide a safe work environment.

DECISION

The Chief of Staff of the U.S. Pacific Command (USPACOM), U.S. Army, has requested an advance decision under 31 U.S.C. § 3529 on the propriety of using appropriated funds to procure major kitchen appliances, such as refrigerators, microwaves, and commercial quality coffee makers, that would be placed in common areas for the use of personnel at the site. As explained below, because we have determined that the appliances contribute to the efficient operation of the agency, and USPACOM, not individual employees, receives the primary benefit of the

expenditure, USPACOM's operation and maintenance appropriation is available to purchase the appliances for general employee use.

BACKGROUND

On March 7, 2004, USPACOM moved into its new headquarters in the Nimitz-MacArthur Pacific Command Center (Center). The new facility has about 20 inter-division kitchen areas complete with plumbed sinks, cupboards, and storage cabinets. Although the Center has a small concession area, it is not adequate to meet the needs of the 1,100 military and civilian personnel who work in the building. Further, USPACOM has directed that, in the interest of fire safety and for the protection of Center personnel and property, personnel are not allowed to have personal coffee makers in their offices. In light of this restriction, USPACOM installed commercial grade coffee makers into the existing plumbing in the kitchen areas, at a cost of \$12,210.95. In making the decision to install the coffeemakers, USPACOM determined that it was the minimum necessary to support the building's working population, since personnel "in the USPACOM secure Command Center who are unable to leave the working area will be provided with essential refreshment," thus increasing employee productivity and morale while enhancing fire safety. Memo J02-002-04 from Major General Ronald L. Lowe, U.S. Army, Chief of Staff, USPACOM, to Tom Armstrong, Assistant General Counsel, GAO, April 16, 2004, at 2. However, based on prior GAO case law, USPACOM has deferred purchasing other appliances, such as refrigerators and microwaves, to outfit these kitchen areas pending GAO's decision. *Id.* at 1.

In support of these equipment purchases, USPACOM submits that:

"[I]n today's environment, the agency to employee relationship has changed significantly. Current federal practice reflects an acknowledged responsibility by the agency-employer to provide a workplace that provides basic necessities and amenities for the agency-employee; mess or break areas and snack or luncheon facilities are illustrative of this recognition. Likewise, the agency-employee has a corresponding expectation that these basic needs will be provided. The agency-employer has found that to do otherwise imperils productivity."

Id. at 2. USPACOM requests that GAO review its prior case law involving the use of appropriated funds to purchase such appliances in light of this evolving federal employer-employee relationship.

DISCUSSION

The general rule is that where an appropriation is not specifically available for a particular item, its purchase may be authorized as a necessary expense if there is a

reasonable relationship between the object of the expenditure and the general purpose for which the funds were appropriated, so long as the expenditure is not otherwise prohibited by law. 66 Comp. Gen. 356 (1987). This rule, the necessary expense rule, recognizes an agency's discretion in using its appropriation to fulfill its purposes. *Id.* However, appropriated funds generally are not available for personal furnishings of employees without specific statutory authority if such items are "for the personal convenience, comfort, or protection of such employees, or are such as to be reasonably required as a part of the usual and necessary equipment for the work on which they are engaged or for which they are employed." 3 Comp. Gen. 433 (1924).

The issue presented in matters such as this is the availability of the public's money to supply equipment and services that inure in a very real sense to the benefit of individuals. We generally resolve this issue by assessing the benefits to the agency from any such expenditure. Appropriations are available to pay for items ordinarily considered to be personal in nature when the primary benefit of the expenditure accrues to the agency, notwithstanding a collateral benefit to the individual. Of course, an individual is likely to attain at least some collateral benefit from most expenditures such as this, but the potential receipt of a benefit, however real, is not the determining factor. The determining factor is whether, on balance, the individual receives the primary benefit. If the primary beneficiary of an expenditure of public funds is the individual, not the agency or government, the well-established rule is that such expenditures are personal in nature and hence not an authorized use of appropriated funds. *See, e.g.*, B-286137, Feb. 21, 2001; B-243411, July 30, 1991; 41 Comp. Gen. 387 (1961).

In the past, except where an agency could identify a specific need, we generally viewed kitchen equipment, such as refrigerators, microwaves, and coffee makers, as a personal expense that an employee was expected to bear from his or her own salary. 47 Comp. Gen. 657 (1968). To conclude that the cost of such equipment was a proper use of appropriated funds, the agency had to demonstrate that it was difficult for employees to obtain food from local restaurants or other commercial vendors in a reasonable amount of time, and that this affected their ability to adequately carry out their jobs. For example, in B-276601, June 26, 1997, we concluded that the Central Intelligence Agency could purchase a refrigerator for employee use because the headquarters' on-site cafeteria was open only for breakfast and lunch, while employees were required to work during evening hours, and the nearest commercially available eating facility was 10–15 minutes away. In this case, the purchase was reasonably related to the efficient performance of agency activities and was not just for the personal convenience of individual employees. In a similar decision, we did not object to the Naval Medical Command, Department of the Navy, purchasing a microwave oven because the facility operated on a 7 days a week, 24-hour basis, and eating facilities were not readily accessible to department employees. B-210433, Apr. 15, 1983.

Obviously, there is a very real and immediate benefit to employees who are provided the use of kitchen equipment like refrigerators, microwaves, and coffee makers. For example, employees bring their own food into the workplace for a variety of personal reasons, including dietary considerations, food preferences, budgetary concerns, religious observations, medical needs, and time considerations. Nevertheless, providing such equipment for employee use also inures to the benefit of the agency in a number of ways, including increased employee productivity, health, and morale, that when viewed together, justify the use of appropriated funds to acquire the equipment. With kitchen facilities available, employees, facing deadlines and emergencies, often find that they can more easily accommodate these deadlines. Indeed, in a sense, it is the employee's use of the equipment itself, rather than use of alternatives, that accrues to the agency's benefit.¹

In considering the availability of an agency's appropriation for kitchen equipment, it also is important to take notice of what our society expects of its employers. We expect an agency to use appropriated funds to satisfy basic fundamental needs of employees such as potable water, clean air, sufficient light, and certain facilities, such as restrooms. Today, refrigerators, microwaves, and centralized coffee makers are common in many workplaces. Federal offices reflect this expectation, except that, for the most part, employees have purchased these items with their own funds.

Over time, we have reconsidered whether particular expenditures that we once viewed as personal expenses of the employee may in certain circumstances be considered an official expense of the agency. For example, in B-280759, Nov. 5, 1998, we overruled our earlier decisions holding that business cards were a personal expense. We concluded that business cards may be considered a necessary expense of the agency where the agency head determines that the appropriate use of business cards by agency employees who deal with outside organizations will further the agency's statutory mission. In B-286026, June 12, 2001, based on a reassessment of the training opportunities afforded by professional examination review courses, we overruled our earlier decisions holding that an agency may not use appropriated

¹ In addition, agencies, including USPACOM, have specific authority to promote and maintain the health and physical fitness of their employees, for example, by establishing preventive health programs, such as a fitness center, and to provide flu shots and other vaccines. 5 U.S.C. § 7901. Making use of a refrigerator and a microwave is consistent with this. Some employees are unable to eat certain types of food or need to store temperature-sensitive medications. A microwave permits other employees attempting to lose weight to heat frozen low calorie meals, or reheat specially prepared meals from home.

funds to pay for employees to attend examination review courses and to provide on-the-job study time.²

Because of the varied purposes for which employees might use kitchen equipment, we believe their availability will contribute to the efficient operations of the agency and the health of personnel, and is one of many small but important factors that can assist federal agencies in recruiting and retaining the best work force and supporting valuable human capital policies. Further, having centralized appliances and therefore fewer extension cords or overloaded circuits will permit USPACOM to better manage the safety of the building. Accordingly, USPACOM may use its operations and maintenance appropriated funds to purchase refrigerators, microwaves, and central coffee makers to equip kitchen areas in USPACOM's new headquarters for general employee use.

However, since this determination is a departure from prior decisions, we recommend that USPACOM develop an agency policy to ensure uniformity in the use of appropriations to acquire this equipment and determine the usefulness of such appliances for the agency in light of both operational benefits discussed above and the responsibility to provide a safe work environment. In developing a policy, USPACOM should address the ongoing need for specific equipment throughout the headquarters, the amount of USPACOM's appropriation budgeted for this purpose, price limitations placed on the equipment purchases, and whether the equipment should be purchased centrally or by individual units within headquarters. It is important that the policy ensure that appropriations are not used to provide any equipment for the sole use of an individual, and that USPACOM locate refrigerators, microwaves, and coffee makers acquired with appropriated funds only in common areas where they are available for use by all personnel. It should also be clear that appropriated funds will not be used to furnish goods, such as the coffee itself or microwaveable frozen foods, to be used in the kitchen area. These remain costs each employee is expected to bear.

CONCLUSION

USPACOM may use appropriated funds to purchase refrigerators, microwaves, and commercial coffee makers for central kitchen areas in its new headquarters building. Appropriations are available to pay for items such as these, ordinarily considered personal in nature, when the primary benefit of their use accrues to the agency, notwithstanding a collateral benefit to the individual. USPACOM has demonstrated

² *Cf.* 71 Comp. Gen. 527 (1992). Although we denied the use of appropriated funds for eldercare costs, we based our decision, in part, on the fact that eldercare benefits were not provided to the nonfederal workforce and were not historically offered by federal agencies.

that equipping its new headquarters building with these appliances is reasonably related to efficient performance of agency activities and provides other benefits, including, importantly, the assurance of a safe workplace.

Since this decision represents a departure from prior relevant GAO case law, earlier decisions such as B-276601, June 26, 1997, B-210433, Apr. 15, 1983, and 47 Comp. Gen. 657 (1968) are modified to conform with the views expressed herein.

/signed/

Anthony H. Gamboa
General Counsel

Attachment 2

Guidelines for Purchasing Kitchen Appliances

Ordering offices must follow these guidelines to justify using appropriated funds to purchase kitchen appliances. Keep original and/or copies of supporting documents in accordance with the following instructions.

1. The requisitioning office must prepare supporting documents for each purchase. Supporting documents must describe the appliance and its intended location in the building, the number of employee who will use the appliance, and a determination to justify the on-going need and usefulness of such appliance for the office(s). In addition, supporting documents must address the following:
 - operational benefits (e.g., accommodation of deadlines and emergencies, increased employee productivity, health, and morale), *and*
 - requisitioner's efforts to provide a safe working environment for employees.
2. The written description/determination must be signed by an authorized representative of the requisitioning office and forwarded to the designated Building/Facility Manager for review and approval that the appliance(s) and its (their) placement comply with any applicable facility policies or standards. The Building/Facility Manager may require the requisitioning office(s) to reduce the existing number of personally owned appliances used in the office area as a condition of his/her approval to acquire appliances with appropriated funds. Requisitioning offices must obtain the Building/Facility Manager's pre-approval for appliance purchases.
3. Kitchen appliances purchased with appropriated funds must be ENERGY STAR® qualified products, even if the appliance purchase price is more expensive for the ENERGY STAR® model. (ENERGY STAR® qualified appliances incorporate advanced technologies that use 10 – 50% less energy and water than standard models, and are therefore less expensive to operate and maintain. For further information on ENERGY STAR® products, access the website at www.energystar.gov).
4. Purchased appliances must be located where there is a central kitchen facility or common area authorized for use by multiple employees.
5. Keep the original of the approved supporting documents with the buyer's purchase card statement or, as appropriate, the servicing procurement office.