DECISION

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

FILE: B-223319 **DATE:** July 21, 1986

MATTER OF: Refreshments at Awards Ceremony

DIGEST: If an agency determines that a reception with refreshments, as provided in the Federal Personnel Manual, would materially enhance the effectiveness of an awards ceremony conducted under authority of the Government Employees' Incentive Awards Act, the cost of those refreshments may be considered a "necessary expense" for purposes of 5 U.S.C. § 4503. As such, the cost may be charged to operating appropriations without regard to "reception and representation" limits. B-114827, Oct. 2, 1974, modified.

The Director, Division of Finance, Social Security Administration (SSA), Department of Health and Human Services, has asked whether the cost of refreshments at SSA's annual awards ceremony may be paid from operating appropriations, or whether it is subject to the statutory ceiling on SSA's "official reception and representation" account. Restated, the question is whether there is any legal objection to the Office of Personnel Management's (OPM) statement in the Federal Personnel Manual that "light refreshments" may be provided under the authority of the Government Employees' Incentive Awards Act.[1/] We hold that OPM is correct and that the expense may be charged to operating appropriations without regard to the "reception and representation" ceiling. In so holding, we welcome the opportunity to clarify an apparent inconsistency in our decisions.

It is explained that each October, SSA holds an awards ceremony at its headquarters in Woodlawn, Maryland, at which various awards are presented to SSA employees from around the nation. The ceremony includes refreshments in the form of a "buffet luncheon." SSA receives its operating appropriations in the form of an annual lump-sum "Limitation on Administrative Expenses" (LAE), SSA's equivalent of a "Salaries and

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1/ Federal Personnel Manual, chapter 451, subchapter 2, para. 2-2c (Inst. 265, Aug. 14, 1981). ("[I]t would be appropriate to provide light refreshments at nominal cost under authority of [the Incentive Awards Act].)

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Expenses" appropriation. Typically, a small sum ($5,000 for fiscal year 1986) out of the LAE is made available for "official reception and representation."

It has been established through numerous decisions of this Office that, with limited exceptions not relevant here, appropriated funds may not be used to provide free food to Government employees. E.g., 65 Comp. Gen. 16 (1985); 47 Comp. Gen. 657 (1968). The rationale behind these decisions is quite simple. Feeding oneself is a personal expense which a Government employee is expected to bear from his or her salary. Thus, free food, classified in some of the decisions under the umbrella term "entertainment," normally cannot be justified as a "necessary expense" under an appropriation. This rule, like most, is premised on the absence of statutory authority to the contrary. The issue here is whether the Incentive Awards Act provides this authority.

The Government Employees' Incentive Awards Act is found at 5 U.S.C. §§ 4501-06. Of relevance here, 5 U.S.C. § 4503 authorizes an agency head to "pay a cash award to, and incur necessary expense for the honorary recognition of" employees who meet general criteria specified in the statute.[2/] We have found no legislative history to guide us as to the intended scope of the term "necessary expense" in 5 U.S.C. § 4503. A 1967 congressional review of the implementation of the statute said:

> "There is very little legislative history concerning the Government Employees' Incentive Awards Act and there was apparently little, if any, controversy over passage of the act in 1954. Since the act was passed, the Congress

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2/ Although the Incentive Awards Act does not apply to the uniformed services, somewhat similar authority exists, including the identical "necessary expense" language, in 10 U.S.C. § 1124 with respect to members of the armed forces. Accordingly, this decision applies equally to 10 U.S.C. § 1124.

> has given very little guidance for implementation of the legislation except that which is included in the specific language of the act itself."3/

In B-167835, Nov. 18, 1969, we concluded that the Incentive Awards Act authorized the National Aeronautics and Space Administration to pay for part of the cost of a banquet honoring the Apollo 11 astronauts, at which the President was to present the Medal of Freedom to the astronauts. However, a 1974 decision (B-114827, Oct. 2, 1974) held that the cost of refreshments at a Federal Home Loan Bank Board awards ceremony was payable from the Board's reception and representation account. While the decision, apart from the first digest, did not explicitly state that the "R&R" account was the only legally available funding source, this seems to have been the clear implication. The 1974 decision did not mention the 1969 case, nor did it address the "necessary expense" language of 5 U.S.C. § 4503.

We have dealt with the concept of "necessary expenses" in a vast number of decisions over the decades. If one lesson emerges, it is that the concept is a relative one: it is measured not by reference to an expenditure in a vacuum, but by assessing the relationship of the expenditure to the specific appropriation to be charged or, in the case of several programs funded by a lump-sum appropriation, to the specific program to be served. It should thus be apparent that an item that can be justified under one program or appropriation might be entirely inappropriate under another, depending on the circumstances and statutory authorities involved.

The Incentive Awards Act authorizes each agency to develop an awards program (see 5 U.S.C. § 4506). An awards ceremony is a proper if not integral element of such a program. Clearly the statutory objectives will be better met by presenting an award along with a measure of public recognition, rather than anonymously depositing it in the recipient's in-box. Once we have said this, it becomes apparent that an awards ceremony is different from an agency's typical day-to-day conduct of official business. It is, by its very nature and purpose, for lack of a better term, "ceremonial." It

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3/ Report Covering the Effectiveness of Implementation of the Government Employees' Incentive Awards Act, Subcomm. on Manpower and Civil Service, House Comm. on Post Office and Civil Service, H.R. Rep. No. 885, 90th Cong., 1st Sess. 7 (1967).

should therefore not stretch the imagination to conclude that certain things--such as refreshments--which would be inappropriate in other contexts, might be appropriate as part of a ceremonial function.

In view of the foregoing, should an agency determine that a reception with refreshments, in accordance with OPM regulations, would materially enhance the effectiveness of its awards ceremony, the cost of those refreshments may be considered a "necessary expense" for purposes of 5 U.S.C. § 4503. As a "necessary expense," the cost may be borne by operating appropriations and need not be charged to a reception and representation account. See 5 U.S.C. § 4502(d).

Our 1974 decision (B-114827, supra) was incorrect in two respects. First, it did not consider the 1969 Apollo 11 case, but followed 43 Comp. Gen. 305 (1963), which dealt with persons who were not Federal employees.[4/] Second, it failed to give proper weight to the "necessary expense" language of 5 U.S.C. § 4503. To the extent it is inconsistent with this decision, B-114827, Oct. 2, 1974, is hereby modified.[5/]

for Milton J. Socolar
Comptroller General
of the United States

4/ OPM has correctly interpreted 43 Comp. Gen. 305. See article entitled "Payment for Award Receptions" appearing on page 4 of an OPM bulletin entitled "Incentive Award Notes," vol. 32, no. 3 (Jan.-Feb. 1986).

5/ We do not "overrule" B-114827 because what we are saying here does not preclude an agency from charging the cost to an applicable "R&R" account if it so chooses. This decision says merely that charging an "R&R" account is not required.