

AIR-11.0/KNJ
JUN 15 2009

From: AIR-10.0
AIR-11.0
To: AIR-7.0

Subj: FUNDING AWARDS, EVENTS AND OTHER ITEMS FOR TEAMMATE
APPRECIATION MONTH

1. NAVAIR has declared a "Teammate Appreciation Month" during which a variety of awards are to be given and events are to be held in recognition of the hard work and dedication of all NAVAIR "teammates." This has raised questions about how such awards, events and other items may legally be funded.
2. There are two sources of government funds available for Teammate Appreciation Month: agency operating funds (to include appropriated funds and revolving funds) and nonappropriated funds (e.g., local Civilian Welfare and Recreation Activities and military Morale, Welfare and Recreation organizations). For personnel assigned to the Naval Air Systems Command Headquarters, Program Executive Offices, Naval Air Technical Data and Engineering Service Command, Fleet Readiness Center Western Pacific, and the Training System Division of the Naval Air Warfare Center Aircraft Division, cash awards are paid out of the Operation and Maintenance, Navy (O&MN) Expense Operating Budget (EOB) or other appropriate accounts as applicable for reimbursably funded personnel (as indirect costs). For employees supporting Major Range and Test Facility Base (MRTFB) workload, awards are financed with MRTFB institutional Research and Development funding. For employees supporting Navy Working Capital Fund, awards are charged to indirect operations overhead of the cost center of the employee receiving the award.
3. Different rules apply when spending agency operating funds versus nonappropriated funds. Under the Constitution, Congress has exclusive authority to appropriate funds.¹ Therefore, the basic rule for appropriated funds is that they cannot be spent for any purpose not authorized by Congress.² Nonappropriated funds do not require a statutory basis for expenditure. However, the Navy regulations that authorize the existence of nonappropriated fund activities and their ability to collect funds limit the use of such to paying for programs and activities that serve the interests of all military and civilian federal employees on DoD installations.³ The term "federal employees" does not include contractor personnel.
4. The following explains how the rules on spending agency operating funds and nonappropriated funds apply to pay for specific items for NAVAIR "teammates," whether they are military, civilian or contractor personnel.

¹ U.S. Constitution, Article I, section 9, clause 1.

² See United States v. MacCollom, 426 U.S. 317, 321 (1976).

³ BUPERSINST 12991.1.

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a. Awards.

Civilians. Through the Government Employees Incentive Awards Act (GEIAA)⁴, Congress has authorized the expenditure of appropriated funds on awards for civilian employees who (1) by suggestion, invention, superior accomplishment, or other personal effort contribute to the efficiency, economy or other improvement of Government operations, or (2) perform a special act or service in the public interest in connection with or related to official employment. Awards under this statute may take the form of cash awards or tangible items ranging, for example, from trophies to t-shirts (clothing) or coffee mugs. Per NAVAIRINST 12451.1 Awards and Recognition, these awards are informal recognition awards and may not exceed \$50 per employee and shall avoid the appearance of replacing cash (e.g. gift certificates and savings bonds).⁵ Additionally, gift cards shall not be purchased with the government purchase card when using appropriated funds.⁶ The rationale is that by their very nature gift cards convey a monetary value.

Civilians also may be given time off as an award.⁷ However, Department of Defense guidance states that “[t]ime-off awards shall not be granted to create the effect of a holiday or treated as administrative excusals or leave; i.e., they shall not be granted in conjunction with a military “down” or “training” day or the like which would grant the entire civilian employee population, or a majority of the civilian population, a time-off award to be used on a specified day.”⁸ It is recommended that all expenditures of funds in support of awards under this statute as well as any time off awarded be documented as awards.⁹

Military. Two statutes that are more limited in scope than the GEIAA allow appropriated funds to be spent on awards for military. The first statute allows appropriated funds to be used for cash awards to a service member who improves operations by “disclosure, suggestion, invention or scientific achievement.”¹⁰ Unlike the GEIAA that applies to federal civilian employees, this statute does not authorize the use of appropriated funds to award military personnel for “superior accomplishment, or other personal effort.” The second statute applicable to military personnel states that military personnel may be awarded “trophies, badges and similar devices...for excellence in accomplishments or competitions related to” service as part of an established awards program, and “badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.”¹¹ “Similar devices” refers to items that are designed for purposes of display, are symbolic in nature, and commemorate the event or accomplishment being celebrated by inscription, logo or otherwise. However, items of merchandise having intrinsic or utilitarian value such as t-shirts or ball caps are not considered

⁴ 5 U.S.C. § 4501-4506.

⁵ NAVAIRINST 12451.1 pg. 27.

⁶ Department of Navy Purchase Card Policy Number 19, 04 June 08

⁷ 5 C.F.R. § 451.104.

⁸ DoD 1400.25-M.

⁹ See NAVAIRINST 12451.1 for further guidance.

¹⁰ 10 U.S.C. § 1124.

¹¹ 10 U.S.C. § 1125, DoDD 1348.19 and SECNAVINST 3590.4A.

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“similar devices” and, thus, appropriated funds may not be used to purchase these items as awards for military personnel. Like civilians, military may be awarded time off in the form of liberty within the authority delegated to their commanding officers.

Contractors. There is no statutory authority for spending appropriated funds on awards, whether in the form of cash, tangible items or time off, for contractor personnel. While there is authority for providing certificates or letters of appreciation to contractor personnel, this authority does not imply the authority to use appropriated funds in support of this type of recognition. Certificates or letters of appreciation recognizing contractor personnel are only authorized if it is based on a “contribution that is substantially beyond that specified or implied within the terms of the contract establishing the relationship, or the recognition is clearly in the public interest.”¹² Before issuing such a letter or certificate of appreciation, it should be coordinated with the legal counsel and applicable contracting officer to ensure there is no conflict with any action the contracting officer may be taking to correct contract deficiencies.

b. Food.

Civilians. The GEIAA provides for the use of appropriated funds to purchase food for civilian employees if the food is properly considered to be an award and documented as such or if the food is purchased to enhance an award ceremony. Spending appropriated funds on food as an award is authorized if: 1) the contribution being recognized will be properly rewarded by considering the food an informal recognition award (which must be of nominal value), rather than a time off award, cash award or honorary award; and 2) the expenditure is for an informal recognition award that would not jeopardize the credibility and integrity of the Federal Government’s incentive award program.¹³ Spending appropriated funds on refreshments in support of awards ceremonies is authorized under the GEIAA if an agency determines that a reception would materially enhance the effectiveness of its award ceremony. The amount of money spent on the refreshments should be commensurate with the significance of the award. Food also may be purchased for civilian events using Civilian Welfare and Recreation nonappropriated funds provided the food at the event is for the benefit of all civilian federal personnel served by the fund.

Military. Military Morale, Welfare and Recreation nonappropriated funds may be spent on food for military personnel if the event is for the benefit of all military personnel served by the fund. In addition, if the agency determines that refreshments would materially enhance the ceremony, appropriated funds may be used to purchase food for refreshments in support of ceremonies for awards made to military personnel for “disclosure, suggestion, invention or scientific achievement” that contributes to the efficiency, economy, or other improved operations.¹⁴ This authority to use appropriated funds on refreshments at award ceremonies is

¹² DoD 1400.25-M, SC451.15 and SECNAVINST 5061.12C.

¹³ See GAO Opinion, Matter of: National Security Agency – Availability of Appropriations to Purchase Food as a Nonmonetary Award under the Government Employees Incentive Awards Act, B-271511 (Comp. Gen. 1997).

¹⁴ See GAO Opinion, Matter of Refreshments at Awards Ceremony, B-223319 (Comp. Gen. 1986).

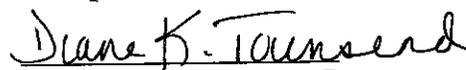
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narrower than the authority under the GEIAA since it does not authorize using appropriated funds for refreshments at ceremonies for the award of "medals, trophies, badges and similar devices" or "badges or buttons in recognition of special service..."

Contractors. Spending nonappropriated funds on food for contractor personnel, even when contractor personnel are invited to command-sponsored events, is not permissible as it is inconsistent with Navy regulation that nonappropriated funds are for the benefit of federal employees. Similarly, there is no authority to spend appropriated funds on food for contractor personnel. However, if contractor personnel are invited to an award ceremony because their presence is part of the effectiveness of the awards ceremony and refreshments paid for with appropriated funds are served, they may partake of the refreshments.

4. The above has also been coordinated with the NAVAIR Headquarters Staff Judge Advocate. For guidance on the funding of other items and events associated with NAVAIR Teammate Appreciation Month, contact Cindy Meyer, AIR-10.3, at 301-757-7807, or Anthony Dowdle, AIR-11.4, at 301-757-0593.


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