

Flelen DESAULTIER



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: United States Army School of the Americas -
Use of Official Representation Funds

File: B-236816

Date: February 8, 1990

DIGEST

U.S. Army School of the Americas may use official representation funds to pay for a change of command/incoming commander reception since the reception was an official function rather than a purely private social one and the use of official representation funds is consistent with Army regulations.

DECISION

The Finance and Accounting Officer at Fort Benning, Georgia, has asked that we render an advance decision regarding a voucher for \$956.50 requesting payment from official representation funds. The voucher covers the cost of catering services for a reception following the change of command at the U.S. Army School of the Americas (School) at Fort Benning. For the reasons discussed below, the voucher may be paid.

BACKGROUND

In November 1988, the Public Affairs Officer at the School requested P10 program funds for a reception to follow the change of command scheduled for January 6, 1989. When the installation accountant denied its request on December 13, the School requested that the Secretary of the Army through the Office of General Counsel for Fiscal Law and Policy approve the use of official representation funds. Army Regulation 37-47, para. 2-8(a), requires the Secretary's advance approval for the use of official representation funds for retirement and change of command ceremonies. Pending approval, the School sent invitations for the "Change of Command/Retirement Ceremony" and reception to follow.

On December 22, 1988, an official from the Office of General Counsel advised the School that its use of official representation funds for its change of command reception was unlikely to be approved. The official recommended that the

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School hold a reception for the new commander to meet with local dignitaries rather than a change of command reception. Under Army Regulation 37-47, para. 2-7(e), the Secretary of the Army need not approve the use of official representation funds for receptions for newly assigned commanders for the purpose of meeting with dignitaries, local government officials, and distinguished prominent and local citizens. The School renamed the reception despite its position that there was no difference between the recommended reception for the newly assigned commander and the change of command reception that it had already planned. The School did not retrieve the invitations, but announced at the ceremony that the reception was for the newly assigned commander.

On January 2, 1989, the Public Affairs Officer at the School submitted a voucher for \$956.50 requesting official representation funds to pay for the reception. The Finance and Accounting Officer at Fort Benning has refused to pay the claim, pending our advance decision. He contends that the reception was not a reception for the newly assigned commander requiring no approval, but, in actuality, a change of command reception for which advance approval was required and never obtained. He has requested that we decide whether official representation funds may be used to pay for the reception.

DISCUSSION

Under 31 U.S.C. § 1301(a), appropriated funds may be used only for authorized purposes. We have consistently held that absent legislative authority, appropriated funds are not available for entertainment on the ground that such a use may undermine the public's confidence in the integrity of those who spend its money. United States Trade Representative, B-223678, June 5, 1989. We have also recognized that Congress has made "official reception and representation" funds available to permit otherwise prohibited expenditures such as entertainment. 43 Comp. Gen. 305, 306 (1963). Typically, some portion of the emergency and extraordinary expense fund that Congress annually provides for the Department of Defense pursuant to 10 U.S.C. § 127 is set aside for official representation expenses.

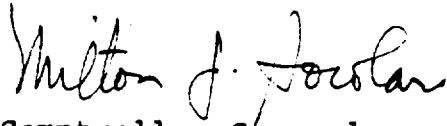
Under our decisions and the applicable Army regulations, the School may use official representation funds to pay for the reception. Although we do not allow an agency unfettered discretion, we will not object to the use of official representation funds for official functions "characterized by a mixed ceremonial, social, and/or business purpose, and hosted in a formal sense by high level agency officials."

U.S. Trade Representative, B-223678 at 4. Accordingly, we have approved the use of official representation funds for refreshments to enhance an agency's awards ceremony, see 65 Comp. Gen. 738, 740 (1986).

Like the other functions for which we have approved the use of official representation funds, the reception at issue here was not a purely private social event. Although initially envisioned as a change of command ceremony which we have observed is a traditional and appropriate function, 56 Comp. Gen. 81 (1976), the ceremony and reception satisfied all the prerequisites of an official reception for an incoming commander. As envisioned by Army Regulation 37-47, para. 2-7(e), the reception was designed to promote existing relationships with Latin American military leaders and with the Fort Benning and Columbus communities. The Commandant of the School hosted the reception; the names of both the officer assuming command and the officer relinquishing command appeared on the invitation. The guests included Fort Benning officials, Latin American Military Attaches assigned to Washington, guest instructors and faculty members, and local dignitaries.

Although Army Regulation 37-47, para. 2-8(a) does not describe in detail how a reception for a newly assigned commander differs from a change of command reception for which Army Regulation 37-47, para. 2-8(a), requires advance approval, paragraph 2-7(e) of Army Regulation 37-47 specifically authorizes receptions sponsored for newly assigned commanders for the purpose of meeting with dignitaries, local government officials, and distinguished prominent and local citizens. The School's position that there was no difference between the change of command reception for which it sought approval and the recommended reception for the newly assigned commander suggests that its reception could be aptly characterized as either a change of command reception or a reception for the newly assigned commander (or both). Indeed, our review of the record indicates that the School had a reasonable basis in fact to characterize the reception as a reception for a newly assigned commander under Army Regulation 37-47, para. 2-7(e). Accordingly, we have no objection to the School's decision to designate the reception as one for the newly assigned commander for which the use of official

representation funds without advance approval is appropriate. The School may use official representation funds to pay the expenses associated with the reception.

for 
Comptroller General
of the United States