DEPARTMENT OF DEFENSE
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MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)

SUBJECT: Use of Appropriated Funds to Purchase Food at Conferences, Meetings, and Events

Based upon the quantity and nature of the inquiries we receive, it is apparent that there is significant confusion within the Department of Defense (DoD) concerning the use of appropriated funds to purchase food at conferences, meetings and other events. In order to bring greater clarity to this issue, we are providing this memorandum which describes the minimum legal requirements for the purchase of food under a variety of circumstances. We recommend that your office, perhaps in coordination with the Office of the Under Secretary of Defense (Personnel and Readiness), publish policy guidance using this memorandum as a legal guide. You may, of course, place further policy limits on the purchase of food at these events.

As a general rule, food is a personal expense for which appropriated funds are not available absent legal authority. The following is a list of recognized exceptions—some of them overlapping—to the general rule in the context of conferences, meetings and events.

Award Ceremonies. (Sources: 5 U.S.C. §§ 4501, *et seq.*; 10 U.S.C. § 1124; 65 Comp. Gen. 738 (1986)). Food may be purchased only if—

- The award recipients are either federal employees or military members,
- The award recipients are publicly recognized, and
- The authorized agency official has determined that food materially advances the recognition of the recipient.

Cultural Awareness Ceremonies. (Source: B-301184, Jan. 15, 2004). Food may be purchased only if—

- The food is part of a formal program intended to advance EEO objectives and to make the audience aware of the cultural or ethnic history being celebrated,
- The food is a *sample* of the food of the culture and is being offered as part of the larger program to serve an educational function, and
- The portions and selection of dishes do not constitute a meal, for which appropriated funds are not available under this exception.

Training. (Sources: 5 U.S.C. § 4101, § 4109; 10 U.S.C. § 2013; 39 Comp. Gen. 119 (1959); 66 Comp. Gen. 350 (1987)).

- Appropriated funds may be used to cover food costs that constitute a non-severable portion of the registration or attendance fee for a training program.
- For purposes of this memo, food costs are considered ***non-severable*** if they are billed as part of the overall costs of the conference, and the conference costs cannot be reduced by foregoing the food or by breaking out the food costs as a separate optional item.
- The cost of food provided at a training program conducted by the Government is presumed to be severable because the Government is responsible for arranging the program.
- If food costs are a severable part of the registration fee, appropriated funds are available for such costs only where necessary for the employee to obtain the full benefit of the training. For example, where essential training is conducted during a luncheon session, food may be provided at Government expense. Simply labeling a session as a "training event" is not sufficient; instead, the event must be a substantive program designed to improve trainee and agency performance.

Conferences sponsored by non-Federal entities—non-severable fee. (Sources: 5 U.S.C. § 4110; B-233807, Aug. 27, 1990; B-198471, May 1, 1980; B-288266, Jan. 27, 2003; 64 Comp. Gen. 406 (1985)). DoD may pay or provide reimbursement for food purchased as a non-severable, non-negotiable portion of a registration or attendance fee.

Conferences sponsored by non-Federal entities—severable fee. (Sources: 5 U.S.C. § 4110; B-233807, Aug. 27, 1990; B-198471, May 1, 1980; B-288266, Jan. 27, 2003; 64 Comp. Gen. 406 (1985)). If the cost of the food or meals is severable, then appropriated funds are available only to the extent—

- The expenditure is necessary to obtain the full benefit of the meeting or conference,
- Meals and refreshments are incidental to the meeting or conference, and
- The employee cannot take the meals elsewhere without missing formal discussions, lectures, or speeches that are essential parts of the conference.

Conferences sponsored by another Government agency. (Sources: 5 U.S.C. § 4110; B-198471, May 1, 1980; B-1288266, Jan. 27, 2003). DoD may pay for food for an employee if the criteria for "conferences sponsored by non-Federal entities—severable fee," above, are met and—

- The meeting or conference involves matters of topical interest to multiple agencies and/or nongovernmental participants.

Formal DoD conferences. (Sources: 5 U.S.C. § 4110; B-300826, March 3, 2005). Food may be purchased only if—

- The conference is a formal conference with registration, a published and substantive agenda, and scheduled speakers,
- The conference involves matters of topical interest to actual participants from multiple agencies and/or nongovernmental participants,
- Meals and refreshments are incidental to the overall purpose of the formal conference,
- Attendance at the meal or when refreshments are provided is important to the host agency to ensure the attendees' full participation in essential discussions and speeches concerning the purpose of the conference, and
- The meal and refreshments are part of a formal conference that includes not just the meal and refreshments and discussions or speeches that may take place when the meal and refreshments are served, but also substantial sessions apart from those at which food is served.

Conferences sponsored by DoD where food creates no additional cost. (Source: B-281063, Dec. 1, 1999). Food may be provided at meetings sponsored by DoD to discuss day-to-day operations of the Government, or other Government-sponsored conferences, in situations where all of the following criteria are met—

- The meeting is held at an outside facility,
- The cost of the food is a non-severable, non-negotiable portion of the cost of the conference space, and
- The cost of the space is demonstrably priced competitively with facilities at which food is not provided.

However, in our view, this exception should apply very rarely because, in most cases, the cost of conference space *with food* will not be competitively priced with similar conference space *without food*. Policy safeguards may be in order to avoid abuse.

A few additional notes: Although appropriated funds may be used to purchase food, as described above, a host agency may *not* charge an official registration or other fee *from attendees* to defray the costs of the conference, including the cost of that food. This is a consequence of the miscellaneous receipts statute, 31 U.S.C. § 3302(b), which requires that funds collected for the Government be deposited into the general Treasury (miscellaneous receipts) absent statutory authority to do otherwise. Conference organizers may, however, collect personal funds unofficially from participants to purchase snacks and refreshments. Such collections must be truly voluntary, and the funds collected may not be commingled with or augmented by appropriated funds. These unofficial costs are not reimbursable to the attendee/conferee. Finally, to the extent that meals are provided at Government expense to travelers receiving *per diem*, the traveler must document receipt of the meal on his or her travel voucher.

You may wish to permit the DoD components to further restrict any policy you may choose to issue. Please let me know if my staff or I can provide anything further in this regard.

E. Scott Castle
Deputy General Counsel (Fiscal)