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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Presidio Trust—Use of Appropriated Funds for Audio Equipment Rental Fees and Services

File: B-306424

Date: March 24, 2006

DIGEST

Where Congress authorized the Presidio Trust to lease, manage, and administer the operations of the Presidio property and the Trust's regular operating procedures include providing a venue for public and private events, providing audio equipment and related services is a necessary and incidental part of the Trust's operations. Accordingly, the Trust's appropriations were available to cover expenses incurred during the National Academy of Public Administration's use of the Presidio's facilities for its 2005 annual Board of Directors meeting.

DECISION

This responds to a request for a legal decision on whether the Presidio Trust's (Trust) appropriation was available to pay \$2,685.00 for the costs of audio equipment rental and for related services incurred on behalf of a patron's use of the Presidio facilities. Letter to Anthony Gamboa, General Counsel, Government Accountability Office, from Carla A. Armstrong, Controller, The Presidio Trust, Oct. 4, 2005 (Armstrong Letter), at 2. For the reasons stated below, we conclude that the Trust's appropriations were available to pay the rental fees and services in question.

BACKGROUND

The Presidio, located in San Francisco, was the oldest continuously operated military post in the United States before becoming a national historic landmark and part of the Golden Gate National Recreation Area. The Omnibus Parks and Public Lands Management Act of 1996, Pub. L. No. 104-333, title I, § 101, 110 Stat. 4093, 4097 (Nov. 12, 1996). In 1996, Congress created the Trust to "manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio." *Id.* § 104(a). In pursuing this goal, Congress authorized the Trust to "participate in development of programs and activities at the properties . . . to

negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or government entity . . .” *Id.* § 104(b). Congress also envisioned that the Trust would become a self-sustaining organization, requiring that the Trust receive no annual appropriations 15 years after the first meeting of the Trust’s Board of Directors. *Id.* § 105(b).

In March 1993, the Trust contracted with the National Academy of Public Administration¹ (NAPA) to assess the Trust’s finance and business practices, its long-range strategic plans, and its overall progress in becoming a self-sustaining organization as required by its authorizing legislation.² NAPA completed its study in January 2004. Subsequently, the Executive Director of the Trust, Craig Middleton, encouraged NAPA to hold one of its Board meetings at the Presidio. Statement of Craig Middleton, Sept. 27, 2005 (Middleton Statement). As part of its operations, the Trust rents venue space to the public. Armstrong Letter, at 1. Mr. Middleton offered that the Trust would pay for some costs related to NAPA’s use of the Presidio facilities. Middleton Statement.

NAPA held its Board of Directors meeting at the Presidio in June 2005. The meeting lasted about 2 1/2 days. It included an afternoon session led by Mr. Middleton discussing NAPA’s study of the Presidio and a reception with the Board of the Trust. Letter to Thomas H. Armstrong, Assistant General Counsel, GAO, from Karen A. Cook, General Counsel, The Presidio Trust, Jan. 10, 2006 (Cook Letter), exhibit 2.

Related to NAPA’s use of the Presidio facilities, the Trust incurred expenses for the rental of audio equipment and services for the installation and the dismantling of such equipment. This equipment included rental of table microphones, a 16-channel audio mixer, a podium microphone, a dual cassette recorder, an audio equalizer, and a wireless microphone. Armstrong Letter, Attached Invoice. The total expense incurred was \$2,685.00. *Id.*

¹ The National Academy of Public Administration (NAPA) is a federally chartered corporation whose mission is, among other things, to evaluate “the structure, administration, operation, and program performance of Federal and other governments and government agencies, anticipating, identifying, and analyzing significant problems, and suggesting timely corrective action.” 36 U.S.C. § 150103.

² In its report accompanying the fiscal year 2003 Interior appropriations bill, enacted as Pub. L. No. 108-7, 113 Stat. 11 (Feb. 20, 2003), the House Appropriations Committee directed the Trust to contract with NAPA to study its “finance and business management practices, including financial assumptions and projections; a review of major capital construction projects; and the management and use of government loan authorities.” H.R. Rep. No. 107-564, at 159–60 (2002).

Prior to certifying payment for the audio equipment and related services, the Controller of the Trust, Carla A. Armstrong, requested an advance decision, pursuant to 31 U.S.C. § 3529(a), as to whether the Trust's appropriations are available for paying such expenses. A certifying officer has the statutory right to obtain an advance decision from the Comptroller General on any payment voucher presented for certification. 31 U.S.C. § 3529(a). Ms. Armstrong noted that occasionally the Trust will cosponsor an event with another organization where the event will benefit the Trust, for example, where the Trust personnel will obtain skills or knowledge useful to their jobs. Armstrong Letter, at 1. Ms. Armstrong expressed concern that the charges may be improper because the expenses did not benefit the Trust directly. *Id.*

In an effort to develop the factual record, we contacted the Trust's General Counsel, Karen A. Cook. Ms. Cook contended that appropriated funds could be used to pay the equipment and related expenses because they were reasonable expenses incurred by the Trust under its broad statutory authority to manage the properties within the Presidio. Cook Letter, at 2--3.

DISCUSSION

Appropriated funds may be used only for the purposes for which they are appropriated and for any expenses that are reasonably necessary for the accomplishment of that purpose. 31 U.S.C. § 1301(a); *see also* B-304228, Sept. 30, 2005. This statute, however, does not require that every item of expenditure be specified in an appropriation act, and it is well settled that agencies have reasonable discretion in determining how to carry out the objects of their appropriations. *See* B-303170, Apr. 22, 2005. We have long recognized that "where an appropriation is made for a particular object, by implication it confers authority to incur expenses which are necessary or proper or incident to the proper execution of the object . . ." 6 Comp. Gen. 619, 621 (1927).

In determining whether expenses are "necessary or proper or incident" to the object of an appropriation, we apply a three-part test: (1) the expenditure must have a logical relationship to the appropriation sought to be charged; (2) the expenditure must not be prohibited by law; and (3) the expenditure must not be provided for by another appropriation. *E.g.* B-303170, Apr. 22, 2005; 63 Comp. Gen. 422, 427--28 (1984). We are aware of no law that would prohibit the Trust from using its appropriated funds for paying expenses related to rental of audio equipment nor are we aware of another appropriation that would specifically cover the expenses at issue in this case. Accordingly, we must determine whether the Trust's payment of audio equipment expenses for the 2005 NAPA Board of Directors meeting bears a logical relationship to the appropriation that the Trust receives.

For fiscal year 2005, Congress appropriated \$20,000,000³ to the Trust for “necessary expenses” to fulfill responsibilities under the Trust’s authorizing legislation.⁴ Pub. L. No. 108-447, div. E, title II, 118 Stat. 2809, 3092 (Dec. 8, 2004). The “necessary expenses” of the Trust are defined by reference to the Omnibus Parks and Public Lands Management Act under which Congress authorized the Trust to “manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction.” Pub. L. No. 104-333, § 104(a).

On the basis of Mr. Middleton’s explanations, the Trust’s General Counsel believes that the expenses in question are necessary expenses of the Trust’s appropriations. Mr. Middleton stated that he made the decision to incur the expense in an attempt to encourage NAPA to hold its annual meeting at the Trust facilities. Mr. Middleton also stated that NAPA’s use of the facilities was beneficial to the Trust because it “foster[ed] closer working relations with NAPA, showcase[d] The Presidio Trust as a new model to accomplish public work through a government corporation, and [gave] key Trust staff access to members of the Academy Board.” Cook Letter, exhibit 3. This statement justifies the expenses in question as occurring in the legitimate pursuit of business networking to garner more business for the Trust and to gain access to NAPA’s expertise in the field of efficient public administration. In this decision we do not need to decide whether Mr. Middleton’s business networking reason, in and of itself, is an adequate justification for using the Trust’s appropriation to rent equipment and services for NAPA’s Board meeting. While we certainly appreciate the benefits an organization can obtain as a result of professional networking, as we explain below, we believe that there is a clearer, more direct nexus between the rental costs and the Trust’s mission.

As noted above, Congress created the Trust to “manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio.” Under this authority, the Trust maintains regular business practices, which include leasing venue space on a short-term basis for public use. *See* Armstrong Letter, at 1. Such short term use of the Presidio facilities may include providing space for conference or special events, similar to the NAPA Board of Director’s meeting. It is reasonable that an organization, such as the Trust, seeking to be competitive in the business of providing facilities for conferences and special events would provide audio equipment and related services in addition to providing space. Accordingly, we believe that providing such audio equipment and related services has a rational relationship to the Presidio’s role in the managing “the leasing, maintenance, rehabilitation, repair and improvement” of the Presidio property. We conclude that the rental of audio equipment and related services were “necessary expenses” in

³ In addition to the amount appropriated in the annual appropriation act, the Trust, pursuant to statute, retains and credits any proceeds it receives to its appropriation. *See* Pub. L. No. 104-333, § 104(a).

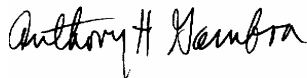
⁴ Pub. L. No. 104-333.

fulfilling the Trust's statutory responsibilities, and the Trust's appropriations were available to pay for such expenses.

Although we conclude that the Trust's appropriations are available for paying for the rental of audio equipment and related services, we understand Ms. Armstrong's apprehension. In addition to providing the equipment and related services, the Trust, in this case, waived its usual fee. The Trust presently has no written policy regarding waiver of fees and/or covering costs such as rental of audio equipment. Cook Letter, at 2. With no definite guidelines or procedures, it is difficult for the certifying officer to make a determination of whether such expenses should be certified for payment. We urge the Presidio to develop and adopt more definite guidelines and operating procedures.

CONCLUSION

Since the Trust's regular operations include providing venue and facilities for the public use, we conclude that costs incurred to furnish the facilities with audio equipment and related services to be used by patrons of the Presidio's facilities are a necessary expense of the Trust's operations. Accordingly, we do not object to the Trust using its appropriations to pay for the rental of audio equipment and related services used during the NAPA 2005 Board of Directors meeting.

A handwritten signature in black ink, appearing to read "Anthony H. Gamboa". The signature is fluid and cursive, with the first name "Anthony" and last name "Gamboa" clearly distinguishable.

Anthony H. Gamboa
General Counsel