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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Department of the Army—Availability of Funds for Security Clearance Expenses

File: B-307316

Date: September 7, 2006

DIGEST

An Army captain's costs of renouncing his Turkish citizenship in order to obtain a security clearance necessary for his assignment to the United States Army Center for Health Promotion and Preventive Medicine can be considered an official, not a personal, expense since they are incurred incident to the Army requirement that he obtain a security clearance for his new assignment. Because the costs were incurred primarily for the benefit of the government, GAO has no objection to reimbursing the captain for such expenses.

DECISION

The United States Army Center for Health Promotion and Preventive Medicine (USACHPPM or Center) has requested a decision under 31 U.S.C. § 3529 on whether its appropriated funds are available to reimburse an Army captain costs he incurred in renouncing his Turkish citizenship. The captain held dual citizenship with the United States and with Turkey. He renounced his Turkish citizenship in order to obtain a security clearance necessary for his position. A security clearance is required for the captain's new assignment at the Center. As explained below, the costs of the captain's renouncing his Turkish citizenship can be considered an official, not a personal, expense since they were incurred incident to the Army requirement that he obtain a security clearance for his new assignment. Accordingly, we view the costs of the renunciation as primarily benefiting the government. GAO has no objection to reimbursing the captain for such expenses.

BACKGROUND

By orders dated May 3, 2005, the Army transferred Captain Nizamettin Gul from the Army Medical Research Institute of Infectious Diseases (Research Institute) to the U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM)

located at the Aberdeen Proving Ground, Maryland. Memorandum from Thomas R. Bender, Deputy Chief of Staff for Resource Management, to the Comptroller General, Jan. 26, 2006 (Bender Memorandum). He was assigned to serve as the Chief of the Department of Defense Cholinesterase Reference Laboratory.

As chief, Captain Gul's duties consist of ensuring the health and safety of all personnel working with chemical warfare nerve agents at stockpile and chemical demilitarization sites, chemical schools, and research sites. He is responsible for ensuring the integrity of the laboratory's medical surveillance program and for conducting tests for the Defense Threat Reduction Agency. He also serves as a subject matter expert for the detection of nerve agent exposure.¹ A secret security clearance is a requirement for holding the Laboratory Chief position. USACHPPM Military Personnel Office Table of Distribution and Allowances; Bender Memorandum, ¶ 5. Accordingly, while Captain Gul was still working at the Research Institute, the Army conducted its investigation to determine if he qualified for a security clearance. Bender Memorandum, ¶ 2.

The federal personnel security program under which military personnel are considered for security clearances is governed by Executive Order No. 12968, *Access to Classified Information*, 60 Fed. Reg. 40,245 (Aug. 7, 1995). The order requires that members must have a security clearance to have access to classified material. *Id.* at § 1.2a. Eligibility determinations for security clearances are based on information concerning a member that is acquired through the investigation conducted pursuant to the order. *Id.* at § 3.2a. To get a security clearance, a member must be determined to be eligible for one based upon a favorable adjudication of an investigation of his background. With exceptions not relevant here, security clearances may be granted only to U.S. citizens whose personal and professional history "affirmatively indicates loyalty to the United States . . . as well as freedom from conflicting alliances." *Id.* at § 3.1b.

Captain Gul held dual citizenship with the United States and with Turkey. Shortly after his arrival at the Center, a security assistant in the office of the Deputy Chief of Staff for Operations informed Captain Gul that because of his dual citizenship his clearance could not be finalized, and that the Center required him to renounce his Turkish citizenship. Bender Memorandum at ¶ 3.

Consistent with our regular practice in developing a case, we asked the Center to provide us a copy of the Army policy that would require Captain Gul to renounce his Turkish citizenship. Letter from Thomas H. Armstrong, Assistant General Counsel, GAO, to Thomas R. Bender, Deputy Chief of Staff, USACHPPM, Feb. 23, 2006. The Center referred us to Army Regulation 380-67. Memorandum from Thomas R.

¹ The source of the description in this paragraph of the Laboratory Chief's duties and responsibilities is Captain Gul's *Officer Evaluation Report Support Form*.

Bender, Deputy Chief of Staff for Resource Management, to Thomas H. Armstrong, Assistant General Counsel for Appropriations Law, Mar. 10, 2006.

Under Army Regulation 380-67, ch. 2 (Sept. 9, 1988), the section entitled *Standards for Access to Classified Information or Assignment to Sensitive Duties* provides that “Only U.S. citizens shall be granted a personnel security clearance” *Id.* at ¶ 2-100(a). The regulation states that “[t]he ultimate decision in applying . . . security standards . . . must be an overall common sense determination based upon all available facts,” and sets out a number of criteria for consideration in determining an individual’s eligibility for a clearance or assignment to a sensitive position. *Id.* at ¶ 2-200. These criteria include—

“acceptance and active maintenance of dual citizenship, or other acts conducted in a manner which serves or which could be expected to serve the interests of another government in preference to the interests of the United States.”

Id. at ¶ 2-200 (f). In applying these criteria, the security officer determined that Captain Gul would need to renounce his Turkish citizenship to obtain the security clearance.

The Turkish renunciation process has fees and costs associated with it. The Center states that “[a]pparently Turkey has a very long and expensive process,” and it lists \$286 in fees and expenses that the captain incurred. Bender Memorandum ¶¶ 4, 5. The USACHPPM’s budget office considered whether the government could reimburse Captain Gul for the expenses he incurred renouncing his Turkish citizenship. The office initially took the view that the renunciation fees were personal expenses and therefore nonreimbursable. However, upon learning that we have never addressed the question of whether appropriated funds are available to pay expenses incurred to renounce foreign citizenship in order to qualify for a security clearance, the USACHPPM decided to request our decision on the matter.

ANALYSIS

Appropriations are available only for the objects for which they were made except as otherwise provided by law. 31 U.S.C. § 1301(a); *see also* B-304228, Sept. 30, 2005. Generally, appropriations are not available for government employees’ personal expenses. 73 Comp. Gen. 171 (1994). For purposes of this prohibition, personal expenses are those that employees incur for their individual convenience, comfort, or protection, or those expenses considered to be reasonably required as part of the usual and necessary expenditures employees themselves make for the work on which they are engaged or for which they are employed. 3 Comp. Gen. 433 (1924). As a general rule, the expenses that enable or assist a government employee to qualify to do the job to which he or she is assigned are considered personal expenses

and are not chargeable to appropriated funds.² 1 Comp. Gen. 298 (1921); B-257895, Oct. 28, 1994; B-249061, May 17, 1993; B-235727, Feb. 28, 1990; B-210522, Dec. 15, 1983; B-193862, Apr. 30, 1979.

Thus, we have held that personal qualification expenses are not to be payable from appropriations.³ See B-248955, July 24, 1992 (engineer certification); B-204215, Dec. 28, 1981 (bar membership). In such cases, we based our holdings on the recognition that the employees were fully aware of the licensing requirements of their professions from the time they began their professional education, and on the fact that society expects them to fully qualify themselves for the performance of their chosen professions. In that sense, the licensing requirements were considered to be more for the personal benefit of the individuals than for their employers. 73 Comp. Gen. 171 (1994).

However, we have not objected to the use of appropriated funds for expenditures otherwise considered to be personal in nature when the expenditures primarily benefit the government. See 68 Comp. Gen. 502, 505 (1989). For example, in B-256092, July 6, 1994, a case that presented a situation analogous to this one, we considered whether National Transportation Safety Board (NTSB) appropriations were available to pay for physical examinations for its Office of Aviation Safety investigators for the purpose of obtaining current Federal Aviation Administration (FAA) medical certificates. The NTSB required applicants for the investigator positions to have FAA medical certificates. A current certificate was also required in order for investigators to participate in altitude chamber training, which NTSB encouraged. The investigators performed their work under physically demanding conditions. Our decision noted that the medical certificates provided the agency with some assurance that the investigators would be physically able to safely withstand the rigors of their employment and training, and that the training that NTSB encouraged enabled the investigators “to meet aviation industry standards thereby enhancing the credibility of the agency.” *Id.* For these reasons, we concluded that “maintenance by investigators of current FAA medical certificates

² The Comptroller of the Treasury stated the rationale underlying this rule as follows:

“[A]n employee of the Government has upon his own shoulders the duty of presenting himself as competent in every way for the duties of his employment . . . he should fit himself for the discharge of those duties at his own expense.”

23 Comp. Dec. 386 (1917) *quoting from* 66 MS. Comp. Dec. 247, July 22, 1913.

³ Congress has since passed legislation to permit agencies to pay employees’ expenses of obtaining professional credentials, should the agencies choose to do so. Pub. L. No. 107-107, § 1112(a), 115 Stat. 1012, 1238–39 (Dec. 28, 2001), *codified at* 5 U.S.C. § 5757.

can reasonably be viewed as for the primary benefit of the government.” *Id.* Accordingly, we held that NTSB appropriations were available to pay for investigators’ physical examinations that were needed to obtain FAA medical certificates. *Id.*

Similarly, in 73 Comp. Gen. 171 (1994), the issue was whether the Air Force could use its operation and maintenance appropriation to pay the cost of obtaining licenses or certificates needed by its members to perform state regulated activities, such as asbestos removal, in cases where federal law required Air Force members to comply with state and local regulations. We determined that the Air Force members’ state licensing and certificate fees in question were reimbursable from Air Force appropriations funds because the government was the primary beneficiary of the expenditure.

We stated our rationale for our conclusion as follows:

“While the license or permit is often obtained in the name of the member, the primary interest in obtaining the license lies with the Air Force, which designated the task as a new assignment of the member, not with the member. Any personal benefit that Air Force members receive from the acquisition of the licenses is nominal and incidental to the performance of their official duties.”

Id. at 173 (footnote omitted).

Here, expenses incurred for renunciation of Turkish citizenship in order to obtain security clearance are, in these circumstances, primarily for the benefit of the government. In its request the Center states that “CPT Gul is being required by USAHPPM-HQ and the Army to go through this procedure in order to fully take on his responsibilities here and for the greater good of the Army.” Bender Memorandum at ¶ 5. The captain cannot assume his full responsibilities at the Center without a security clearance. A security clearance provides assurance to the government that sensitive information will be safe. The renunciation facilitates the granting of the clearance, which is necessary for the work of the Center. Any personal benefit the captain would receive from this renunciation is incidental to the performance of his duties.

CONCLUSION

Captain Gul's costs of renouncing his Turkish citizenship in order to obtain a security clearance can be considered an official, not a personal, expense since they were incurred primarily to benefit the government. Accordingly, GAO has no objection to reimbursing the captain for such expenses.

A handwritten signature in black ink, appearing to read "Gary L. Kepplinger", with a long horizontal flourish extending to the right.

Gary L. Kepplinger
General Counsel