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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: National Telecommunications and Information Administration—Gift Cards for Respondents to the Converter Box Coupon Program Survey

File: B-310981

Date: January 25, 2008

DIGEST

The National Telecommunications and Information Administration (NTIA) may use appropriated funds to purchase gift cards as an incentive to encourage individuals to complete and return a survey designed to gather information about NTIA's converter box coupon program. NTIA deems this information essential to the success of the \$1.5 billion program. Although a gift card might otherwise be viewed as a personal expense, a direct connection exists between the use of the gift cards and the production of information important to the execution of NTIA's statutory duties. The amount of the expenditure is modest, and the primary beneficiary of the expenditure is the government.

DECISION

The Department of Commerce (Commerce) has requested a decision regarding the National Telecommunications and Information Administration's (NTIA)¹ plans to purchase gift cards for respondents to a survey in an effort to increase the survey response rate and provide timely information to the department. Letter from Barbara S. Fredericks, Assistant General Counsel for Administration, Department of Commerce, to Gary L. Kepplinger, General Counsel, GAO, Jan. 11, 2008 (Fredericks Letter). The survey is part of a pilot program designed to evaluate NTIA's planned digital converter box coupon program before full-scale launch of the program. Because of the significant time constraints under which NTIA is operating, the need for the information, and the direct connection between use of the gift cards and the production of information important to NTIA's execution of its statutory duties, we do not object to NTIA's use of appropriations to purchase the gift cards.

¹ NTIA is part of the Department of Commerce.

Our practice when rendering decisions is to obtain the views of the relevant federal agencies. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), *available at* www.gao.gov/legal.htm. Because Commerce asked that we expedite our decision in this matter, we relied, in this case, on the legal views and facts that Commerce provided us in its letter requesting this decision and that Commerce officials provided us in a telephone conference call. Fredericks Letter; Telephone Conversation between Anita Wallgren, Program Director, NTIA; Milton Brown, Deputy Chief Counsel, NTIA; Sarah Coe, Senior Counsel, Commerce; Thomas H. Armstrong, Assistant General Counsel for Appropriations Law, GAO; and Wesley Dunn, Senior Staff Attorney, GAO, Jan. 16, 2008 (NTIA Conversation).

We do not opine in this decision on NTIA's survey methodology or whether the survey as designed is the best means of obtaining information regarding the converter box coupon program.

BACKGROUND

The Digital Television Transition and Public Safety Act of 2005 (Act) requires all full power television stations in the United States to cease broadcasting analog signals and switch to digital broadcasts by February 17, 2009. Pub. L. No. 109-171, title III, § 3002, 120 Stat. 4, 21 (Feb. 8, 2006). Once the transition is complete, households with televisions incapable of receiving a digital signal will be without television service unless they subscribe to cable, satellite, or other subscription television services, acquire a television capable of processing and displaying a digital signal, or purchase a digital-to-analog "converter box" to install on their analog television sets. GAO, *Digital Television Transition: Increased Federal Planning and Risk Management Could Further Facilitate DTV Transition*, GAO-08-43 (Washington, D.C.: Nov. 19, 2007), at 1.

To assist these households, the Act established a program, which NTIA administers, to subsidize converter box purchases. Pub. L. No. 109-171, § 3005. Each household may obtain a \$40 coupon to be applied towards the purchase of a converter box from a retailer participating in the program.² *Id.* A single household may receive a maximum of two coupons, but the two coupons may not be used towards the purchase of a single converter box. *Id.*

The Act also established the Digital Television Transition and Public Safety Fund (Fund) to cover the costs of the converter box coupon program. Pub. L. No. 109-171, § 3004. The Fund consists of receipts from auctions to be conducted by

² Converter boxes are expected to cost between \$50 and \$70. Library of Congress, Congressional Research Service, *The Transition to Digital Television: Is America Ready?* No. RL34165 (Jan. 2, 2008), at 4.

the Federal Communications Commission (FCC) of portions of the radiomagnetic spectrum that become vacant as television stations, pursuant to the Act's direction, cease broadcasting analog signals.³ *Id.* Initially, NTIA will borrow funds from the Treasury; NTIA will reimburse Treasury as proceeds from the FCC auctions are deposited in the Fund.⁴ *Id.* § 3005(b); Fredericks Letter.

In March 2007, NTIA adopted a final rule regarding the design and administration of the converter box coupon program. 47 C.F.R. part 301. Households may apply for coupons by phone, mail, or the Internet. 47 C.F.R. § 301.3. Coupons arrive in the mail and may be redeemed at participating retailers within 90 days of issuance.⁵ *Id.* § 301.4.

In August 2007, NTIA contracted with International Business Machines (IBM) to implement and conduct the converter box coupon program. Fredericks Letter. Since then, NTIA and IBM have been setting up the coupon request apparatus, certifying retailers to participate in the program, and ensuring that retailers and their employees are ready to administer their part of the program. *Id.* NTIA began accepting applications from consumers for coupons on January 1, 2008. *Id.* IBM expects to begin issuing coupons to applicants nationwide on February 17, 2008. *Id.*

Before consumers begin redeeming coupons on a large scale, NTIA and IBM are conducting a pilot that will test the program's processes and systems in an attempt to detect any problems. *Id.* NTIA and IBM have recruited 220 NTIA and IBM employees, as well as employees of IBM subcontractors, to participate in the pilot

³ The FCC will auction off some of the newly freed wavelengths of the spectrum to commercial wireless service providers and will dedicate the remaining wavelengths to public safety communications services. GAO-08-43, at 1. The first of these auctions took place on January 24, 2008. FCC, *Auctions*, available at wireless.fcc.gov/auctions/default.htm?job=auction_factsheet&id=73 (last visited Jan. 24, 2008).

⁴ In addition to funding the converter box coupon program, the Fund is available for grants to assist public safety agencies in the acquisition of communications systems, a digital television system in the New York City area, various assistance programs for low-power television stations, and a national tsunami warning program. Pub. L. No. 109-171, §§ 3006–3010. At the end of fiscal year 2009, the Secretary of Commerce will transfer \$7.363 billion from the Fund to the general fund of the Treasury to contribute towards reduction of the federal deficit. *Id.* § 3004; GAO-08-43, at 1.

⁵ Participating retailers include large national electronics chains. NTIA Conversation.

program.⁶ NTIA Conversation. NTIA is conducting the pilot in the Washington, D.C., and Wichita, Kansas, areas. *Id.*

Like members of the public, participants will order coupons from NTIA, take them to a local retailer and redeem them to purchase a converter box, then install the converter box on their analog televisions. *Id.* NTIA asks participants of the pilot program to fill out a questionnaire regarding their experience. NTIA Conversation. IBM will review these questionnaires to gather information regarding the efficacy of the converter box coupon program.⁷ Fredericks Letter. Using this information, NTIA and IBM hope to fix problems with the coupon program before beginning the full-scale launch of the program in mid-February 2008. *Id.*

As an incentive to complete and return the survey quickly, NTIA would like to provide a gift card to every pilot program participant who returns a completed survey. The card is worth \$25 and redeemable at the retailer where the participant purchased the converter box. Fredericks Letter. Referring to the advice of IBM, NTIA believes that providing a \$25 gift card as an incentive will significantly increase the likelihood that participants will complete the survey in a timely fashion. *Id.* NTIA would purchase the gift cards with funds from the Digital Television Transition and Public Safety Fund. *Id.* NTIA asks whether funds are available for this purpose. *Id.*

DISCUSSION

At issue here is the use of appropriations to pay for an item that is ordinarily considered to be a personal gift. As a general matter, appropriated funds are not available for personal items, such as gift cards. B-247966, June 16, 1993. However, we have not objected to the use of appropriated funds to cover what would otherwise be personal items where the benefit accruing to the government outweighs the personal nature of the expense. *See, e.g.*, B-309604, Oct. 10, 2007; B-309715, Sept. 25, 2007. Accordingly, in certain circumstances an agency's appropriated funds may be available to provide items that may otherwise be personal in nature when these items serve as incentives to acquire information necessary to the achievement of the agency's statutory goals.

⁶ Fewer than 20 participants are NTIA employees, and NTIA determined that because participation in the converter box coupon program is not the type of activity that NTIA employees would perform pursuant to their regular duties, it cannot compel its employees to participate in the pilot program. NTIA Conversation.

⁷ We assume, for purposes of this decision, that the pilot program complies with the requirements of the Paperwork Reduction Act of 1995 regarding surveys conducted by government agencies. Pub. L. No. 104-13, 109 Stat. 163 (May 22, 1995).

For example, in a 2005 decision, we agreed that the Veterans Benefits Administration (VBA) could use its appropriations to provide light refreshments at focus group meetings in order to encourage attendance at the meetings and improve the quality of the information exchange. B-304718, Nov. 9, 2005. VBA, to satisfy its statutory responsibility to measure and evaluate its programs to determine their effectiveness, conducted focus groups attended by veterans and their families. *Id.* Relying on the advice of various experts, VBA had determined that holding focus groups at the dinner hour and providing light refreshments was the most effective means of conducting focus groups. *Id.* VBA also noted that an offer of light refreshments at the focus groups created a relaxed atmosphere more conducive to the free exchange of opinions crucial to a focus group's success. *Id.* We concluded that although in other circumstances the refreshments might be an impermissible use of appropriated funds to cover personal expenditures, VBA's appropriation was available to purchase light refreshments in these circumstances because VBA had demonstrated a direct connection between the use of the particular incentive and the accomplishment of VBA's statutory goals. *Id.*

In a 2000 decision, we agreed that the General Services Administration (GSA) could use its appropriations to pay for prizes in a drawing held in connection with customer satisfaction surveys. B-286536, Nov. 17, 2000. GSA, responsible for the operation, maintenance, and protection of most government buildings, is required to survey the public building needs of federal agencies. 40 U.S.C. § 611. For several years, GSA had attempted to collect such information through customer satisfaction surveys of employees of its tenant agencies. B-286536. Faced with a declining response rate, GSA proposed to offer prizes to individuals who completed and returned the survey. *Id.* GSA determined that by offering the prizes as incentives, individuals would be more likely to return the surveys. *Id.* We concluded that in these circumstances, GSA, using incentives, could encourage employees to participate in surveys they might otherwise ignore, thereby providing GSA with information vital to its statutory mission. *Id.*

In both of these cases, the agencies established a need for the information sought and a direct connection between the use of incentives and the production of information important to carry out the agency's statutory responsibilities effectively. In a similar vein, NTIA would like to use an incentive to stimulate the production of information it deems essential to a quick evaluation of the processes and systems designed to implement its converter box coupon program.

NTIA contends that the success of the \$1.5 billion converter box coupon program depends, in part, on obtaining consumer feedback regarding glitches or failures in the system it has in place to administer the program. Fredericks Letter. NTIA intends to obtain this feedback through its pilot program; it views the pilot program as an "early warning system" to identify problems prior to deployment of the system nationwide in mid-February 2008. *Id.*

Of course, the pilot will prove useful only to the extent NTIA can encourage participants to provide their feedback to NTIA, and NTIA believes that offering gift cards as incentives for pilot program participants to return surveys will greatly increase the response rate. *Id.* NTIA's contractor, IBM, has told NTIA that incentives such as gift cards are extremely important tools for ensuring a rate of response great enough for NTIA to obtain meaningful information from the pilot program. NTIA Conversation. *See also* Thomas W. Mangione, *Mail Surveys*, in *Handbook of Applied Social Research Methods*, 408 (Leonard Bickman and Debra J. Rog eds., 1998) ("Other than follow-up reminders, there is no technique more likely to improve [a] response rate than incentives."). NTIA emphasizes that it needs to obtain the information from the pilot program in a very short time, so that it can make any necessary changes to correct problems the pilot program identifies before the mid-February national launch of the converter box coupon program. Fredericks Letter.

The benefit accruing to the government from the use of the gift cards outweighs the personal nature of the expense involved. NTIA is operating under significant time constraints, involving a \$1.5 billion program. The facts indicate a direct connection between the use of gift cards and the production of information important to carrying out NTIA's statutory duties, and the amount involved is modest. In these circumstances, we would not object to the purchase of gift cards as an incentive for pilot program participants to complete the surveys and return them in a timely fashion.

CONCLUSION

We do not object to NTIA's use of its appropriation to purchase gift cards for participants in its pilot program who complete and return a survey regarding their experience. The government, rather than recipients of the gift cards, is the primary beneficiary of the expense. NTIA is operating under strict time constraints, and a direct connection exists between the use of the gift cards and the production of information important to the execution of NTIA's statutory duties.

A handwritten signature in black ink, appearing to read "Gary L. Kepplinger". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Gary L. Kepplinger
General Counsel