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MEMORANDUM FOR DISTRIBUTION

Subj: USE OF APPROPRIATED FUNDS TO PURCHASE FOOD FOR EVENTS AND CLARIFICATION OF RULES FOR CONFERENCE FEES

Ref: (a) OASN(FM&C) memo of 18 Apr 03
(b) SECNAV memos of 8 Jan 02
(c) OPNAVINST 5050.24F of 20 Jun 02
(d) Marine Corps Order 7300.22A of 11 Feb 04

In accordance with OSD guidelines, this memorandum provides Department of the Navy (DON) guidance for the use of appropriated funds to purchase food for various events, clarifies the rules regarding conference fees, and supercedes the guidance contained in reference (a).

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** – Food may be purchased only if all of the following criteria are met:
  - The award recipients are either federal employees or military members,
  - The award recipients are publicly recognized, and
  - The authorized DON official has determined that food materially advances the recognition of the recipient.

- **Cultural Awareness Ceremonies** – Food may be purchased only if all of the following criteria are met:
  - The food is a 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**
  - 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 training sessions and the costs cannot be reduced by foregoing the food or by breaking out the food costs as a separate optional item.

- The cost of the 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**:
  - The DON 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**:
  - If the cost of the food or meals is severable, then appropriated funds are available only to the extent that all of the following criteria are met:
    - 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**:
  - The DON 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/DON conferences**:
  - Food may be purchased only if all of the following criteria are met:
    - 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 sessions at which food is served.

- **Conferences sponsored by DoD/DON where food creates no additional cost**:
  - 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.

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. References (b) through (d) delineate the requirements for approval of any DON sponsored conference. This approval process should safeguard abuse.

Fiscal policy associated with conference fees is provided below:

- **Conference fees**:
  - 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 the food. This is a consequence of the miscellaneous receipts statute, 31 USC Section 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.
  - 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.

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Department of the Navy commands should ensure this information is disseminated to all subordinate activities. My point of contact for this matter is Ms. Betty Talbert, FMB-51, 703-692-4809, Elizabeth.Talbert@navy.mil.

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