



MEMORANDUM

Date: August 5, 2005

To: PGO Staff
CDC Management Officials

From: Bill Nichols, MPA *WN*
Director, Procurement and Grants Office

Subject: HHS Policy on Use of Appropriated Funds for Food at HHS-Sponsored Conferences

On March 3, 2005, the General Counsel of the Government Accountability Office (GAO) issued an opinion that appeared to expand the circumstances within which appropriated funds can be used to purchase food and beverages at agency-sponsored conferences. (Comp. Gen. B-300826) On July 26, 2005, HHS issued the attached memorandum advising HHS OPDIVs that HHS is not bound by GAO's decision; and thus, HHS' policy on the use of appropriated funds for food and beverages will not change.

Generally, HHS and CDC policy states that food cannot be purchased with appropriated funds, except as permitted by specific statutory authority. CDC policy states further, "CDC/ATSDR will not use appropriated funds to pay for light refreshments for business meetings or conferences conducted by government agencies at an employee's duty station. An employee is expected to bear the cost of personal expenses, such as meals and refreshments, from his or her salary. 72 Comp. Gen. 178 (1993); B-270327, Mar. 12, 1997." (*See, Provision of Light Food and Beverages at Conferences*)

When there is a legitimate mission related reason to hold a conference or business meeting away from CDC facilities outside the commuting area (a distance of 50 miles or less from Federal employees' duty station or residence. Travel outside of this area would normally require employees to be in travel status and issued travel orders), CDC/ATSDR organizations may provide light refreshments at conference breaks to attendees under the following conditions:

- Light refreshments are provided only to Federal Government employees in travel status and non-federal personnel who are on invitational travel orders or other travel status;
- Not more than \$3.00 per day, per participant, may be used for light refreshments;

The provision of light refreshments may occur without deduction of the traveled employees' Meals and Incidental Expenses allowance.

Alternatively, the CIO may elect to have non-federal co-sponsors provide refreshments at their expense as part of their contribution to the conference activities. (See, Provision of Light Food and Beverages at Conferences)

Please inform your staff of this guidance. If you have any questions concerning the purchase of food and beverages, please do not hesitate to contact William Ryan, PGO Policy Team Leader at (770) 488-2717 or wfr4@cdc.gov.

References:

GAO March 3, 2005 Decision, Comp. Gen B-300826 (attached)

CDC Policy, Provision of Light Food and Beverages at Conferences

Co-Sponsorship Guidance Memorandum from Edgar M. Swindell, Associate General Counsel for Ethics, Food and Drug Administration
<http://www.fda.gov/opacom/ethics/cospons.html>



JUL 26 2005

MEMORANDUM

TO: Heads of All OPDIVS
Heads of All STAFFDIVS

FROM: Deputy Chief of Staff
Assistant Secretary for Administration and Management

SUBJECT: Departmental Policy on Use of Appropriated Funds for Food at HHS-Sponsored Conferences

This memorandum is in response to requests for guidance on the opinion issued by the Government Accountability Office (GAO), an agency of Congress, through its General Counsel, on the use of appropriated funds for food by a host agency at a government-sponsored formal conference. Comp. Gen. B-300826, March 3, 2005.

In this opinion, the GAO's General Counsel advises that his view is that agencies may permit appropriated funds to be used for this purpose if certain criteria are met. The General Counsel to the Comptroller General then suggests that agencies, if applying this decision, develop a policy that specifies the types of conferences at which food may be provided and provides for various levels of approval and review. Although the GAO's opinions regarding appropriations law are helpful, the Office of Legal Counsel at the Department of Justice, and not the GAO, provides controlling interpretations of law for the Executive Branch. In any case, in an effort to ensure that the Department's financial resources continue to be available to fulfill the core federal mission, the Department has decided, as a matter of agency policy, not to change its practices as a result of this GAO legal opinion.

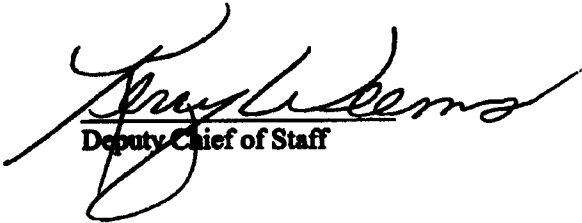
Therefore, the Department's policy on the use of appropriated funds for food remains unchanged. As a general rule, food cannot be purchased with appropriated funds, except as permitted by specific statutory authority. See HHS Memorandum, *Purchase of Food for Government Employees*, October 12, 2004 (attached). For example:

- The Government Employees Training Act (GETA) permits agencies to pay for government employees' attendance at non-government sponsored conferences. The agency may pay full registration or attendance fees that include food costs. The conference must include substantial functions that take place separate from the meal; merely calling the cost of the meals an attendance fee will not avoid the prohibition. The exception under GETA that sometimes applies for government-sponsored conferences only applies to official training under GETA and only when it is determined that the provision of food is a necessary expense

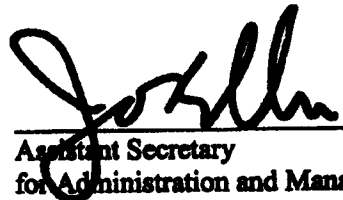
for achieving the objectives of the training. Non-government attendees may not be fed. Agencies are never permitted to use appropriations to supply food items for day-to-day routine business meetings.

- The Government Employees's Incentive Awards Act authorizes the use of appropriated funds to provide food at awards ceremony when it has been determined that a reception with refreshments would materially enhance the awards ceremony in furtherance of the objectives of the awards. However, awards ceremonies must emphasize public recognition of the employees' performance and allow other employees to honor and congratulate colleagues. Therefore, the ceremonies cannot be limited to just the employees receiving the awards.
- There is a limited exception for extreme emergencies involving imminent danger to human life or the destruction of federal property. This exception, however, is available only in rare situations and is heavily dependent on the facts presented in a particular situation.

If you have any questions about this policy, please consult with Catherine Tyrell or Marc Weisman in the office of the Assistant Secretary for Administration and Management at (202)690-7431.



Deputy Chief of Staff



Assistant Secretary
for Administration and Management

MANUAL GUIDE: Acquisition Management, CDC-03

DATE OF ISSUE: 06/04/03, Updated 02/09/2004

CIO CONTACTS: Procurement and Grants Office and Financial Management Office

MATERIAL SUPERSEDED: Provision of Light Food and Beverages at Conferences, dated 06/04/03

PROVISION OF LIGHT FOOD AND BEVERAGES AT CONFERENCES

Sections:	I.	<u>Purpose</u>
	II.	<u>Background</u>
	III.	<u>Definitions</u>
	IV.	<u>Policy</u>
	V.	<u>Methods of Procurement</u>
	VI.	<u>References</u>

I. PURPOSE

This issuance provides CDC/ATSDR policy regarding the use of appropriated funds to purchase light food and beverages at conferences and business meetings under the authority of the Federal Travel Regulation. It further supports the Healthier Worksite Initiative's broad goal to improve employee health by making healthful food choices available at agency sponsored or co-sponsored meetings, conferences and other work related events where light food and beverages will be served.

II. BACKGROUND

In the past CDC/ATSDR has relied on Amendment #89 to the Federal Travel Regulation for authority to use appropriated funds to purchase light food and beverages where a majority of the attendees are in travel status. However, Comptroller General Decision B- 288266, Use of Appropriated Funds to Purchase Light Refreshments at Conferences, issued January 27, 2003, overturns much of the recent guidance of Amendment #89.

This issuance recognizes a change in the policy to comply with this decision.

III. DEFINITIONS

The following definitions are provided for use within the context of this policy.

A. "**Light food and beverages**" includes fresh fruit, raw vegetables, whole grain breads and crackers, bagels, muffins, fruit breads, granola bars, pretzels, baked chips, popcorn, low fat or calorie desserts (angel food cake), fat free or low fat dressings and toppings (salsa, yogurt dressing, sweet mustard etc.), low fat or skim milk, yogurt or cheeses, water, 100% fruit juices, regular and/or decaffeinated coffee or tea. It does not include meals, hot food items, or alcoholic beverages. . Additional information on providing healthful food and beverages is provided in Reference E to this policy.

B. "**Conferences**" include symposiums, seminars, workshops, and any other organized and formal meetings lasting portions of one or more days, where persons assemble to exchange information and views or explore or clarify a defined subject, problem, or area of knowledge.

C. "**Commuting area**" is a distance of 50 miles or less from Federal employees' duty station or residence. Travel outside of this area would normally require employees to be in travel status and issued travel orders.

D. "**Federal Government attendees**" include Federal Civil Service employees, Visiting scientists, consultants and fellows hired through the HRMO personnel processes, Commissioned Corps personnel and non-federal personnel on Invitational travel orders.

E. "**Non-federal personnel on Invitational travel orders**" are those personnel for which CDC has issued a Government travel order for the purpose of participation in the conference or meeting.

IV. POLICY

CDC/ATSDR will not use appropriated funds to pay for light refreshments for business meetings or conferences conducted by government agencies at an employee's duty station. An employee is expected to bear the cost of personal expenses, such as meals and refreshments, from his or her salary. 72 Comp. Gen. 178 (1993); B-270327, Mar. 12, 1997.

When there is a legitimate mission related reason to hold a conference or business meeting away from CDC facilities outside the commuting area, CDC/ATSDR organizations may provide light refreshments at conference breaks to attendees under the following conditions:

- Light refreshments are provided only to Federal Government employees in travel status and non-federal personnel who are on Invitational travel orders or other travel status;
- Not more than \$3.00 per day, per participant, may be used for light refreshments;

The provision of light refreshments may occur without deduction of the traveled employees' M&IE allowance.

Alternatively, the CIO may elect to have non-federal co-sponsors provide refreshments at their expense as part of their contribution to the conference activities. A registration fee may be used to off-set the co-sponsor's expenses in this regard provided all participants are expected to pay the registration fee. (Caution, co-sponsors who are current grantees or contractors will not be authorized to charge refreshment expenses directly to their CDC awards.)

In selecting light refreshments, CDC recommends that healthful food choices be made available at breaks and other agency sponsored or co-sponsored events where food and beverages will be provided. Examples of healthful options and additional resources that may be used in planning breaks and other meal events at meetings and conferences are listed in Section III above and in reference E to this policy.

V. METHODS OF PROCUREMENT

The arrangement for light food and beverages may occur through the use of the Government VISA International Merchant Purchase Authorization Card (I.M.P.A.C.), by the preparation of a requisition and issuance of a purchase order, or through the use of a task order arrangement with an existing conference contractor.

These procedures do not apply to the Visa Travel Card.

It will be necessary for the CIO to document expected attendance and attendees are in travel status. This documentation shall be contained in the justification section of the requisition or on the purchase log if the Government purchase card is to be used to order refreshments. The documentation shall include, as a minimum, the number of total Government attendees and the number of non-federal personnel on travel

status.

VI. REFERENCES

A. Conference Planning, Amendment 89 to Federal Travel Regulation

B. Conference Planning, 41CFR 301-74

C. Comptroller General Decision B-288266, dated January 27, 2003

D. Clarification of providing light refreshments at Government sponsored conferences, GSA Travel Advisory #7, January 30, 2003

E. CDC Guidance for Food and Beverage Selection at Meetings, Conferences, and other Worksite Events