

A Primer: Army Conference Planning

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Introduction

Army organizations annually spend appropriated funds on countless meetings, retreats, seminars, symposiums, and other events that involve attendee travel. The Joint Federal Travel Regulation (JFTR) and the Joint Travel Regulation (JTR) define these activities as “conferences” and regulate their planning and implementation.¹ This primer summarizes these regulations and provides additional legal guidance pertinent to conference planning.²

Can We Hold the Conference?

The first question a commander or other decision-making authority (DMA) must ask is, “Can we do it?” Prior to making the decision to fund a conference, the DMA must determine if the conference meets a particular statutory purpose (e.g., Congress directs that a conference be held); or if it is necessary and incident to the proper execution of the general purpose of the appropriation.³ “An expenditure is permissible if it is reasonably necessary in carrying out an authorized function or will

contribute materially to the effective accomplishment of that function”⁴

Congress annually authorizes the Department of the Army (DA) to obligate and expend funds by passing appropriation acts. The Army receives the majority of its funds from the Department of Defense (DOD) Appropriations Act and the Military Construction Appropriations Act.⁵ These Acts include numerous appropriations that grant DA specific authority to incur obligations and make payments out of the federal Treasury.⁶ Each appropriation contains rules on how and when funds may be expended, for what purposes, and in what amounts.⁷ After Congress passes these acts, the DA, in turn, authorizes its major organizations to incur obligations and make payments from the Treasury.⁸ Major organizations then authorize their subordinate organizations to expend funds.⁹ The initial congressional rules apply to DA expenditures at any organizational level.¹⁰ Additionally, Congress regulates the Army’s ability to expend funds by placing directions and restrictions within stand alone statutes and annual authorization acts.¹¹ The DOD and DA then provide guidance through means of administrative issuances (e.g., memoranda, directives, instructions, and regulations).¹²

1. I JOINT FED. TRAVEL REGS., PU2550C-D (1 Dec. 2002) (conferences), available at <http://www.dtic.mil/perdiem/jftr.pdf> (last visited Dec. 8, 2003) [hereinafter JFTR]. The JFTR contains basic regulations concerning official travel and transportation of members of the active and reserve components of the uniformed services. *Id.* PU1000 (1 Feb. 2003); II JOINT TRAVEL REGS. PC4950C.D (1 Apr. 2002) (conferences), available at <http://www.dtic.mil/perdiem/trvregs.html> (last visited Dec. 11, 2003) [hereinafter JTR]. The JTR applies to Department of Defense (DOD) civilian employees. *Id.* PC1001 (1 Feb. 2003).

2. This article does not address religious retreats. *Army Regulation (AR) 165-1* outlines this area. See U.S. DEP’T OF ARMY, REG. 165-1, CHAPLAIN ACTIVITIES IN THE U.S. ARMY ch. 14 (26 May 2000).

3. See Secretary of the Interior, B-120676, 1954 U.S. Comp. Gen. LEXIS 263, at *4 (Oct. 25, 1954).

4. Internal Revenue Serv., B-226065, 1987 U.S. Comp. Gen. LEXIS 1378, at *9 (Mar. 23, 1987).

5. CONTRACT & FISCAL L. DEP’T, THE JUDGE ADVOCATE GENERAL’S SCHOOL, U.S. ARMY, 149TH CONTRACT ATTORNEY’S COURSE DESKBOOK para. II.F. 2, at 4-3 (July/Aug. 2002) [hereinafter CFDB].

6. See 31 U.S.C. § 1301(a) (2000).

7. *Id.*

8. See *id.* § 1514.

9. *Id.*

10. See *id.* § 1301(a).

11. See CONTRACT & FISCAL L. DEP’T, THE JUDGE ADVOCATE GENERAL’S SCHOOL, U.S. ARMY, 51ST GRADUATE COURSE FISCAL LAW DESKBOOK para. IVB.4.b., at 4-11 (Spring, 2003) [hereinafter 51ST GRADUATE COURSE FISCAL LAW DESKBOOK]. Stand-alone statutes containing fiscal law guidance are normally found in Title 10 or 5 of the United States Code. See generally 5, 10 U.S.C. (2000).

12. See U.S. DEP’T OF DEFENSE, DIR. 7000.14-R, DOD Financial Management Regulation (Aug. 1998) [hereinafter DFMR] (containing fiscal law guidance;) 51st Graduate Course Fiscal Law Deskbook, supra note 11, para. V.B.3., at 2-16.

The following scenario serves to demonstrate this process. During fiscal year 2004, Congress passes the DOD Appropriations Act. In that Act, the Congress authorizes DA to expend two billion dollars on operation and maintenance (O & M). As an example, the *First Armored Division (1st AD)* is authorized to expend seventy million of that two billion dollar appropriation. The *Commanding General (CG)* of the *1st AD* then decides to use ten thousand of that seventy million dollar authorization to pay for a command and staff off-site. The *CG* may expend funds for the off-site so long as its purpose fits within the purpose of the O & M authorization. An off-site to review the division mission essential task list (METL) is permissible. An off-site to research global warming, on the other hand, is not permissible because the *1st AD* has no authority to research that topic.

Should We Hold the Conference?

The second question the DMA must ask is whether a conference is the appropriate means for providing necessary training or instruction. Under the JFTR and JTR, the DMA must formally consider alternative means of achieving conference objectives, for example, teleconferencing or web-conferencing.¹³ The DMA has to consider overall convenience and maintain a written record of this consideration as well as other criteria used to select a conference as the means of accomplishing the desired objective.¹⁴

What Should We Consider When Selecting a Conference Location?

The JFTR and JTR require the DMA to exercise strict fiscal responsibility by seeking to minimize attendee travel, time costs, and overall conference administrative costs when deciding whether and when to host a conference.¹⁵ To meet this requirement, the DMA must compare the cost, size (e.g., number of attendees, length), scope (e.g., agenda), and locations

(e.g., city or area and building(s)) of the proposed conference and determine whether it would be cheaper to use government owned or provided facilities.¹⁶ If government facilities are cheaper, the DMA must use them to the maximum extent possible.¹⁷ Normally, the DMA will delegate research responsibilities noted above to an individual (conference planner) or committee, provide guidance as necessary, review research findings, and make final decisions.

How Much Will the Conference Cost?

Prior to deciding where to hold a conference, the DMA must know how much the event will cost the sponsoring organization. The DMA needs this information to ensure that the organization has adequate funds to pay for the event. Additionally, the JFTR and JTR require the DMA to consider all direct and indirect costs that the government pays, whether the sponsoring organization pays directly or indirectly by other federal government organizations sending personnel to the conference.¹⁸ The responsibility for finding answers to these questions normally rests with the conference planner. Therefore, a conference planner must track the following costs associated with the conference: (1) costs to the sponsoring organization; (2) costs to other federal organizations sending personnel to the conference; and (3) total costs. Additionally, the conference planner must provide the DMA with recommended means of reducing conference costs (e.g., the availability of lower rates during the off-season at a site with seasonal rates).¹⁹

Initially, the conference planner should identify and prepare a list of all the goods and services the agency will need for the conference.²⁰ This list should include, but not necessarily be limited to, expenses listed below.²¹ Once the list is complete, the conference planner should consult with the organization's contracting officer. The degree of contracting officer involvement in the conference planning process will depend on the type and cost of required goods and services.²² After the contracting officer reviews the requirements, the conference plan-

13. JFTR, *supra* note 1, PU2550E1.d (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950E.1.d. (1 Apr. 2002) (conference planning).

14. JFTR, *supra* note 1, PU2550E1.e (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950E.1.e (1 Apr. 2002) (conference planning).

15. JFTR, *supra* note 1, PU2550E (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950E (1 Apr. 2002) (conference planning).

16. JFTR, *supra* note 1, PU2550E (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950E (1 Apr. 2002) (conference planning).

17. JFTR, *supra* note 1, PU2550E (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950E (1 Apr. 2002) (conference planning).

18. JFTR, *supra* note 1, PU2550F (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F (1 Apr. 2002) (conference planning).

19. JFTR, *supra* note 1, PU2550E.6 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950E.6 (1 Apr. 2002) (conference planning).

20. See GENERAL SERVS. ADMIN. ET AL., FEDERAL ACQUISITION REG. para. 11.002(a)(2) (Feb. 2002) [hereinafter FAR]; see generally *id.* para. 11.1 (selecting and developing requirements documents); *id.* para. 11.4 (containing delivery or performance schedules).

21. JFTR, *supra* note 1, PU2550F (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F (1 Apr. 2002) (conference planning).

22. See generally FAR, *supra* note 20, pts. 5, 6, 13.

ner should work with the contracting officer to compile estimates of conference costs (incurred by the sponsoring organization and other federal agencies, as well as the total cost incurred by the federal government) for each proposed conference.

*Travel Costs*²³

A conference planner should request travel expense estimates from the sponsoring organization's contracted travel office (CTO). The DOD personnel are required to use CTOs when arranging official travel.²⁴

*Air Transportation*²⁵

Commercial Air Transportation

The JFTR and JTR normally require conference attendees to fly in coach class on commercial airlines.²⁶ All first and premium class air travel must be pre-approved.²⁷ When a flight has only two classes of service, the higher class of service, regardless of the term used, is "first class."²⁸ Premium class is everything between coach and first class.²⁹

Government personnel traveling on official business within the United States must fly on commercial air carriers who offer city-pair airfares whenever possible.³⁰ The conference planner should distinguish between federal employees or service members and government contractors when asking the CTO for cost estimates because contractors may not use the discounted city-pair airfares.³¹

23. JFTR, *supra* note 1, PU2550F.1 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.1 (1 Apr. 2002) (conference planning).

24. JFTR, *supra* note 1, PU3120A (1 Jan. 2003) (arranging travel); JTR, *supra* note 1, PC2207A (1 Aug. 2001) (CTO use). *But see* John W. Eastham—Reimbursement of Cost of Airline Ticket Purchased from Travel Agent, GAO B-19489, 1986 U.S. Comp. Gen. LEXIS 577, at *4 (Sept. 8, 1986). Non-CTOs may reimburse federal employees for airline tickets who are unaware of the requirement to use CTOs and have acted reasonably. *Id.* It is not mandatory to use CTOs when renting buses or airplanes. JFTR, *supra* note 1, PU3415B.1.a (1 Mar. 2002) (travel by special conveyance); JTR, *supra* note 1, PU3415B.1.a. (1 Nov. 2002) (travel by special conveyance).

25. JFTR, *supra* note 1, PU3415B.1.a (1 Mar. 2002) (travel by special conveyance); JTR, *supra* note 1, PU3415B.1.a. (1 Nov. 2002) (travel by special conveyance).

26. JFTR, *supra* note 1, PU3125B.1.a (1 Sept. 2003) (commercial air transportation); JTR, *supra* note 1, PC2204A.1 (commercial air transportation) (1 Aug. 2003); *see* U.S. DEP'T OF DEFENSE, DIR. 4500.56, DOD POLICY ON THE USE OF GOVERNMENT AIRCRAFT AND AIR TRAVEL para. E2.2.2 (2 Mar. 1997) [hereinafter DOD DIR. 4500.56]; Policy Letter, U.S. Dep't of Army, Secretary of Army, subject: Policy for Travel for the Dep't of the Army para. 3b. (26 Mar. 2003) (C1, Aug. 2003) [hereinafter SecArmy Policy]; *see also* Federal Travel Regulation; Using Promotional Materials; Conference Planning, 68 Fed. Reg. 27,396 (May 22, 2003) (to be codified at 41 C.F.R. pts. 301-53 & 301-74) (issuing new regulatory provision that states that if a government employee schedules a government conference or official travel for government employees, any frequent flyer miles or promotional benefits belong to the government); SecArmy Policy, as modified by Memorandum, Administrative Assistant to SecArmy, to Headquarters Dep't of Army Principal Officials, subject: Use of Official Travel Frequent Flyer Miles (11 Jan. 2000) [hereinafter SecArmy Policy Changes]. With the exception of the conference planner exception to the frequent flyer mile policy, federal civilian and military personnel may use frequent flyer miles earned in an official or personal capacity for ticket upgrades. National Defense Authorization Act, for Fiscal Year 2002, Pub. L. No. 107-107, § 1116; Federal Travel Regulation; Using Promotional Materials; Conference Planning, 68 Fed. Reg. at 27,396; SecArmy Policy Changes, *infra* note 26, para. 4.

27. JFTR, *supra* note 1, PU3125B.1.e-g (1 Sept. 2003) (commercial air transportation); JTR, *supra* note 1, PC2204A.1-2 (1 Aug. 2003) (commercial air transportation). The Secretary of the Army (SA) is the sole approval authority for first-class air travel within the DA. SecArmy Policy, *supra* note 26, para. 3f. The approval authority for premium-class (less than first class) travel is as follows:

In accordance with DOD Directive 4500.9 the SA and the CSA, or their designees, are the approving authorities for requests for premium-class (less than first-class) travel for those officials within the Secretariat and ARSTAF, respectively. . . *Four-star MACOM Commanders and their three-star Deputy Commanders or Chief of Staff, and the three-star USARPAC Commander, are authorized to approve their own premium-class (less than first-class) travel, and requests by their subordinates. This authorization for approval cannot be redelegated.* All other MACOM Commanders and their subordinates will process requests through appropriate Command channels to the Director of the Army Staff, (DACS-ZDV-AVN).

Id. para. 3d (emphasis added); *see* JFTR, *supra* note 1, PU3125B.1.e (1 Sept. 2003) (commercial air transportation); JTR, *supra* note 1, PC2204A.2 (commercial air transportation) (1 Aug. 2003). Use of premium class may be authorized when fully justified under the JTR and JFTR. JFTR *supra* note 1, PU3145B.1.d, PU3125B4 (1 Sept. 2003) (commercial air transportation); JTR *supra* note 1, PC2204A.1, PC2204A.5.d (1 Aug. 2003) (commercial air transportation).

28. JFTR, *supra* note 1, PU3125B.1.g (1 Sept. 2003) (commercial air transportation); JTR, *supra* note 1, PC2204A.1 (1 Aug. 2003) (commercial air transportation).

29. JFTR, *supra* note 1, PU3125B.1.e (1 Sept. 2003) (commercial air transportation); JTR, *supra* note 1, PC2204A.2 (1 Aug. 2003) (commercial air transportation).

30. *See* U.S. DEP'T OF DEFENSE, DEFENSE TRANSPORTATION REG. 4500.9-R, pt. 1, ch. 103, para. A.2.b (July 2002) [hereinafter DTR]; JFTR, *supra* note 1, PU3145B.1 (1 May 2003) (city-pair program); JTR, *supra* note 1, PC2002A (1 Apr. 2003) (city-pair program). Contract air service between city-pairs must be used for all domestic travel, and for international travel when AMC Category B or Patriot Express is not available and does not meet the mission requirement. DTR, *infra* note 30, ch. 103, para. B.1; U.S. General Services Administration, *Travel on Government Business*, available at <http://www.gsa.gov/Portal/home.jsp> (last visited Sept. 25, 2003) (containing city pair air fares). Users reimburse AMC for Category B or Patriot Express travel at the DOD Airlift common user rate. *Id.* para. B.2.

Military Air Transportation (MILAIR)

The DOD policy is that conference attendees may not use military aircraft unless one of the following criteria apply: (1) commercial airline or aircraft (including charter) service is not reasonably available; (2) highly unusual circumstances present a clear and present danger; (3) an emergency exists; (4) the use of MILAIR is more cost-effective than commercial air; (5) the traveler can be added to a previously planned flight; (6) compelling operational considerations make commercial transport unacceptable; or (7) the traveler is a "required user."³²

Family Members

The general rule is that a family member may not be reimbursed for accompanying a DOD sponsor who is traveling on official business.³³ This general rule applies to conferences, as well. Invitational travel orders (ITOs), however, may be issued to a spouse under very limited circumstances. The authorizing or order-issuing official may issue ITOs to a dependent if the dependent will be attending an unquestionably official function in which the dependent participates in an official capacity, or the dependent travel is of national interest because of a diplomatic or public relations benefit to the United States.³⁴

The following scenario illustrates how this exception works. *The Supreme General of the Kingdom of Sandistan* invites the *U.S. Forces Sandistan (USFS) CG's* wife to participate in a traditional flower exchange with *Mrs. Supreme General*. The flower exchange will take place immediately before and in conjunction with the *King of Sandistan's* address to *Sandistan* forces. The *USFS CG* will also address *Sandistan* forces. In *Sandistan*, the exchange of flowers from one female spouse to another is a well-known tradition that signifies deep trust and friendship. The authorizing official may issue ITOs to *Mrs. CG*

that cover her travel expenses (but not per diem) because *Mrs. CG* is participating in an official capacity at an unquestionably official function, or because her presence confers a public relations benefit to the United States, or because her presence confers a diplomatic benefit to the United States. Participation in such events is usually limited to spouses of senior level officials and is usually representational in nature.³⁵ Travel is allowed on a mission noninterference basis only, and ITOs may only authorize reimbursement for transportation costs.³⁶

The authorizing order-issuing official may approve per diem or other actual expense allowances when the dependent's travel is mission essential and the dependent does more than fulfill a representational role.³⁷ The following scenario illustrates this exception. *Colonel Hardluk* is traveling to the country of *Badizezes* to attend a joint combined conference on *Badizezes* diseases. His spouse, *Dr. Hardluk*, specializes in *Badizezes* diseases. The command would like to issue ITOs to *Dr. Hardluk* to enable her to teach conference attendees about health risks in *Badizezes*. The ITO approval or issuing authority may issue ITOs because *Dr. Hardluk* will be providing necessary medical expertise and her presence is therefore mission essential. Her marital status is irrelevant.

The authorizing order issuing official may also authorize or approve ITOs to a spouse for travel to attend a service-endorsed training course or briefing and subsequent voluntary service incident to such training or briefing.³⁸ "It is generally DA policy that spouses traveling to participate in discussions on Army Family Programs and/or Quality of Life issues shall travel in an accompanying spouse status . . ."³⁹ Accompanying spouses are reimbursed for transportation expenses but are not paid per diem.⁴⁰ When not issued ITOs, a family member may accompany a senior DOD official traveling on official business by military aircraft.⁴¹ The official traveler, however, must reim-

31. DTR, *supra* note 30, ch. 103, para. B.2.b.

32. *Id.* para. H.2.a; SecArmy Policy, *supra* note 26, para. 5. Commercial airline service is available if it meets either a traveler's departure or arrival requirements within a twenty-four hour period. The Chairman of the Joint Chiefs of Staff, Joint Forces Command, and Combatant Commander, Europe (when acting as Supreme Allied Commanders) Deputy Secretary of Defense, Secretaries of the Military Departments, Vice Chairman of the Joint Chiefs of Staff, Commanders of the Combatant Commands, and active four-star general and or flag officers must always utilize military aircraft for official travel. *Id.* para. 1.A; DOD DIR. 4500.56, *supra* note 26, para. E2.2.

33. DOD DIR. 4500.56, *supra* note 26, para. E2.5.1; *see* SecArmy Policy, *supra* note 26, para. 10.A.

34. DOD DIR. 4500.56, *supra* note 26, para. E2.5.1; *see* SecArmy Policy, *supra* note 26, para. 10.A.

35. DOD DIR. 4500.56, *supra* note 26, para. E2.5.1; *see* SecArmy Policy, *supra* note 26, para. 10.A.; *see also* U. S. DEP'T OF ARMY, REG. 95-1, FLIGHT REGULATIONS para. 3-12h(1) (1 Sept. 1997) [hereinafter AR 95-1].

36. DOD DIR. 4500.56, *supra* note 26, para. E2.5.1; *see* SecArmy Policy, *supra* note 26, para. 10.A.; *see also* AR 95-1, *supra* note 35.

37. SecArmy Policy, *supra* note 26, para. 12.

38. *Id.* para. 11.A. The SecArmy Policy contains specific guidance for this exception. *See generally id.* para. 12a.

39. *Id.*

40. *Id.* para. 9.A. Spouses may be authorized per diem under very limited circumstances. *See id.* para. 11B.

burse the government the full coach fare for the dependent traveler.⁴²

*Ground Transportation*⁴³

When conducting research on conference site locations, the conference planner should ask whether potential conference meeting or lodging facilities offer courtesy transportation services (e.g., shuttle to airport or locations offering food service).⁴⁴ If so, the conference planner may be able to reduce the overall federal government costs by informing the organizations sponsoring attendee travel about the availability of these services. The DOD travelers may not use individual motor vehicles or commercial rentals when an adequate DOD or commercial bus system is available.⁴⁵

Government Vehicles

Department of Defense civilian employees must use government furnished automobiles, if available, for official travel when common carrier transportation is not advantageous to the government.⁴⁶ A government non-tactical vehicle (NTV) “may be operated between places of business or lodging and eating establishments, drugstores, barber shops, places of worship,

and similar places required for the comfort or health of the member, and which foster the continued efficient performance of Army business.”⁴⁷ Non-tactical vehicles, however, may not be used for travel to or from commercial entertainment facilities (that is, professional sports, concerts).⁴⁸

Rental Cars

Conference attendees authorized to rent commercial vehicles must select the lowest cost rental service that meets the member’s official requirements.⁴⁹ The Army will only reimburse its personnel for costs associated with the official use of rental vehicles. Army personnel must pay for unofficial use expenses such as gasoline, insurance, and mileage fees.⁵⁰

Rental Buses

Conference planners, who contemplate a need for charter bus service, should contact the organizational contracting officer for assistance. They may only use DOD-approved carriers for charter bus service.⁵¹ The *Defense Management Travel Regulation* prescribes standards for bus service within the continental United States (CONUS).⁵² Theater commands set standards for service outside the continental United States.⁵³

41. DOD DIR. 4500.56, *supra* note 26, para. E2.2.3; see SecArmy Policy, *supra* note 26, para. 13.

42. DOD DIR. 4500.56, *supra* note 26, para. E2.2.3. Spousal unofficial travel is authorized if it meets the following criteria: (1) the aircraft is already scheduled for an official purpose; (2) a larger aircraft is not needed to accommodate spousal travel; official travelers are not displaced; (3) spousal travel results in negligible additional cost to the government; and the government is reimbursed at the full coach. *Id.*

43. JFTR, *supra* note 1, PU2550F.8 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.8 (1 Apr. 2002) (conference planning).

44. See JFTR, *supra* note 1, PU3430 (1 Nov. 2002) (courtesy transportation); JTR, *supra* note 1, PC2105 (1 May 2002) (courtesy transportation).

45. U.S. DEP’T OF DEFENSE, REG. 4500.36-R, MANAGEMENT ACQUISITION AND USE OF MOTOR VEHICLES para. C2.5.4.1. (30 Sept. 1996).

46. JFTR, *supra* note 1, PC2050A.1 (1 Nov. 2002) (government automobile). The JFTR does not contain this restriction. On the contrary, the JFTR encourages approval or authorization of privately owned conveyances for official travel if acceptable to the member and advantageous to the government. JFTR, *supra* note 1, PU3300A (1 May 2002) (TDY POC).

47. U.S. DEP’T OF ARMY, REG. 58-1, MANAGEMENT, ACQUISITION AND USE OF MOTOR VEHICLES para. 2-3i(3) (28 Jan. 2000).

48. *Id.*

49. See DTR, *supra* note 30, ch. 106, para. B.2.; JFTR, *supra* note 1, PU3415B.1.b. (1 Mar. 2002) (special conveyance use); JTR, *supra* note 1, PC2102B.1.b. (1 Nov. 2002) (special conveyance use). Conference planners should use rental companies that have negotiated agreements with Military Traffic Mobility Command (MTMC) unless another rental company can provide better service at a lower cost and abides by the same rules or guidance contained in the MTMC-negotiated car and truck rental agreement. Conference planners are encouraged to use companies and rental car locations participating in the MTMC agreement because their government rates include full liability and vehicle loss and damage insurance coverage for the traveler and the government. DTR, *supra* note 30, ch. 106, para. A; JFTR, *supra* note 1, PU3415B.2 (1 Mar. 2002) (special conveyance use); JTR, *supra* note 1, PC2102B.2 (1 Nov. 2002) (special conveyance use); MTMC, *Truck Rental Agreement*, available at <https://www.mtmc.army.mil/frontDoor/0,1099,OID=3--215-217--217,00.html> (last visited Dec. 9, 2003) (listing approved vendors and providing rates updates).

50. See U.S. Navy Finance Center, B-156536, 1965 U.S. Comp. Gen. LEXIS 2713 (May 6, 1965).

51. See DTR, *supra* note 30, ch. 104, para. C.1; MTMC, *Bus Carriers’ Agreement*, available at <https://www.mtmc.army.mil/frontDoor/0,1099,OID=3--215-217--217,00.html> (last visited Dec. 9, 2003) (containing separate agreements for bus companies that are parties to MTMC’s military bus agreement). Theater combatant commanders are responsible for establishing bus agreements outside CONUS. DTR, *supra* note 30, ch. 104, para. C.1.

52. *Id.* fig. 104-1.

Conference planners are authorized to use rail transportation when it meets mission requirements and is the most cost effective mode of transportation. Cost effectiveness determinations must take into consideration travel time, per diem, and miscellaneous expenses.⁵⁴ Generally, conference attendees must travel in coach class.⁵⁵

Per Diem Expenses⁵⁶

Initially, the DMA must consider and compare the established per diem rate of localities being considered for the conference location.⁵⁷ Therefore, the conference planner must conduct comparisons of the number of rooms available at Federal Emergency Management Agency (FEMA) approved places of public accommodation at the established per diem rate for each locality and provide this information to the DMA for consideration.⁵⁸

Lodging facilities may require an organization sponsoring a conference to guarantee that conference attendees will rent a minimum number of hotel rooms. Normally, only a contracting officer may sign this agreement.⁵⁹ The potential cost of the guarantee is a legally permissible administrative expense in furtherance of the purpose of the official business conducted during the conference.⁶⁰ Because the Army has no authority to deposit attendee funds collected for room payments into the federal Treasury for later disbursement, contracting officers should negotiate guarantee agreements that place the responsibility to collect lodging bills on the lodging facility rather than the contracting officer.⁶¹ When the sponsoring organization directly pays for rooms, in lieu of reimbursing attendees for their lodging expenses, this contract specification is not necessary.⁶² The sponsoring organization, however, may not expend more per person, per room than the amount that the JFTR and JTR authorize.⁶³ Stricter rules apply when the government seeks to rent lodging rooms within the District of Columbia (DC).⁶⁴

53. *Id.* ch. 104, para. A.2.

54. *Id.* ch. 105, para. A.2. Standards for rail service must comply with the Military Rail Agreement (MRA) on file at MTMC. *Id.* para. A.1; MTMC, *Rail Agreement*, available at <https://www.mtmc.army.mil/frontDoor/0,1099,OID=3--215-217--217,00.html> (last visited Dec. 9, 2003). Theater commanders in overseas areas have established standards IAW host country agreements and conventions. MTMC, *Rail Agreement*.

55. JFTR, *supra* note 1, PU3135A (1 Nov. 2002) (train transportation); JTR *supra* note 1, PC2203A (1 Jan. 2003) (accommodation on train). When traveling overnight, travelers must use slumber coach sleeping accommodations, or, when not available, the lowest class of sleeping accommodations available. JFTR, *supra* note 1, PU3135A (1 Nov. 2002) (train transportation); JTR *supra* note 1, PC2203A (1 Jan. 2003) (accommodation on train). The transportation officer may authorize first class travel under the circumstances specified in the JFTR or JTR. JFTR, *supra* note 1, PU3135B (1 Nov. 2002) (train transportation); JTR, *supra* note 1, PC2203B (1 Jan. 2003) (accommodation on train).

56. JFTR, *supra* note 1, PU2550F.1 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.1 (1 Apr. 2002) (conference planning).

57. JFTR, *supra* note 1, PU2550H.2 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950H.2 (1 Apr. 2002) (conference planning).

58. JFTR, *supra* note 1, PU2550H2 and J (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950H2 and J (1 Apr. 2002) (conference planning). The Hotel and Motel Fire Safety Act of 1990 requires federal travelers to use FEMA-approved lodging facilities unless the official designated through the secretarial process for authorizing or funding the conference makes a written determination that waiver is necessary and in the public interest for that conference. JFTR, *supra* note 1, PU2550L.3 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950L.3 (1 Apr. 2002) (conference planning). The U.S. Fire Administration (USFA) has been charged with carrying out FEMA's responsibilities with respect to the Hotel and Motel Fire Safety Act of 1990. See Hotel and Motel Fire Safety Act of 1990, Pub. L. No. 101-391, § 5a, 104 Stat. 750; FEMA, *National Master List of Approved Facilities*, available at <http://www.usfa.fema.gov/applications/hotel/search.cfm> (last visited Nov. 22, 2003).

59. FAR, *supra* note 20, para. 1.601 (Sept. 2001); U.S. DEP'T OF ARMY, ARMY FEDERAL ACQUISITION REG. SUPP. para. 5101.602, 5101.603, 5101.603-1-90 (Oct. 2001) [hereinafter AFARS].

60. See Dep't of the Army—Claim of the Hyatt Regency Hotel, B-230382, 1989 U.S. Comp. Gen. LEXIS 1494, at *8 (Dec. 22, 1989) (finding that a guarantee is an administrative expense of holding a function and is not related to the provision of food or entertainment).

61. The contracting officer may add a contract specification that requires the lodging facility to collect room charges from attendees as they check into or out of the conference hotel or conference facility.

62. The contracting officer and lodging facility do not need to collect funds from attendees because the contracting officer pays all lodging costs directly to the lodging facility.

63. Lieutenant Commander William J. Harrigan, et al., B-209191, U.S. Comp. Gen. LEXIS 1343, at *3 (Apr. 13, 1983) (finding that appropriated funds are not available to pay per diem or actual expenses of employees or members of the uniformed services in excess of that allowed by statute or regulation, whether by direct reimbursement or indirectly by furnishing meals and or rooms by contract).

Conference Allowance

The conference planner may not always be able to obtain lodging facilities within the established lodging portion of the per diem rate for the chosen locality. To provide Army organizations flexibility in the selection of an appropriate lodging facility at the most advantageous location, they may exceed the lodging portion of the established per diem rate by twenty-five percent, if necessary.⁶⁵ For example, if the established lodging portion of the per diem rate is \$100, then the DMA may consider facilities with lodging rates up to \$125 when selecting the conference location if a conference lodging allowance is authorized. Conference attendees may be reimbursed the actual amount incurred for lodging up to the conference lodging allowance (that is, per diem plus twenty-five percent). Only a designated senior official of the sponsoring agency may determine that a conference lodging allowance is necessary, and the conference lodging allowance rate.⁶⁶ All agencies must use that rate in reimbursing their attendees' lodging expenses.⁶⁷

Opportunity to Decrease Costs

An Army organization sponsoring a conference may be able to reduce lodging expenses by directly paying such expenses rather than reimbursing attendees for lodging bills. State and local governments may not tax the Army when it directly pays lodging expenses.⁶⁸ Army personnel, however, may be taxed when they pay their lodging expenses directly.⁶⁹ The Army incurs greater costs when the latter method is used because it reimburses its personnel for their payment of the taxes.⁷⁰ The

conference planner should determine whether state and local taxes apply to lodging procured by federal travelers. If so, the conference planner should ensure these taxes are captured as a separate item for the DMA review. In addition, a contracting officer may be able to negotiate reduced fees for authorized conference expenses when the sponsoring organization either pays for hotel rooms directly or guarantees that attendees will rent a minimum number of rooms.⁷¹

Meals

Restaurants, catering services, and hotels may require an organization sponsoring a conference to guarantee that conference attendees will purchase a minimum number of meals or expend a minimum amount of money on meals. A contracting officer may sign a guarantee contract when it covers authorized meals, as discussed below.⁷² The potential cost of the guarantee is a legally permissible administrative expense in furtherance of the purpose of the official business conducted during the meal.⁷³ Similar to lodging expenses, the Army has no authority to deposit attendee funds collected for meal payments into the federal Treasury for later disbursement. Therefore, contracting officers should negotiate guarantee agreements that place the responsibility for collecting funds from the conference attendees on the contractor rather than the contracting officer.⁷⁴ When the sponsoring organization directly pays for meals, in lieu of reimbursing attendees for their meal expenses, this specification is not necessary.⁷⁵

64. 40 U.S.C. § 34 (2000). An organization sponsoring a conference may not rent hotel rooms in the District of Columbia without a specific appropriation from Congress. *Id.*

65. JFTR, *supra* note 1, PU2550M (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950M (1 Apr. 2002) (conference planning).

66. JFTR, *supra* note 1, PU2550N.1 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950N.1 (1 Apr. 2002) (conference planning).

67. JFTR, *supra* note 1, PU2550N.1 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950N.1 (1 Apr. 2002) (conference planning).

68. *McCulloch v. Maryland*, 17 U.S. 316, 435-6 (1819).

69. *Alabama v. King & Boozer*, 314 U.S. 1 (1941).

70. See JFTR, *supra* note 1, PU4520A5 (1 Mar. 2003) (misc. expenses); JTR, *supra* note 1, PC4720A5 (1 Dec. 2002) (misc. expenses). Taxes for lodging in locations outside the United States are not reimbursable. JFTR, *supra* note 1, PU4520A5 (1 Mar. 2003) (misc. expenses); JTR, *supra* note 1, PC4720A5 (1 Dec. 2002) (misc. expenses).

71. 18 U.S.C. § 201(c)(1)(B) (2000). A lodging facility may offer auditorium, meeting room, hotel room, and conference services fees that decrease as the number of hotel rooms increase that are guaranteed by the sponsoring organization or occupied by conference attendees. The contracting officer may not use a hotel room guarantee or purchase order to negotiate agreements that benefit individuals rather than the government, *e.g.*, light refreshments; mementoes for conference attendees; and hotel room upgrades. See also Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.202 (2003).

72. Dep't of the Army—Claim of the Hyatt Regency Hotel, B-230382, 1989 U.S. Comp. Gen. LEXIS 1494, at *8 (Dec. 22, 1989).

73. *Id.*

74. The contracting officer may add a specification to the contract that states that the contractor (restaurant, caterer, hotel) is responsible for collecting meal charges from attendees as they check into or out of the conference hotel or conference facility.

75. The contracting officer and the contractor do not need to collect funds from attendees because the contracting officer pays all attendee meal costs directly.

Official Duty Station

Generally, the Army may not use appropriated funds to pay for food or refreshments for government employees at their official duty station.⁷⁶ The Army may pay, under limited circumstances, a facility rental fee that includes the cost of food.⁷⁷ The provision of food must be non-negotiable and non-separable from the room rental fee and the overall price must be competitive with prices offered by facilities that will not provide food.⁷⁸ The DMA may not consider whether a conference facility provides food when making a determination as to what facility to select.⁷⁹

The Army may reimburse service members for occasional meals when they are required to procure meals at personal expense outside the limits of their permanent duty station (PDS) but within its local area.⁸⁰ For example, the *Army Desert Tortoise Institute*, located at *Fort Gloindedark*, will host a conference at the *Sandpit Hotel* located in the city of *Podunk*. *Podunk* is located fifteen miles from *Fort Gloindedark*. The school commandant, *Lieutenant Colonel (LTC) Pasdovr*, has ordered two sergeants to work rotating twelve-hour shifts at the hotel conference information desk during the three-day conference. *Podunk* is within the local area of *Fort Gloindedark*. Because the sergeants will be on temporary duty outside their PDS but within its local area, the order issuing authority may reimburse the sergeants for the cost of the occasional meals they consume during their shifts at the *Sandpit Hotel*.

The Army may also provide meals to service members and civilian employees if necessary to achieve the objectives of a valid training program.⁸¹ For example, *Major General (MG) Pushemhard*, a new division commander, scheduled a two-day conference with his brigade and battalion commanders prior to an upcoming Joint Readiness Training Center rotation. After *MG Pushemhard* set an initial conference schedule, 0730 – 2030 each day, he added more to the agenda. Deciding that his subordinates could not afford more time away from their respective organizations, he scheduled breakfast, lunch, and dinner seminars plus informal discussion time during coffee breaks. *MG Pushemhard* may authorize payment for meals and coffee break refreshments if he determines the following: (1) meals are incidental to meetings; (2) meals are necessary for full participation in the meetings; and (3) attendees are not free to take meals elsewhere without being absent from the essential business of the meetings. Under this exception, the Government Accounting Office (GAO) and other auditors will closely scrutinize events to ensure they are valid training activities and that food was actually necessary to achieve the training objectives.⁸²

Away from PDS

Conference attendees may not seek reimbursement from the Army for meals that the government provided to them at nominal or no cost.⁸³ If the conference registration fee includes the

76. Pension Benefit Guaranty Corp.—Provision of Food to Employees, B-270199, 1996 Comp. Gen. LEXIS 242, at *3 (Aug. 6, 1996).

77. See Payment of a Non-Negotiable, Non-Separable Facility Rental Fee that Covered the Cost of Food Service at NRC Workshops, B-281063, 1999 U.S. Comp. Gen. LEXIS 245, at *7 (Dec. 1, 1999) (holding that payment of fee was proper because fee was all-inclusive, not negotiable, and competitively priced to those that did not include food).

78. *Id.*

79. *Id.*

80. JFTR, *supra* note 1, PU4102E (1 Jan. 2002) (per diem). “An arbitrary distance radius must not be established in setting up the local commuting area of the permanent or TDY station (59 Comp. Gen. 397 (1980)).” JFTR, *supra* note 1, PU3500B (general) (1 Jan. 2002). The local area is defined as follows:

- (1) within the limits of the duty station (permanent or temporary) and the metropolitan area around that station which is ordinarily served by local common carriers; or
- (2) within a local commuting area of the duty station, the boundaries of which are determined by the order-issuing official or as prescribed by local Service/Defense Agency directives; or
- (3) separate cities, towns, or installations adjacent to or close to each other, within which the commuting public travels during normal business hours on a daily basis.

Id.

81. 5 U.S.C. § 4109 (2000); *id.* § 4301; see *Coast Guard—Meals at Training Conference*, B-244473, 1992 U.S. Comp. Gen. LEXIS 740, at *3 (Jan. 13, 1992); Decision of the Comptroller General, B-193955, 1979 Comp. Gen. LEXIS 2047 at *3 (Sept. 14, 1979). The JFTR, which implements 37 U.S.C. § 404, and JTR, which implements 5 U.S.C. § 5702, and sets forth the applicable reimbursement rates for service members and civilian employees, respectively, are not controlling as to the maximum cost that may be incurred when costs are properly chargeable as training expenses under 10 U.S.C. § 4301 and 5 U.S.C. § 4109, and not to travel expenses. *Coast Guard—Meals at Training Conference*, 1992 U.S. Comp. Gen. LEXIS 740, at *6; see also 5 U.S.C. § 5702. The sponsoring organization must use sound management practice to avoid unnecessary expense when purchasing meals under this authority. *Coast Guard—Meals at Training Conference*, 1992 U.S. Comp. Gen. LEXIS 740 at *6.

82. Pension Benefit Guaranty Corp.—Provision of Food to Employees, B-270199, 1996 Comp. Gen. LEXIS 242, at *3 (Aug. 6, 1996) (holding that conference planners may not provide food to maximize the time of busy executives, to acquaint the participants, to improve on time attendance, reward, and prevent participants from going to their offices for their snacks and delaying their returning to training); see, e.g., *Corps of Eng'rs—Use of Appropriated Funds to Pay for Meals*, B-249795, 1993 U.S. Comp. Gen. LEXIS 452 (May 12, 1993).

cost of a meal or meals, conference attendees may request reimbursement for the registration fee but may not additionally “double dip” by filing travel vouchers that seek reimbursement for the meals covered by the registration fee.⁸⁴ Travelers must affirmatively annotate vouchers to indicate meals that the government provided to them.

Opportunity to Decrease Costs

A contracting officer may be able to negotiate reduced fees for authorized conference expenses when the sponsoring organization either pays for meals directly or guarantees that attendees will purchase a minimum number of meals.⁸⁵ If the sponsoring organization has funds available and may legally pay for some or all of the attendee meals directly, the conference planner should compare the cost of meals directly provided at government expense against the authorized allowance for meals to identify whether a potential for savings exists. The conference planner should ensure that meal expense estimates do not include state or local tax when the Army will be paying the bill directly. As stated above, the Army is not subject to state or local taxation.⁸⁶

Light Refreshments⁸⁷

Necessary to Achieve Objectives of Training Program

Under very limited circumstances, the sponsoring organization may purchase light refreshments for all attendees. Light refreshments may be purchased under the following conditions:

(1) they are incidental to training; (2) attendance is necessary for full participation in the training; and (3) attendees are not free to purchase food elsewhere without being absent from essential training.⁸⁸

Necessary Because You Want Them

Permanent Place of Duty of Conference Attendees

An Army organization that sponsors a conference and directly pays for all attendee costs may furnish light refreshments to conference attendees who are away from their permanent place of duty. The organization, however, must deduct the cost of the light refreshments from the amount that the organization is authorized to expend on meals.⁸⁹ For example, the *Big Belly Brigade* holds a conference in the city of *Buffet* at the *Allucaneat Hotel*. The brigade is authorized a \$25 travel subsistence allowance per person, per day. They order \$5 worth of light refreshments per person, per day. Now, the brigade has \$20 left per person, per day, to purchase meals. An Army organization that sponsors a conference and does not directly pay for all attendee costs may not provide light refreshments to attendees who are away from their permanent place of duty.⁹⁰ Additionally, a portion of a conference fee cannot fund light refreshments. Army organizations sponsoring conferences may not pay for light refreshments for government civilian employees or service members who are at their permanent place of duty.⁹¹

83. JFTR, *supra* note 1, PU255E.1 (1 Feb. 2002) (conference attendance); JTR, *supra* note 1, PC4955E.1 (1 Feb. 2002) (conference attendance).

84. JFTR, *supra* note 1, PU255E.1 (1 Feb. 2002) (conference attendance); JTR, *supra* note 1, PC4955E.1 (Feb. 2002) (conference attendance).

85. A lodging facility may be willing to offer auditorium, meeting room, hotel room, and conference services fees that decrease as the number of meals guaranteed by the sponsoring organization or paid for by conference attendees increase. The contracting officer may not use a meal guarantee or purchase order to negotiate agreements that benefit individuals rather than the government, e.g.—light refreshments; mementoes for conference attendees; and hotel room upgrades. 18 U.S.C. § 201(c)(1)(B); Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.202 (2003).

86. *McCulloch v. Maryland*, 17 U.S. 316, 435-36 (1819).

87. JFTR, *supra* note 1, PU2550F.5 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.5 (1 Apr. 2002) (conference planning).

88. *Coast Guard—Meals at Training Conference*, 1992 U.S. Comp. Gen. LEXIS 740, at *5 (Jan. 13, 1992). The JFTR, which implements 37 U.S.C. § 404, and JTR, which implements 5 U.S.C. § 5702, and sets forth the applicable reimbursement rates for service members and civilian employees, respectively, are not controlling as to the maximum cost that may be incurred when costs are properly chargeable as training expenses under 14 U.S.C. § 469 and 5 U.S.C. § 4109, and not to travel expenses. *Id.* at *6; see 37 U.S.C. § 404; 14 U.S.C. § 469; 5 U.S.C. §§ 4109, 5702. The sponsoring organization must use sound management practice to avoid unnecessary expense when purchasing meals or light refreshments under this authority. *Coast Guard—Meals at Training Conference*, 1992 U.S. Comp. Gen. LEXIS 740, at *6. *But see Pension Benefit Guaranty Corporation—Provision of Food to Employees*, B-270199, 1996 Comp. Gen. LEXIS 242, at *3 (Aug. 6, 1996). The sponsoring organization may not provide light refreshments as an inducement for attendees to arrive on time or to get attendees to interact with each other. *Id.* at *5.

89. *Use of Appropriated Funds to Purchase Light Refreshments at Conferences*, B-288266, Jan. 27, 2003 (finding that GSA does not have the authority to permit agencies to use appropriated funds to pay for refreshments for employees who are not TDY); see *Lieutenant Commander William J. Harrigan, et al.*, B-209191, 1983 U.S. Comp. Gen. LEXIS 1343, at *3 (Apr. 13, 1983) (holding that appropriated funds are not available to pay per diem or actual expenses of employees or service members in excess of that allowed by statute or regulation, whether by direct reimbursement or indirectly by furnishing meals and or rooms by contract).

90. *Use of Appropriated Funds to Purchase Light Refreshments at Conferences*, B-288266, Jan. 27, 2003.

91. *Id.*

Practical Note

A conference planner who attempts to directly coordinate payment for conference refreshments not provided for under the “training” exception is heading for trouble. A contracting officer cannot normally guarantee that attendees will purchase a minimum amount of light refreshments because such refreshments are normally considered a personal expense.⁹² If the sponsoring organization pays for light refreshments using funds it would normally use to purchase meals, the organization has a responsibility to ensure that attendees from the local area do not partake in the refreshments. If the organization charges a non-mandatory fee, the organization has a responsibility to ensure that those who did not pay do not eat.⁹³ In addition, the conference planner may not include light refreshments in a mandatory conference fee because the expense is non-reimbursable.⁹⁴ If the cost of light refreshments is included in a non-mandatory conference fee, the conference planner must ensure attendees are aware that they may not seek reimbursement for the portion of that fee covering light refreshments.⁹⁵

The possibility, in both cases, for a large number of dissatisfied, irritable attendees runs very high. To avoid this situation, the conference planner and contracting officer should discuss the need for light refreshments with a caterer that provides service to the conference location. The caterer may be willing to sell refreshments directly to attendees throughout the confer-

ence or to sell attendees “punch cards” entitling them to a preset number of beverages or snacks.⁹⁶

Rental of Meeting Rooms for Official Business⁹⁷

The conference planner should contact the General Service Administration (GSA) Public Building Service (PBS) to determine the availability and prices of government owned or leased conference facilities within the United States, the Virgin Islands, and Puerto Rico.⁹⁸ When sponsoring or funding a conference, in whole or in part, at a place of public accommodation in the United States, Army organizations must usually use FEMA-approved facilities.⁹⁹ Stricter requirements apply to the rental of conference space within DC.¹⁰⁰

Other Supplies and Services

Office Supplies

Normally, Government Purchase Cardholders are responsible for purchasing supplies. These cardholders must use mandatory blanket purchase agreements (BPAs) when making these purchases.¹⁰¹ Cardholders must place their orders over the Internet at the DOD EMALL.¹⁰² Also, they must order Javits-

92. See generally Dep't of the Army—Claim of the Hyatt Regency Hotel, B-230382, 1989 U.S. Comp. Gen. LEXIS 1494 (Dec. 22, 1989).

93. See generally JFTR, *supra* note 1, PU2555E.3 (1 Dec. 2002) (conference attendance); JTR, *supra* note 1, PC4955E.3 (1 Feb. 2002) (conference attendance).

94. See JFTR, *supra* note 1, PU2555E3-4 (1 Dec. 2002) (conference attendance); JTR, *supra* note 1, PC4955E4, PC4955G (1 Feb. 2002) (conference attendance).

95. See JFTR, *supra* note 1, PU2555E.3 (1 Dec. 2002) (conference attendance); JTR, *supra* note 1, PC4955E.3 (1 Feb. 2002) (conference attendance).

96. The conference planner and contracting officer should make the catering service aware of the need for the service and the potential for individual sales. If the caterer is willing to sell light refreshments directly to the participants, the conference planner may avoid a snack fund and snack time management.

97. JFTR, *supra* note 1, PU2550F.2 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.2 (1 Apr. 2002) (conference planning).

98. See GSA, *Public Buildings Service*, available at <http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8199&channelId=-13303> (last visited Nov. 22, 2003).

99. JFTR, *supra* note 1, PU2550I.3 (1 Feb. 2002) (conference planning); JTR, *supra* note 1, PC4950I.3 (1 Apr. 2002) (conference planning). Conference planners may use non FEMA-approved facilities when an official designated through the Secretarial Process for authorizing the sponsoring or funding of a conference makes a written determination on an individual basis that waiver of the requirement to use FEMA-approved accommodations is necessary and in the public interest for the particular event. JFTR, *supra* note 1, PU2550I.3 (1 Feb. 2002) (conference planning); JTR, *supra* note 1, PC4950I.3 (1 Apr. 2002) (conference planning).

100. An Army organization sponsoring a conference may not rent any part of any building in DC unless Congress has passed a specific appropriation that states such a contract may be made. 40 U.S.C. § 34 (2000). An Army organization that needs to rent conference space within DC should work with GSA to determine if government owned or procured conference space is available. See JFTR, *supra* note 1, PU2550H.3 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950H.3 (1 Feb. 2002) (conference planning).

101. Memorandum, Sandra O. Sieber, Acting Director, Army Contracting Agency, to Heads of Contracting Activities (Dec. 23, 2002) (on file with the author) [hereinafter Sieber Memo]. Office products include, but are not limited to items such as the following: pens, pencils, makers, xerographic paper and printer paper, fax paper, binders, tape, envelopes, helical-scan, longitudinally oriented video tapes, video cassettes, reel to reel audio tapes, blank endless loop audio cartridge tapes, magnetic tape audio recording cassette, computer tape, reel, cartridge, cassette, diskettes, disk packs, disk cartridges, anti-glare/anti-radiation screens (VDT), ergonomic products (wrist and foot wreasts), cleaning equipment and supplies (head cleaners, disk drive cleaners, monitor cleaners, toner wipes, mini vacuums, etc.) optical disks, CD ROMS, physical storage, security, protective and related ADP supplies, and remanufactured toner cartridges excluding Hewlett Packard Parts Nos. HP92291A and HP92295A. *Id.*

Wagner-O'Day Act (JWOD) products, if available, in preference to other items of the same general type.¹⁰³

*Telephone Access*¹⁰⁴

The Army may reimburse personnel for actual costs they incur for official phone calls made on wired and cellular phones while at conferences.¹⁰⁵ The Army may even purchase cell phones for official use by its personnel if such phones are determined to be a reasonable and necessary expense.¹⁰⁶ Army portable, mobile, and cellular telephones, however, may only be used for official business, may not be used for personal calls, and may not be substituted for wired telecommunications networks.¹⁰⁷ Conference attendees may also seek reimbursement for authorized computer connection charges incurred for official business while on temporary duty.¹⁰⁸

*Audiovisual and Other Equipment*¹⁰⁹

The conference planner may contact the GSA PBS to inquire about the availability of government contracted or government

employed audiovisual operators and technicians within the United States, Virgin Islands, and Puerto Rico.¹¹⁰

*Printing*¹¹¹

Normally, the sponsoring organization must use the Defense Automation and Production Service (DAPS) for all printing, binding, and blankbook work.¹¹² These services may not be included in conference contracts without prior coordination with the U.S. Army Publishing Directorate (APD).¹¹³ Conversely, "the requirement for an Army contractor or grantee to duplicate less than 5000 units of only one page or less than 25,000 units in the aggregate of multiple-page documents may be included as part of a contract for . . . services such as . . . research."¹¹⁴ Additionally, a sponsoring organization may use in-house copy machines for minor conference reproduction requirements under some circumstances.¹¹⁵

To prevent cost over-runs (and last minute headaches), the conference planner should contact the local DAPS office and request a rate schedule that lays out the cost of printing services conducted under both normal and "rush" time constraints. If the DMA obtains this information at the onset, the DMA can

102. *Id.*; Dep't of Defense, *DOD EMALL*, at <http://www.emall.dla.mil> (last visited Dec. 8, 2003) ("The DOD EMALL strives to be the single entry point for purchasers to find and acquire off-the-shelf, finished goods items from the commercial marketplace and government sources.").

103. Sieber Memo, *supra* note 101; *see also* FAR, *supra* note 20, para. 8.704 (Sept. 2001). The Javits-Wagner O'Day Act requires the government to purchase supplies or services on the Procurement List, at prices established by the Committee, from JWOD participating nonprofit agencies if they are available with the period required. 41 U.S.C. § 46-48c (2000); FAR, *supra* note 20, para. 8.704 (Sept. 2001). The BPAs listed at the DOD EMALL need not be used if: (1) a purchase will be made from local JWOD Self-Service Stores; (2) the mandatory BPA vendors cannot satisfy the ordering office's urgent delivery requirement; or (3) BPA JWOD products are determined to be priced above the fair market value. Sieber Memo, *supra* note 101. If JWOD products are listed at above fair market value, the requiring agency must purchase necessary items from the least expensive JWOD source. *Id.*

104. JFTR, *supra* note 1, PU2550F.4 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.4 (1 Apr. 2002) (conference planning).

105. *See* Reimbursing Employees' Government Use of Private Cellular Phones at a Flat Rate, B-287524, 2001 U.S. Comp. Gen. LEXIS 202, at *9 (Oct. 22, 2001).

106. 31 U.S.C. § 1301(a); Internal Revenue Serv., B-226065, 1987 U.S. Comp. Gen. LEXIS 1378, at *9 (Mar. 23, 1987); *see* U.S. DEP'T OF ARMY, REG. 25-1, ARMY INFORMATION MANAGEMENT para. 6-3.aa. (1) (31 May 2002) [hereinafter AR 25-1]; *see, e.g.*, Reimbursements for Expenses Incurred by Government Officials Using Cellular Telephone in Private Automobiles, B-229406, 1998 U.S. Comp. Gen. LEXIS 1572 (Dec. 9, 1998).

107. AR 25-1, *supra* note 106, at 41.

108. JFTR, *supra* note 1, PU4520-B4 (1 May 2003) (communication services), JTR, *supra* note 1, PC4720-B4 (1 May 2003) (communication services).

109. JFTR, *supra* note 1, PU2550F.3 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.3 (1 Apr. 2002) (conference planning).

110. JFTR, *supra* note 1, PU2550H.3 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950H.3 (1 Apr. 2002) (conference planning).

111. JFTR, *supra* note 1, PU2550F.6 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.6 (1 Apr. 2002) (conference planning).

112. U.S. DEP'T OF ARMY, REG. 25-30, THE ARMY PUBLISHING PROGRAM para 7-1c (15 July 2002) [hereinafter AR 25-30].

113. *Id.* "Printing requirements for [technical manuals] TMs and other publications may not be procured as part of a contract for conference services. This restriction does not prevent the sponsoring organization from procuring services for writing and editing or for preparing manuscripts and related illustrations as a part of a contract." *Id.* para. 7-2a It also does not prevent a contractor from preparing a recorded manuscript copy in digital form for typesetting if coding instructions have been approved by [APD]. *Id.*

114. *Id.* para. 7-2.c.

115. *Id.* para. 7-28.

assist the conference planner by encouraging parties responsible for preparing conference materials to make timely submissions for review, approval, and reproduction.

Employees' Time at the Conference and on En Route Travel¹¹⁶

The calculation of service members' time costs is simple because the rate of pay remains stable regardless of the hours worked. While the conference planner must still project total hours worked at the conference and total hours spent on en route travel, the planner need not be concerned about overtime costs. Calculation of civilian hours worked is not so simple. Conference planners must project both normal and overtime hours worked at the conference and spent on en route travel.

Time spent traveling by a federal civilian employee is considered hours of work if the following criteria are met:

- (1) An employee is required to travel during regular work hours;
- (2) An employee is required to drive a vehicle or perform other work while traveling;
- (3) An employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
- (4) An employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on nonworkdays that correspond to the employee's regular working hours.¹¹⁷

Time spent attending a lecture, meeting, or conference is considered civilian employee hours of work if attendance is as follows:

- (1) During an employee's regular working hours; or
- (2) Outside an employee's regular working hours; and
 - (i) The employee is directed by an agency to attend such an event; or
 - (ii) The employee performs work for the benefit of the agency during such attendance.¹¹⁸

Conference sponsors may decrease civilian employee overtime and compensatory time costs by planning conference dates that allow travel to and from conferences during normal working hours of the normal workweek.¹¹⁹ The JFTR and JTR limit the number of personnel attending the conference to that necessary to accomplish the mission.¹²⁰

Speaker Fees¹²¹

The sponsoring organization may use appropriated funds to pay an honorarium in the form of cash, memento, or both to a speaker as a token of appreciation when the speech furthers an authorized agency purpose and the speaker is not a DOD employee or service member.¹²² Normally, honorariums issued to individual speakers may not exceed \$500.¹²³ An honorarium is a token of appreciation—not fair and reasonable compensation for services rendered.¹²⁴

Gifts, Mementoes, or Tokens for Conference Attendees

Generally, appropriated funds may not be used to purchase gifts, mementoes, or tokens for conference attendees.¹²⁵ Official representation funds (ORFs), however, may be used to purchase gifts, mementoes, or tokens for those attendees who fall within the definition of "authorized guests."¹²⁶ These items

116. JFTR, *supra* note 1, PU2550F.9 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.9 (1 Apr. 2002) (conference planning).

117. 5 C.F.R. § 551.422 (2003).

118. *Id.* § 551.423(d).

119. Conference registration may be scheduled for late Monday afternoon or Tuesday morning and the closing session may be scheduled for Thursday afternoon or Friday morning.

120. JFTR, *supra* note 1, PU2550K (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950K (1 Apr. 2002) (conference planning).

121. *See* JFTR, *supra* note 1, PU2550D.1 (1 Dec. 2002) (conference planning); *see* JTR, *supra* note 1, PC4950D.1 (1 Apr. 2002) (conference planning).

122. *See* Dep't of the Army—Incidental Costs of Commemorative Luncheon for Dr. Martin Luther King, Jr., B-208729, 1983 U.S. Comp. Gen. LEXIS 1129, at *2 (May 24, 1983); *see generally* Food and Drug Administration—Use of Appropriations for "No Red Tape" Buttons and Mementoes, B-257488, 1995 U.S. Comp. Gen. LEXIS 703 (Nov. 6, 1995). Department of Defense employees may not receive additional pay or allowances for disbursement of public money or for the performance of any other service or duty unless specifically authorized by law. 5 U.S.C. § 5536 (2000); U.S. DEP'T OF DEFENSE, REG. 5500.7-R, JOINT ETHICS REG. para. 5-405 (12 Dec. 1997) [hereinafter JER].

123. *See* DEFENSE FINANCE ACCOUNTING SERVICE, INDIANAPOLIS, REG. 37-1, para. 09210 (Jan. 2000) [hereinafter DFAS 37-1]. Installation commanders may approve honorariums up to \$500. *Id.*

124. *Id.* para. 09210.

may cost no more than \$285.¹²⁷ Army organizations, however, may not use ORFs to pay for items to present to DOD civilians or uniformed personnel.¹²⁸

Can We Charge at the Door?¹²⁹

An Army organization sponsoring a conference may charge a mandatory conference fee to federal attendees it is authorized, but not required or funded, to train.¹³⁰ The mandatory conference fee may include the pro rata share of all direct and indirect costs attributable to training, regardless of whether the sponsoring organization's expenditures are increased.¹³¹ The mandatory conference fee, however, may not include the cost of items that are not reimbursable to the attendee (e.g., entertainment, mementoes, and gifts).¹³²

For example, the *Army Culinary Institute (ACI)* has a regulatory duty to provide continuous culinary training to Army cooks and regulatory authority to provide training to cooks from other services. The *ACI* plans to sponsor an Army

Cooks' Training Seminar in Las Vegas. During the conference opening dinner, casino entertainers will dazzle and amaze attendees by performing a musical interpretation of "The Iron Chef." The *ACI* may not charge Army attendees a mandatory conference fee to pay for this conference because it has already been authorized to expend a set amount of dollars to train Army cooks. Note that the *ACI* may charge the Navy attendees a mandatory conference fee that covers their pro rata share of direct and indirect conference training costs.¹³³ The *ACI* may not charge either group a mandatory fee that includes the cost of opening night entertainment.

The sponsoring organization should inform other organizations sending attendees that it will only accept military interdepartmental purchase requests (MIPR), DD Form 448, to effect payment of mandatory conference registration fees.¹³⁴ Attendees should not be allowed to pay mandatory conference registration fees by cash or check because Army organizations do not have statutory authority to collect cash and checks from private individuals and then deposit them in the federal Treasury so they may be used later for conference expenses.¹³⁵

125. See *Key Chains for Educators Attending Forest Service Seminars*, B-182629, 1975 U.S. Comp. Gen. LEXIS 149, at *6 (May 20, 1975); see also Major Kathryn R. Sommerkamp, *Commander's Coins: Worth Their Weight in Gold?*, ARMY LAW., Nov. 1997, at 6, available at <http://www.jagcnet.army.mil/ArmyLawyer> (containing a detailed discussion on issues related to commanders' coins that are generally relevant to awards given throughout a conference).

126. U.S. DEP'T OF ARMY, REG. 37-47, REPRESENTATION FUNDS OF THE SECRETARY OF THE ARMY para. 2-9a. (31 May 1996) [hereinafter AR 37-47]. The regulation defines "authorized guest." *Id.* para. 2-3.

127. 41 U.S.C. § 102-42.10 (2000); U.S. DEP'T OF DEFENSE, DIR. 7250.13, OFFICIAL REPRESENTATION FUNDS para. E.2.4.1.8 (10 Sept. 2002) [hereinafter DOD DIR. 7250.13]; AR 37-47, *supra* note 126, para. 2-9 a(1).

128. AR 37-47, *supra* note 126, para. 2-9c. While *DOD Dir. 7250.13* allows a limited amount of ORFs to be expended for such purposes (no more than \$40 per recipient per occasion), *AR 37-47* states that ORFs may not be used. DOD DIR. 7250.13, *supra* note 127, para. E.1; AR 37-47, *supra* note 126, para. 2-9c; see Memorandum, Raymond F. Dubois, Director, Office of Secretary of Defense, Administration and Management, to Under Secretaries of Defense (Dec. 23, 2002) (on file with the author) [hereinafter Dubois Memo].

129. JFTR, *supra* note 1, PU2550F.7 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950F.7 (1 Apr. 2002) (conference planning).

130. 31 U.S.C. § 1535a; see JFTR, *supra* note 1, PU2555E (1 Feb. 2002) (conference planning); JTR, *supra* note 1, PC4955E (1 Feb. 2002) (conference planning); Unauthorized Use of Interest Earned on Appropriated Funds, B-283834, 2000 US Comp. Gen. LEXIS 163, at *5 (Feb. 24, 2000); see also Obligation of Funds under Military Interdepartmental Purchase Requests, B-186535, 1980 Comp. Gen. LEXIS 97, at *4 (June 26, 1980); FAR, *supra* note 20, ¶ 2.101; DFAS 37-1, *supra* note 123, para. 120701.

131. In the Matter of Washington Nat'l Airport; Fed. Aviation Admin., B-136318, 1978 U.S. Comp. Gen. LEXIS 70, at *22 (Aug. 14, 1978); DFMR, *supra* note 12, vol. 11A, ch. 3, para. 03061 (May 2001). The following serves as examples of direct costs: salaries of employees or contractors performing the training; cost of materials or equipment consumed at the conference; and cost of the rented conference facility. Indirect costs are included in the current fiscal year overhead of the sponsoring organization, bear a significant relationship to the conference, and benefit non-sponsoring agencies sending attendees. In the Matter of Washington Nat'l Airport; Fed. Aviation Admin., 1978 U.S. Comp. Gen. LEXIS 70, at *23; see DFMR, *supra* note 12, vol. 11A, ch. 3, para. 03061 para. 010203 (containing DOD billing policies).

132. See JFTR, *supra* note 1, PU2555E3-4 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4955E4, PC4955G (1 Feb. 2002) (conference attendance).

133. 31 U.S.C. § 1535a (2000); see JFTR, *supra* note 1, PU2555E (1 Feb. 2002) (conference attendance); JTR, *supra* note 1, PC4955E (1 Feb. 2002); see also Unauthorized Use of Interest Earned on Appropriated Funds, B-283834, 2000 U.S. Comp. Gen. LEXIS 163, at *5 (Feb. 24, 2000); Obligation of Funds under Military Interdepartmental Purchase Requests, B-186535, 1980 Comp. Gen. LEXIS 97, at *4 (June 26, 1980); DFAS 37-1, *supra* note 123, para. 120701.

134. See generally DFMR, *supra* note 12, vol. 11A, ch. 3, ¶ 030501 (Apr. 2000). The MIPR should include a description of the services ordered (e.g., training, training materials, meals, lodging), when training will be provided (e.g., conference dates), a funds citation (either direct or reimbursable), and a payment provision which may include a citation of the account number associated with the DOD purchase card; and acquisition authority as may be appropriate. *Id.*

135. 31 U.S.C. 1552.

How Do We Buy Everything?

Purchases Under and Over \$2500

The government purchase card (GPC) must be used when purchasing goods or services below \$2500 (the micro-purchase threshold).¹³⁶ To the extent practicable, the GPC holder should distribute purchases equitably among qualified suppliers.¹³⁷ The cardholder must follow the GPC standard operating procedure (SOP) unless it conflicts with more current legal guidance.¹³⁸

Purchases Over \$2500

When the cost of any item or service is reasonably expected to exceed \$2500, the conference planner should contact the contracting officer.¹³⁹ The contracting officer, normally the only person authorized to make the actual purchase, will ensure that proper procedures are followed before the purchase is made.¹⁴⁰

Cautionary Notes

Conference Facilities

Regardless of anticipated cost, a DMA must consider at least three facilities as potential conference locations and maintain documentation of this consideration for possible inspection by the Office of the Inspector General or other interested parties.¹⁴¹

Cost Splitting

The conference planner may not break down requirements that exceed the micro purchase threshold (\$2500), simplified acquisition threshold (\$100,000), or the simplified acquisition threshold for commercial items (\$5,000,000) into several purchases that are less than the applicable threshold merely to permit the use of less burdensome acquisition procedures.¹⁴² For example, a sponsoring organization that seeks to rent conference space from a hotel with one large auditorium and five small meeting rooms may not break down its requirements (one contract for the auditorium, one contract for the meeting rooms) to stay under an acquisition threshold.

136. DFMR, *supra* note 12, vol. 5, para. 0210; *see* FAR, *supra* note 20, para. 13.2.

137. FAR, *supra* note 20, para. 13.202(a).

138. U.S. DEP'T OF ARMY, GOVERNMENT PURCHASE CARD STANDARD OPERATING PROCEDURE (31 July 2002), *available at* <http://purchasecard.saalt.army.mil/Concept%20of%20Operations%20R1%20March%2003.pdf> (last visited Dec. 9, 2003).

139. FAR, *supra* note 20, para. 7.104(c).

140. *Id.* para. 1.602-1(a) (Apr. 4, 2002); *see* Dep't of the Army—Claim of the Hyatt Regency Hotel, B-230382, 1989 U.S. Comp. Gen. LEXIS 1494 (Dec. 22, 1989) (addressing facts in which Army conference planner, with no contract authority, impermissibly signed multiple contracts with conference facility). For contract actions expected to exceed \$2500 but not to exceed \$10,000, the contract officer must consider soliciting offers from at least three sources to promote competition to the maximum extent practicable. FAR, *supra* note 20, para. 13.104 (Dec. 2001). Whenever practicable, the contract officer should request solicitations from two sources not included in a prior solicitation. *Id.* Whenever contract actions are expected to exceed \$10,000 but not \$25,000, the contract officer must post a solicitation that clearly describes the required supplies or services in a public place or by any appropriate electronic means for a period no less than ten days. *Id.* para. 5.101(a)(2) (Apr. 2002). For contract actions expected to exceed \$25,000, the contracting officer normally must post a synopsis and solicitation online. *Id.* para. 5.101(a) (Apr. 2002); 48 C.F.R. pt. 2.101 (2003); *see* Federal Business Opportunities, *available at* www.FedBizOpps.gov (last visited Sept. 29, 2003). The synopsis and solicitation process lasts at least forty-five days. *See* FAR, *supra* note 20, para. 5.203 (Apr. 2002).

When acquiring commercial items under the simplified acquisition threshold (currently \$5,000,000), the contracting officer may use the combined synopsis or solicitation procedure. *Id.* para. 12.603 (July 2001), para. 13.500(a) (Jan. 2003). A combined synopsis and solicitation of the action must be posted for a period of time that gives potential offerors a reasonable opportunity to respond to each contract action. *Id.* para. 5.203(b) (Apr. 2002), para. 12.603(a) (July 2001). Any acquisition for supplies or services that has an anticipated dollar value exceeding \$2500, but not over \$100,000, is automatically reserved for small business concerns. *Id.* para. 13.003(b)(1) (Jan. 2003).

141. JFTR, *supra* note 1, PU2550H.1 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950H.1 (1 Apr. 2002) (conference planning). Sponsoring organizations infrequently expend more than the simplified acquisition threshold, currently five million dollars, on conference contracts. Therefore, the procedural requirements that mandate the Army to encourage competition are greatly relaxed. A facility, however, selected to host an Army conference has the opportunity to earn a great deal of revenue from Army conference attendees. The conference planner should work with the organization's contracting officer to encourage as much competition as possible between potential conference facilities to ensure that the sponsoring organization gets the best value possible. JFTR, *supra* note 1, PU2550H.1 (1 Dec. 2002) (conference planning); JTR, *supra* note 1, PC4950H.1 (1 Apr. 2002) (conference planning).

142. FAR, *supra* note 20, para. 13.003 (c) (Jan. 2003).

When Do We Sign the Contract?

An Army appropriation is normally available for a definite period of time.¹⁴³ The Army must legally bind itself to make payment during the period of availability or the authority to obligate expires.¹⁴⁴ Generally, the time limitation pertains to when the Army legally binds itself to make payment, not when it actually disburses funds.¹⁴⁵ The Army may only legally bind itself to make payment for requirements that arise during the period of availability of the funds to be used for the acquisition.¹⁴⁶ One statutory exception to this rule that may be pertinent to large conferences applies to service contracts that do not exceed one year. For this type of contract, the Army may legally use funds available at the time the contract is awarded to pay for expenses that will occur in the following fiscal year, so long as the services start during the current year.¹⁴⁷

For example, on 1 September 2004, the *Big Belly Brigade* identifies a requirement to conduct a conference on 1 August 2005. The brigade wishes to use funds that will expire on 1 October 2004 to pay a contractor to plan and implement the entire project. The brigade may use these funds under the following conditions: (1) there is a need for services to commence before 1 October 2004—the beginning of the next fiscal year; (2) the services will commence before 1 October 2004; and (3) the contract will last no more than twelve months. Conference planners should direct further questions regarding the availability of funds to the resource manager, acquisitions manager, contracting officer, comptroller, or attorney within the organization.

How Do We Pay for Everything Else? (Entertainment or Non-reimbursable Meals)

Generally, appropriated funds may not be used to pay for entertainment or food and beverage expenses.¹⁴⁸ An organization, however, that seeks to provide conference entertainment and other supplies or services for which appropriated funds are

not available, may consider private or informal funding options.

Private Funds

The sponsoring organization may charge a non-mandatory, non-reimbursable entertainment fee that covers entertainment and non-reimbursable food and beverage expenses.¹⁴⁹ But, the sponsoring organization must charge the conference entertainment fee separately from a mandatory conference registration fee, and may not mix the two funds.¹⁵⁰ The conference planner should take appropriate steps to ensure that both conference attendees and their sponsoring commands understand that government funds may not be used to pay the entertainment fee.¹⁵¹

The conference sponsor may ask the custodian of a tax-exempt unit fund to open a new unit bank account specifically to manage the entertainment expenses, for example—“2003 Conference (Conf.) Entertainment (Ent.) Fund.” The conference planner may then require all participants who wish to pay for entertainment to submit a check to the “2003 Conf. Ent. Fund.” If a tax-exempt unit organization does not exist, the conference planner should recommend that one be established.¹⁵² Unit fund custodians and conference planners should not manage unit funds out of their personal bank accounts. Personnel who maintain unit funds in personal accounts may encounter tax problems, run afoul of the law by expending unit funds for personal purposes (temporary loans), or inadvertently block access to such funds should they die or become mentally incompetent.

Informal Funds

Under some circumstances, a commander may direct that a fund custodian expend unit funds on unit entertainment expenses. A commander may only pay for expenses that are consistent with the purpose and function of the fund.¹⁵³ The fol-

143. 31 U.S.C. § 1551 (2000).

144. *Id.* § 1552.

145. Sec’y of Commerce, B-136383, U.S. Comp. Gen. LEXIS 162 (June 27, 1958).

146. *See* Modification to Contract Involving Cost Under-run, B257617, 1995 Comp. Gen. LEXIS 258 (Apr. 18, 1995).

147. 10 U.S.C. § 2410a.

148. *See* Navy Fireworks Display, B-205292, 1982 U.S. Comp. Gen. LEXIS 957, at *4 (June 2, 1982) (holding that fireworks are unauthorized entertainment).

149. *See* Use of Appropriated Funds to Purchase Light Refreshments at Conferences, B-288266, Jan. 27, 2003.

150. *See* JFTR, *supra* note 1, PU2555E3-4 (1 Dec. 2002) (conference attendance); JTR, *supra* note 1, PC4955E4, PC4955G (1 Feb. 2002) (conference attendance).

151. *See* JFTR, *supra* note 1, PU2555E3-4 (1 Dec. 2002) (conference attendance); JTR, *supra* note 1, PC4955E4, PC4955G (1 Feb. 2002) (conference attendance).

152. *See* Internal Revenue Service, Dep’t of the Treasury, *Tax Information for Charities and Other Non-profits*, available at <http://www.irs.gov/charities/article/0,,id=96122,00.ht> (last visited Dec. 9, 2003) (explaining how to apply for tax-exempt status). A tax-exempt organization may apply for an employer identification number. After the Internal Revenue Service issues the organization an employer identification number, the organization may open a bank account. *Id.*

lowing scenario illustrates this rule. The *Hofbrau Brigade Commander* has scheduled a brigade-training event in Munich during Oktoberfest and would like to use informal “entertainment” funds to pay for an “organization cover charge” at a beer hall. Funds may be authorized so long as the purpose of the unit informal fund includes entertainment. The commander may not use the “cup and flower” fund to pay for the same expense. Further, the commander may not use either fund to pay the expenses of non-brigade personnel.

Cautionary Note

The conference planner should not sign an entertainment or non-reimbursable meal contract until the checks have cleared and the cash is in hand. These contracts are not government contracts and bind only the parties who sign them.¹⁵⁴ A conference planner who signs these types of contracts without cash in hand does so at his own peril.

What Records Should be Kept on File?

As discussed above, the DMA must always keep written documentation of the non-conference alternatives considered

and the selection rationale utilized. Additionally, the DMA must maintain a record of the cost of each alternative conference site considered for each conference sponsored or funded, in whole or in part, for thirty or more attendees.¹⁵⁵

Conclusion

Successful conference planning requires research and coordination. Conference planners must work closely with contracting officers to properly define conference requirements so that both can work together to obtain the best bargain for the government. After the contracting officer has received offers from businesses that want to compete for the sponsoring organization’s conference business, the conference planner should screen those offers to ensure they meet the minimum requirements set forth above. The conference planner should then evaluate the remaining offers using criteria that the regulations require and that the DMA provides to him. Finally, the conference planner should provide viable options and make a well-researched recommendation for the DMA’s review and approval.

153. U.S. DEP’T OF ARMY, REG. 600-20, ARMY COMMAND POLICY para. 4-21 (13 May 2002).

154. See Dep’t of the Army—Claim of the Hyatt Regency Hotel, B-230382, 1989 U.S. Comp. Gen. LEXIS 1494 (Dec. 22, 1989) (finding that Army conference planner with no contract authority impermissibly signed multiple contracts with conference facility).

155. See JFTR, *supra* note 1, PU2550H1 (1 Dec. 2002) (conference planning); see JTR, *supra* note 1, PC495H1 (1 Apr. 2002) (conference planning).