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GAO releases new Red Book volume

The General Accounting Office (GAO) has announced that it will release Volume 4 of the *Principles of Federal Appropriations Law* – the Red Book – second edition, towards the end of July. Agencies may order copies of the volume in advance until June 6, 2001. The edition took nearly 5 years to complete.

Volume 4 will consist of the following 3 chapters (see table on page 3 for a more detailed table of contents):

- Chapter 15 – *Acquisition and Provision of Goods and Services*;
- Chapter 16 – *Real Property*; and
- Chapter 17 – *Miscellaneous Topics* (boards, committees, and commissions; government corporations; nonappropriated fund instrumentalities; and trust funds)

"Topics are being treated in greater detail than they were in the earlier volumes," commented Rick Hurley, former Head for Programming, Budgeting, and Resources, for the Chief of Naval Operations, and presently an Appropriations Law Instructor at Management Concepts. Hurley noted that Part B of Chapter 15, *Interagency Transactions*, should be of particular interest to most federal agencies since they must account for transactions between agencies. Virtually every agency is doing work for another. Consequently, they need to know how to handle these actions fiscally. The current version of the Red Book does not contain any detailed guidance on this responsibility.

The new section on interagency transactions mainly consists of background and implementation of the Economy Act, including

- who is covered by the Act;
- performing agency's position;
- "actual cost";
- obligation and deobligation; and
- what work or services may be performed.

"Almost half of all appropriations work centers on the Economy Act," said Hurley. "Knowing the origin and history of the act will be a big, big benefit to agencies."

Financial personnel are also likely to find Volume 4 Section C's coverage of revolving funds helpful. Interest in such funds has been growing for years among agencies since the number of programs not receiving direct appropriations is growing and agencies need to know

Reader's Forum

The *Federal Financial Management News* encourages subscribers to submit questions to the editorial staff for reply and publication regarding the use of appropriated funds. This month's question comes from Richard J. Cherpak, Budget Office, Department of the Navy:

Q: Does the Joint Travel Regulations (JTR) permit retroactive revision of a travel order?

A: Yes and no. The amendment of travel orders is covered by JTR Section C3053. Subsection A provides that a travel order may be changed or corrected before or after completion of travel to:

- (1) recognize some essential aspect of travel not known in advance;
- (2) change the period or place of TDY assignment;
- (3) include omitted pertinent information;
- (4) change allowances for unperformed travel or duty; and
- (5) correct erroneous information or clerical errors that do not affect reimbursement retroactively.

Subsection B, however, prohibits the retroactive amendment of a travel order to change per diem or mileage rates.

how to receive funding. Unfortunately, the 1991 edition does not contain any instruction.

The new volume's guidance on revolving funds reviews the

- types of funds;
- "Official Purpose" limitation; and
- expenditure control requirements.

GAO does not expect agencies to experience any difficulty incorporating the new guidance with the existing 3 volumes. Gary Kepplinger, Associate General Counsel for GAO, however, is reminding all finance personnel that the Red Book is designed to "explain federal accounting officers' decisions, not to make new law."

The *Federal Financial Management News* has learned that each agency head will only be shipped one copy of the new Volume 4 by the end of July. Agencies will be able to order additional copies. Those requests must be made to their account representatives at the General Printing Office (GPO) no later than June 6.

GAO had planned on issuing Volume IV last year, but it was delayed, in large part, due to the death of the principle author. As a result, the other writers had to regroup, determine where the original author had left off in his research, and decide how to reorganize the rest of the project.

A new fifth and final volume of *Principles of Federal Appropriations Law* should be released by December 2001, according to GAO. That volume will include a comprehensive index as well as the tables of authority for Volumes 1 through 4. GAO will publish a notice in the *Federal Register* with information on how to order advance copies.

GAO also announced that it has already begun planning a revision of the first 3 volumes of the Red Book, and will begin work on it after Volume 5 has been released next winter.

Events Calendar

Financial Management Association International 2001 European Conference

When: May 30-June 1, 2001

Where: Paris, France

Contact: www.fma.org/Paris/parisreg.htm

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Tom's Corner Writer

Federal Financial Management News covers news and events in federal financial management. It is not intended to substitute for legal or other professional advice. The editor welcomes readers' comments and suggestions.

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Selected Topics in the Table of Contents of the GAO Red Book Volume 4

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 - (1) Details of personnel
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Chapter 16 – Real Property

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Chapter 17 – Miscellaneous Topics

- A. Boards, Committees, and Commissions
- B. Government Corporations
- C. Nonappropriated Fund Instrumentalities
- D. Trust Funds

Delinquent travel card accounts are costing the government millions

A small percentage of federal employees have been misusing their government-issued travel cards, costing the government millions of dollars in potential revenue, according to Congressman Stephen Horn (R-Ca). Congressman Horn's findings were released at a recent hearing on the implementation of the Travel and Transportation Reform Act of 1998, where he challenged agencies to increase their efforts to prevent further delinquencies.

The Travel and Transportation Act was enacted to increase the efficiency and lower the cost of the federal travel process. Specifically, the statute requires agencies to issue government travel cards to their employees, thereby allowing the government to more accurately track travel-related expenses.

The majority of government travel cards are issued by the General Services Administration's (GSA's) SmartPay Program. Federal employees are issued travel cards through the program with a specific dollar limit from one of the 5 service providers: Mellon Bank, Bank of America, Citibank, Bank One, or U.S. Bank. Employees use the cards to pay for most travel-related expenses. At the end of each month, employees are responsible for reviewing their statement, and making a payment. Agencies, in turn, reimburse employees for their expenses.

GSA receives a rebate from the banks if agencies reimburse their employees in a timely manner and employees promptly pay their travel card bills. The rebates can potentially result in millions of dollars each year, depending on the amount of money spent by cardholders and their records of payment.

According to Martin Wagner, Associate Administrator for GSA's Office of Governmentwide Policy, there has been a 15 percent increase in expenditures since mandatory use of the travel card went into effect last spring. Habitual delinquent payments and defaults by a significant number of cardholders, however, have prevented the government from realizing any savings from the rebate option.

In March of this year, Bank of America, which is the service provider for the Department of Defense (DoD), reported that cardholders from the agency had defaulted on more than \$50 million in travel expenditures since the program began in November 1998. Each month, the bank writes off more than \$2 million in delinquent payments. Unfortunately, DoD is not an isolated example. Also in

March, GSA reported that governmentwide, federal employees had failed to pay more than \$25 million charged against their travel accounts.

Reasons for the inappropriate actions have ranged from delayed reconciliation processes to a lack of responsible account management by cardholders.

Agencies have made efforts to decrease the delinquent payments and defaults. Several have instituted salary offset, direct reimbursement to the card provider, and credit checks. Others have taken more evasive measures. For example, the Federal Emergency Management Agency has decreased spending limits, expanded the use of merchant category code restrictions, and implemented a split-payment system to pay charge card providers directly for transportation, lodging, and rental car expenses charged to a cardholder's account. Similarly, the Department of Defense (DoD) has

- lowered the cash and credit limits on individual cards (for standard cards to \$2,500 credit line including \$250 for ATM cash, and for restricted cards to \$1,000 credit line including \$125 for ATM cash);
- increased the ATM cash fee charged; and
- increased the fees paid by the cardholder to the bank for late payments and returned checks.

According to Bonnie Heald, spokesperson for the Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, the subcommittee will be monitoring agencies' corrective action very closely. Specifically, Congressman Horn has asked GSA to provide a monthly update of the SmartPay Program. Horn will use the updates to determine if legislative changes are necessary. In addition, another hearing will be held within the next several months to re-evaluate the situation.

OMB lifts some hiring controls

Sean O'Keefe, Deputy Director of the Office of Management and Budget (OMB) has lifted several of the hiring controls imposed upon federal agencies by Director Mitch Daniels' January 30, 2001 memorandum.

According to the January 30 memo, agencies without appointed heads in place are prohibited from making hiring decisions. Exceptions exist, however, for agencies to approve internal career ladder promotions and within grade increases. *See the Federal Financial Management News, February 15, 2001, page 2.*

Late last month, O'Keefe issued another memorandum, permitting agencies which have not yet been appointed heads to make hiring decisions without OMB approval for

- non-supervisory/managerial positions below GS-13 or equivalent;
- Presidential Management Intern Program;
- Student Summer Hire Program; and

- Workforce Recruitment Program for College Students with Disabilities.

Agencies should remember to exercise caution and discretion when making hiring decisions, O'Keefe noted. All decisions should be consistent with agency funding levels, in addition to policy and program initiatives outlined in the fiscal year 2002 budget. ☞

Decisions

Agencies cannot pay for expenses of conference attendees unless they are government employees

RULE: *Agencies cannot use official funds to pay for travel expenses of nongovernment personnel attending a government-sponsored conference.*

GSBCA 15211-TRAV

Appropriated funds may be used by agencies to pay for the attendance of federal employees at conferences. Agencies, however, do not have the authority to use official funds to pay for the travel expenses of nongovernment employees, as is demonstrated by the following case.

Dr. Scott McNabb, Chief of the Capacity Development Branch, Division of International Health, of the Centers for Disease Control and Prevention (CDC), was directed to lead a week-long training session for staff of the Tanzanian Ministry of Health. The workshop was conducted at the request of the Agency for International Development (AID). The session's objective was to assist the Tanzanian Ministry in developing a plan of action for a 5-year health information systems reform project. Although AID sponsored the project, CDC requested to bear a portion of the workshop's cost.

McNabb was authorized to travel on temporary duty (TDY) from Atlanta, GA to Dar Es Salaam, Tanzania. The assignment was scheduled to depart on January 22, 1999, and return on February 12, 1999. He was issued a travel advance of \$7,682. While on assignment, McNabb incurred the following expenses:

- lodging for attendees: \$2,343.40;
- meals for attendees: \$1,031.10;
- incidental expenses for attendees: \$1,963.99;

Decided by GAO . . .

District of Columbia Courts Unclaimed Deposits, B-286687, April 13, 2001.

The District of Columbia Courts must place unclaimed deposits in accounts held by it with the Department of the Treasury. GAO noted that the National Capital Revitalization and Self-Government Improvement Act of 1997 provides that all money received by the Courts must be deposited with the U.S. Treasury or the Crime Victims Fund. While the Act does not specifically require the Courts to place all unclaimed monies in federal accounts, the language of the statute clearly supports such a conclusion.

The Department of Treasury holds such unclaimed funds in a trust capacity for the Courts. As a result, those with a valid right to the money may file a claim for payments from those funds. Such claims must be resolved by the Courts. If the Courts determine that a claim is valid, the agency may certify a payment voucher to the Treasury which may be paid from the Unclaimed Moneys Account. *See 31 U.S.C. Section 1322(b)(1).* ☞

- conference room (3 days): \$267.82;
- hotel presentation (1 day): \$450.08;
- equipment (3 days): \$133.91;
- tea and bottled water: \$334.77; and
- photocopying: \$161.51.

McNabb submitted a certification that the participants traveled more than 35 miles from their official duty station to attend the conference and worked more than 12 hours a day. He, however, did

not submit individual receipts for the costs of the equipment rental, conference and presentation rooms, and photocopying. Although he requested the hotel for an itemized bill, it provided him a receipt with a single total.

CDC was uncertain whether it could reimburse McNabb for the expenses. It requested the GSBGA for an opinion on whether a traveler may be reimbursed for the travel expenses of others.

The Board found that McNabb was entitled to full reimbursement for his own lodging and incidental expenses as well as the costs associated with the conference room, hotel presentation, equipment, and photocopying. In addition, he could be reimbursed at a reduced rate for meals, bottled water and tea. The Board emphasized, however, that he could not be reimbursed any of the attendees' travel expenses. The attendees were not U.S. government employees. As a result, CDC lacked the authority to reimburse their expenses.

The Board recognized that part 301-74.2 of the Federal Travel Regulation (FTR) includes a provision on "conference costs" which defines the expenses as "all costs paid by the government for a conference, whether paid directly by agencies or reimbursed by agencies to travelers or others associated with the conference, e.g., speakers, contractors, etc. Such costs include, but are not limited to: travel to and from the conference, ground transportation, lodging, meals, and incidental costs, meeting room and audio-visual costs, registration fees, speaker fees, and other conference related administrative fees." GSBGA emphasized that the section simply defines the term "costs" and does not confer any entitlement to reimbursement for nonfederal employees.

GSBGA 15211-TRAV, In the Matter of Scott J.N. McNabb, June 9, 2000. ☐

Employee Corner

Q: May agencies pay government employees unused sick leave if they are separated from government service?

A: No. *See Office of Personnel Management, File Number 00-4386, October 6, 2000.*

In the case, an employee received an indefinite non-pay suspension from his agency. At the time, he had a sick balance of 261 hours. While on suspension, the employee could not use his accrued annual or sick leave.

The employee was eventually terminated from government service. He had 240 hours of annual leave in addition to the his accrued sick leave at the time of his removal. His agency compensated him his accrued annual leave; however, it refused to pay him his remaining sick leave.

The employee appealed to the Office of Personnel Management (OPM).

OPM rejected his claim. It emphasized that the General Accounting Office (GAO) has previously ruled that unused sick leave may only be credited towards service upon retirement or it may be recredited to the employee if he/she is re-employed within the 3 years from separation. However, there is no authority for lump-sum payment of sick leave. *See B-190152, November 30, 1977; and B-199477, May 3, 1982.*

OPM noted that Title 5 of the U.S. Code Section 5551(a) only authorizes agencies to make lump-sum for all accumulated and accrued annual leave.

GSA proposes to permit non-federal travel payments

The General Services Administration (GSA) has proposed to amend the Federal Travel Regulation (FTR) regarding payment of travel expenses from non-federal sources. Specifically, the changes would

- permit after-the-fact agency acceptance of payment from a non-federal source for travel expenses to a meeting when (a) the agency has not approved acceptance of any payments from that non-federal source prior to the trip, or (b) the agency has approved acceptance of payment for some but not all travel expenses from the source prior to the trip; and

- remove the requirement that a meeting or similar function be sponsored or cosponsored by a federal agency in order to fall within the scope of FTR Part 304.

GSA is encouraging agencies to comment on the proposal. Comments should be submitted by July 3, 2001, to Mr. Michael E. Hopkins, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 20405-0001, or electronically at RIN.3090-AE19@gsa.gov. ☐

Reports & Testimony

New human capital culture is the key to success, GAO says

Federal agencies are experiencing critical strategic human capital challenges, according to a recent report by the General Accounting Office (GAO) – *GAO-01-236*. The report emphasized that the government must develop a culture that recognizes the ongoing transition to a knowledge-based economy in which employees' skills and individual performance are the foundation.

In January, GAO added human capital management to its governmentwide "high risk" list of areas in the federal government that are highly susceptible to waste, fraud, and abuse. It was the only category added to the list this year. *See the Federal Financial Management News, February 15, 2001, page 1.* GAO prepared its report on human capital at its own initiative, to determine how the 24 Chief Financial Officer (CFO) Act agencies addressed the issue in their fiscal year 2001 performance plans.

GAO first identified 4 main areas in which agencies are strategically challenged:

- human capital planning and organizational alignment;
- leadership continuity and succession planning;
- acquiring and developing staffs whose size, skills, and deployment meet agency needs; and
- creating results-oriented organizational structures.

According to GAO, the vast majority of human capital management improvements could be achieved if agencies reviewed the size, shape, and skills of their current employee profile and incorporated a more performance-based approach to managing their workforces. Specifically, agencies should

- establish a baseline of their human capital profiles;
- build a business case for future human capital requirements;
- make targeted investments to attract, develop, and retain the talent necessary to meet agency mission and goals;
- build employees' skills, knowledge, and performance;

- empower employees and provide them with the tools to do their best; and
- implement modern performance management and incentives systems needed to foster individual accountability.

GAO found that all 24 agencies discussed human capital to some extent in their FY 2001 performance plans, covering a variety of activities. *See table on page 8 for results.* Agencies plans showed different levels of attention to human capital, the report explained, from simply identifying existing problems to actually defining plans and committing resources toward future solutions.

The report recommends that agencies follow-up with effective implementation and assessment of the human capital initiatives they included in their FY 2001 performance plans. GAO plans to review agencies' FY 2002 performance plans to determine their progress in improving human capital management.

Tom's Corner

Q: If a budget officer signs off that "funds are available," is he/she personally responsible for the funds if the purchase is illegal?

A: No. The certification, "funds are available," is just a determination that the office has unobligated funds of at least the amount of the purchase.

The certification of legality is normally made by someone in finance and accounting. For a definition of this type of "certifying officer," see Principles of Federal Appropriations Law, page 9-8. That's the person who may be required to pay cash to the government if a purchase is illegal. Relief may be granted to the person, but sympathy is not among the possible reasons for such relief.

Various certifications are required on government paperwork, but the one made by finance and accounting is *usually* the only one that requires a payment for mistakes. Financial certifiers often find it helpful to get advice from their agency legal office or from the General Accounting Office (GAO).

Agency Human Capital Activities	
Activity	Agency example
Recruit and retain employees based on current and projected needs	The Department of Justice's (DOJ's) Immigration and Naturalization Service set a goal to raise FY 2001 deployment of border patrol agents to 9,807 from 7,982 in 1998. INS plans to train 200 patrol agents as recruiters, establish a toll-free job information hotline, and consider recruitment bonuses.
Hire a diverse workforce	The Department of Housing and Urban Development (HUD) intends to increase the percentage of Hispanics in its workforce to 7.4 percent of employees in FY 2001, from 7.1 percent in FY 2000.
Identify skills and training needs and provide development opportunities	The Environmental Protection Agency (EPA) has planned several new training programs to provide necessary skills identified by an agencywide workforce assessment.
Link executive performance to organizational goals	The Department of Veterans Affairs' (VA's) Veterans Benefits Administration has established an automated Balanced Scorecard of performance measures into its executive appraisal system.
Attend to work environment	The Department of Agriculture's (USDA's) National Agriculture Statistics Service is implementing new local area network, video conferencing, and document archiving and retrieval systems to meet its goal that 90 percent of employees are satisfied with their work environment.
Establish an employee-friendly workplace	The Department of Health and Human Services' (HHS') Indian Health Services is working to score at least 95 points on their FY 2001 Human Resource Management Index employee survey, from a FY 1999 score of 93.
Choose an appropriate organizational structure	HHS' Administration for Children and Families plans to increase manager-to-staff ratio from 1:4.6 in FY 1993 to 1:9 in FY 2001.
Streamline, simplify, and expedite personnel operations	The Office of Personnel Management's (OPM's) Office of Human Resources and Equal Employment Opportunity plans to reduce all recruitment and hiring cycle times to an average of 48 days in FY 2001 from about 58 days in FY 1999.

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