



Audit Memorandum

OIG-15-CA-019

BILL MANUFACTURING: Contractor-Provided Meals to BEP Employees

June 10, 2015

Office of Inspector General

Department of the Treasury

This report has been reviewed for public dissemination by the Office of Counsel to the Inspector General. Information requiring protection from public dissemination has been redacted from this report in accordance with the Freedom of Information Act, 5 U.S.C. 552.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

OFFICE OF
INSPECTOR GENERAL

June 10, 2015

OIG-15-CA-019

MEMORANDUM FOR LEONARD R. OLIJAR
DIRECTOR

FROM: Kieu T. Rubb /s/
Director, Procurement and Manufacturing Audits

SUBJECT: Contractor-Provided Meals to BEP Employees

Our audit of the costs incurred by Young & Rubicam, Inc., doing business as Burson-Marsteller, on the Bureau of Engraving and Printing (BEP) 2006 Public Education and Awareness Program contract (TEP-07-003)¹ revealed that Burson-Marsteller purchased meals for several government employees and billed the cost to BEP under the contract. Such practices are in violation of federal appropriations law. In addition, the audit revealed that the BEP Contracting Officer's Representative (COR) violated government standards of ethical conduct by accepting gifts, in the form of meals paid by a contractor employee.

A total of [REDACTED] {REDACTED – FOIA EXEMPTION 4, 5 U.S.C. 552(b)(4)} of meals and entertainment costs were invoiced to BEP under the 2006 Public Education and Awareness contract. We reviewed a sample of meals and entertainment transactions totaling \$6,907, and from this sample, we identified \$2,275 of meals that Burson-Marsteller purchased for government employees and billed to BEP under the contract. According to the U.S. Government Accountability Office (GAO), *Principles of Federal Appropriations Law*, Chapter 4, Section 5, Entertainment—Recreation—Morale and Welfare (Jan. 2004), appropriated funds²

¹ The results of our audit of the costs incurred under this contract are discussed in our report, *Audit of Incurred Costs on BEP's Public Education and Awareness Contract with Burson-Marsteller* (OIG-15-035; issued June 10, 2015).

² BEP operations are financed by means of a revolving fund established in 1950 in accordance with Public Law 81-656. According to GAO's *Principles of Federal Appropriations Law*, Chapter 12, Section C.4, "Revolving Funds, Expenditures/Availability" (Sep. 2008), a revolving fund is an appropriation. Accordingly, funds in a revolving fund are subject to the various purpose, time, and amount limitations and restrictions applicable to appropriated funds.

are not available to pay subsistence or to provide free food to government employees at their official duty stations unless specifically authorized by statute. Food is considered a personal expense and government salaries are presumed adequate to enable employees to eat regularly. In addition, the fact that BEP employees were furnished meals paid for by the government may violate 5 U.S.C § 5536, *Extra pay for extra services prohibited*, which prohibits an employee from receiving compensation in addition to the pay and allowances fixed by law.

When asked about the meals, a Burson-Marsteller official told us that meals were typically ordered for meetings during peak times on the contract and that Burson-Marsteller obtained pre-approval from the BEP COR prior to ordering catered meals for the working meetings. When we asked the COR about the catered meals, she told us that it was easier to have a catered lunch delivered to the meeting sites than to go out for lunch during busy times when BEP and Burson-Marsteller were having all-day meetings. The COR also told us that she believed that a meal provided for a group was an allowable cost under the contract. While the FAR does provide for contractors to charge meal costs to government contracts when appropriate, that authority does not extend to providing meals to government employees.

In addition to accepting contractor provided meals during the 2006 contract, the COR told us that for a period of time during the prior contract she attended lunches with a Burson-Marsteller executive and the two alternated paying for the lunches. According to 5 C.F.R Part 2635, *Standards of ethical conduct for employees of the executive branch*, government employees are prohibited from directly or indirectly accepting a gift from a prohibited source.³ Additionally, 5 C.F.R § 2635.205, *Proper disposition of prohibited gifts*, states that subsequent reciprocation by the employee, as in the case of the COR taking turns paying for meals, does not constitute reimbursement. When asked about the lunches, the COR said she believed the practice was acceptable because she and the Burson-Marsteller executive were taking turns paying for the meals. However, after some time, the COR decided that accepting meals from the executive was inappropriate and discontinued the practice before the start of the 2006 contract.

³ 5 C.F.R §2635.203 defines (1) a gift as any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value and includes services as well as gifts of training, transportation, local travel, lodgings and meals whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred; and (2) a prohibited source as any person who: (i) is seeking official action by the employee's agency; (ii) does business or seeks to do business with the employee's agency; (iii) conducts activities regulated by the employee's agency; or (iv) has interests that may be substantially affected by performance or nonperformance of the employee's official duties.

The above instances indicate a misunderstanding and misapplication, at best, on the part of the BEP employees involved with regard to appropriations law and government employee standards of conduct when dealing with contractors, particularly concerning meals. Accordingly, we believe that training and management oversight is necessary to prevent a reoccurrence of these instances.

Recommendations

We recommend the BEP Director:

1. Instruct the current contracting officer to review the remaining meal and entertainment charges invoiced to BEP by Burson-Marsteller that were not included in our sample to identify other instances of BEP employees who may have received meals from Burson-Marsteller. In addition, BEP should determine an appropriate method for the BEP employees to reimburse the value of the meals received.

Management Response

BEP agreed with the recommendation and will undertake a larger review to determine if other BEP employees improperly received meals from Burson-Marsteller. In addition, BEP will determine the appropriate method for BEP employees to reimburse the value of meals improperly received from Burson-Marsteller.

OIG Comment

Management's planned action meets the intent of our recommendation. Management will need to establish and record its estimated date for completing the corrective actions in the Joint Audit Management Enterprise System (JAMES), the Department of the Treasury's audit recommendation tracking system.

2. Provide training related to appropriations law and government employee standards of conduct to those involved with contracting actions. Such training should include the rules for accepting meals from contractors. This training should be reinforced periodically.

Management Response

BEP's Office of Chief Counsel provides annual training on standards of conduct to all SF-450 filers. This training usually includes contracting examples. BEP will expand the mandatory annual training to everyone within Office of Acquisition and all CORs. BEP's Office of Chief Counsel will also provide appropriations law information to disseminate to all Office of Acquisition employees, CORs, and all managers regarding appropriate use of funds for meals.

OIG Comment

Management's commitment to expand the annual training on standards of conduct and disseminate information on appropriations law meets the intent of our recommendation.

BEP management's written response is included as attachment 1.

We appreciate the courtesies and cooperation provided to our staff during our inquiries into the above matters. If you have any questions, you may contact me at (202) 927-5904 or Deborah Harker, Audit Director, at (202) 927-5762.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ENGRAVING AND PRINTING
WASHINGTON, D.C. 20228

May 7, 2014

MEMORANDUM FOR KIEU T. RUBB, DIRECTOR
PROCUREMENT AND MANUFACTURING AUDITS

FROM: Larry R. Felix, Director */s/*
Bureau of Engraving and Printing

SUBJECT: Response to Memorandum – Contractor-Provided Meals
to BEP Employees

Attached are the Bureau of Engraving and Printing's (BEP) responses to the recommendations in your memorandum of Contractor-Provided Meals to BEP Employees. If you have any questions, please feel free to contact me on 202-874-2000.

Attachment: Director's Response to OIG Memorandum

Recommendations

We recommend the BEP Director:

1. Instruct the current contracting officer to review the remaining meal and entertainment charges invoiced to BEP by Burson-Marsteller that were not included in our sample to identify other instances of BEP employees who may have received meals from Burson-Marsteller. In addition, BEP should determine an appropriate method for the BEP employees to reimburse the value of the meals received.

Management Response: BEP agrees with this recommendation, and will undertake a larger review to determine if other BEP employees improperly received meals from Burson-Marsteller. In addition, BEP will determine the appropriate method for BEP employees to reimburse the value of meals improperly received from Burson-Marsteller.

OIG Comment PLACEHOLDER

2. Provide training related to appropriations law and government employee standards of conduct to those involved with contracting actions. Such training should include the rules for accepting meals from contractors. This training should be reinforced periodically.

Management Response: BEP's Office of Chief Counsel provides annual training on standards of conduct to all SF-450 filers. This training usually includes contracting examples. BEP will expand the mandatory annual training to everyone within Office of Acquisition (OA), and all Contracting Officer's Representatives (COR's). BEP's Office of Chief Counsel will also provide the CFO appropriations law information to disseminate to all OA employees, COR's, and all managers regarding appropriate use of government funds for meals.

OIG Comment PLACEHOLDER

The Department of the Treasury

Deputy Secretary
Treasurer of the United States
Office of Strategic Planning and Performance Management
Office of Deputy Chief Financial Officer, Risk and Control
Group

Bureau of Engraving and Printing

Chief, Office of Procurement
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