

U.S. Department  
of Transportation

United States  
Coast Guard



# Memorandum

## FILE COPY

Subject: PURCHASE OF PROMOTIONAL ITEMS

Date: 10 SEP 1993  
4280

From: Chief, General Law Division

Reply to: G-LGE  
Attn. of: Mr. Whitmore  
#7-1853

To: Chief, Small Purchase Branch

1. This is in response to the question of funding promotional items for the commercial fishing vessel safety program and the reserve program.

2. One of the most fundamental statutes dealing with the use of appropriated funds is 31 U.S.C. § 1301(a) which provides, "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Simply stated, 31 U.S.C. § 1301(a) says that public funds may be used only for the purpose or purposes for which they were appropriated. It prohibits charging authorized items to the wrong appropriation and unauthorized items to any appropriation. Although every violation of 31 U.S.C. § 1301(a) is not automatically a violation of the Antideficiency Act, 31 U.S.C. § 1341(a), and every violation of the Antideficiency Act is not automatically a violation of 31 U.S.C. § 1301(a), cases frequently involve elements of both. Thus, an expenditure in excess of an available appropriation violates both statutes. See "Principles of Federal Appropriations Law" (GAO Redbook)(July 1991) at pages 4-2 to 4-4.

3. There is authority to purchase the promotional materials (key fobs) listed in Procurement Request 21-93-223HRV156. (Encl. (1)). These purchases implement the Commercial Fishing Industry Vessel Act of 1988 (46 U.S.C. §§ 4501, et seq.). COMDTINST 16711.13 specifically provides for "focus[ed] on public awareness", "Development of district safety awareness programs", "owners must be aware that such a program exists", etc. Subparagraph 5.c.(3) specifically provides for distribution of educational materials to fisherman. 650,000 has been budgeted for such promotional devices for FY93. (Encl. 2). As long as such devices have educational messages printed on them, they may be purchased for distribution.

4. Concerning the promotional materials listed in Procurement Request No. 21-93-233HRP269 (Encl. 3) there is statutory authority to purchase these rulers and pencils for recruiting

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purposes. See 14 U.S.C. § 468 which provides, "The Coast Guard may make expenditures as necessary in order to obtain recruits for the service and cadet applicants, including advertising."

5. There is no apparent recruiting messages with the bumper stickers listed in Procurement Request 21-93-233HRP270. While the idea is commendable, there does not appear to be authority for the Coast Guard to purchase and distribute the bumper stickers.

  
W. C. HAIN, JEL

Encl: (1) Procurement Request 21-93-223 RMV 186  
(2) FY93 Funding document  
(3) Procurement Request No. 21-93-233HRP269

FEB 23 1998

Subj: USE OF APPROPRIATED FUNDS TO PURCHASE  
PROMOTIONAL ITEMS FOR CFVS PROGRAM

7000

directly to enhanced safety aboard fishing vessels. Although this determination is consistent with the Comptroller General decisions discussed above, it may be advisable to seek legislation explicitly permitting the use of appropriated funds for items of nominal value to be distributed to commercial fishermen to promote the CFVS program. This office is available to assist you and the Office of Legislation in drafting such legislation if you decide to pursue it.

  
R. R. KELLY  
Acting

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