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**GAO**

United States General Accounting Office  
Washington, DC 20548

Office of  
General Counsel

In Reply  
Refer to: B-196647 (RCP)

JAN 16 1980

Mr. Stuart E. Durden  
Department of Transportation *ALC 000 29*  
South FAA Building  
Bolling Field  
Seattle, Washington 98108

Dear Mr. Durden:

Your letter of October 26, 1979, requested a decision of this Office concerning specific [questions on travel reimbursement]

In view of statutory and regulatory provisions relating to our decision making authority, formal decisions of the Comptroller General are generally rendered only to heads of departments and agencies, disbursing and certifying officers, or to claimants who have filed monetary claims with our Office. See 31 U.S.C. §§ 74 and 82(d) (1976). However, on the basis of the information provided by you and our prior decisions in this area, we believe that the following information will prove helpful to you.

Briefly, your letter presents the following fact pattern. A Government employee who travels on both personal and official Government business purchased a membership in a club that provides certain discounts at participating motels and restaurants. The employee purchased the club membership and pays required dues with his own personal funds. In connection with official Government business for which travel and per diem expenses were authorized, the employee stayed at a motel which honored his discount club membership. Based upon these facts you have asked whether the employee may claim reimbursement at the non-discounted rate for lodging since this is the rate he would have paid and would have been reimbursed had he not used his personal discount club membership; or, must the employee claim only the discounted rate which he actually paid?

Section 5702 of title 5, United States Code, as amended by Public Law 94-22, May 19, 1975, provides that under regulations prescribed by the Administrator of General Services, employees



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traveling on official business inside the continental United States are entitled to a per diem allowance at a rate not to exceed \$35. Implementing regulations appear in the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973). The pertinent paragraph 1-7.3c(1) of the FTR, provides that when lodgings are required, per diem shall be established on the basis of the average amount the traveler pays for lodging, plus an allowance of \$16 for meals and miscellaneous expenses, not to exceed the maximum amount. This is known as the "lodgings-plus" system of computing allowable per diem. Hutchinson, B-191559, November 8, 1978.

Paragraph 1-7.3c(1)(a) of the FTR provides that to determine the average cost of lodging, you divide the total amount paid for lodgings during the period covered by the voucher by the number of nights for which lodgings were or would have been required while away from the official station. Moreover, FTR paragraph 1-7.3c(2) requires that the traveler actually incur expenses for lodging before allowing consideration of lodging costs for purposes of computing per diem.

Thus it seems clear that the only lodging expenses which may be reimbursed to a traveler are those that he actually paid in connection with his official travel. There appears to be no basis under the law or regulations to credit or pay an employee for lodging costs on a hypothetical basis. See Hutchinson, supra, citing Bornhoft v. United States, 137 Ct. Cl. 134 (1956).

In administering the per diem entitlement under the "lodgings - plus" method, the only discretion allowed on the part of the agency is to determine that the lodgings-plus method is not appropriate under the circumstances of a particular travel situation. 55 Comp. Gen. 179 (1975). Thus, in accordance with FTR paragraph 1-8.1b, actual subsistence expenses are normally authorized or approved when a traveler goes to a higher-rate geographical area, unless the high-rate area is en route or an intermediate stopover point where no official duty is performed. However, an employee who travels to a high-rate geographical area for official business may not subsequently elect to receive per diem in lieu of itemized actual expenses. Here again, travelers in higher-rate areas normally are reimbursed for actual expenses, and per diem in such cases must specifically be authorized in advance under FTR paragraph 1-8.1b(1). See 57 Comp. Gen. 367 (1978).

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As in the case of a per diem entitlement under FTR paragraph 1-7.3c(2), reimbursement of actual subsistence expenses may be made only for actual and necessary subsistence expenses incurred on an authorized travel assignment in accordance with paragraph 1-8.5 of the FTR. Further, the actual expenses incurred must be itemized in a manner prescribed by the heads of agencies which will permit a review of the amounts spent daily. As a result, it would appear that only those expenses which were actually incurred - as opposed to those which hypothetically might have been incurred - are reimbursable under the actual subsistence expense methodology contained in paragraph 1-8.1, et. seq. of the FTR. See e.g. B-164272, June 24, 1968.

In the alternative you have asked whether, "if no advantage is allowed for use of the Club Membership, would there be any entitlement to reimbursement for the expense of the Club Membership?"

In view of the prohibition in 5 U.S.C. § 5946 (1976) against payment from appropriated funds of membership fees of officers and employees in societies and associations, and in the apparent absence of any connection between your presentation and the authorized exceptions noted in 5 U.S.C. § 5946, it would appear that there is no basis for an agency to reimburse an employee for the personal expense of the type of private membership you have described. See e.g. 32 Comp. Gen. 15 (1952). And this is true notwithstanding the fact that the membership might be of primary benefit to the agency rather than the employee. See 53 Comp. Gen. 429 (1973); and 52 Comp. Gen. 495 (1973).

We hope the information presented above will serve the purpose of your inquiry.

Sincerely yours,

Robert L. Higgins

Robert L. Higgins  
Assistant General Counsel

## DIGEST

- (1) Government employee purchased membership in club which provides discounts at hotels and restaurants. While on official Government travel employee stayed at motel honored by discount club and received 25% per night discount on his lodging. Employee is not entitled to claim reimbursement at non-discounted rate for lodging since FTR para. 1-7.3c(2) requires that traveler actually incur expenses for lodging before allowing consideration of lodging costs for purposes of computing per diem, and there is no basis under law or regulations to credit or pay employee lodging costs on hypothetical basis.
- (2) In view of the prohibition in 5 U.S.C. § 5946 (1976) against payment from appropriated funds of membership fees of officers and employees in societies and associations, there is no authority for an agency to reimburse an employee for his personal expense in acquiring a private membership in a discount club notwithstanding the fact that the Government might benefit from the membership.