



Decision

Matter of: EPA Region 10 - Per Diem for Local Travel
File: B-256744
Date: August 25, 1994

DIGEST

Two employees of the Environmental Protection Agency (EPA) were assigned temporary duty to conduct training sessions in a city which is considered to be within EPA's local travel area of a 50-mile radius from their official duty station. While an agency has broad discretion in establishing a local travel area, where, as here, it has specifically limited its discretion, it may not disregard its own regulation which sets the criteria for reimbursement in particular circumstances. Claims for per diem allowances denied.

DECISION

The Environmental Protection Agency (EPA) requests a decision as to whether it may allow the per diem claims of two employees whose temporary duty location is considered to be within EPA's local travel area of a 50-mile radius from their official duty station.¹ For the following reasons, their claims may not be allowed.

In September 1993, the EPA assigned two employees of its office in Seattle, Washington, to temporary duty in Olympia, Washington, to provide indoor air quality training to state and local officials. The first and second level supervisors of these employees signed their travel authorizations which approved a per diem allowance, consisting of lodging and meals and incidental expenses, for their temporary duty period in Olympia, Washington. The employees stayed at a hotel which was within the city limits of Olympia, Washington, but was outside a 50-mile radius from their official duty station in Seattle, Washington.

¹This request was submitted by Mr. Donald K. Larsen, Chief, Comptroller Branch, EPA, Seattle, Washington. Reference MD-149.

With certain exceptions not relevant here, EPA policy considers a 50-mile radius from an employee's official duty station as the local travel area or as "short-distance travel."² Within this local travel area, EPA employees may not generally receive any per diem allowance, but may be reimbursed for their transportation expenses. In the instant case, a circle with a 50-mile radius from Seattle cuts through the city limits of Olympia, but the employees stayed at a hotel which, although within the city limits of Olympia, was outside of the 50-mile radius from their official duty station.

EPA Comptroller Policy Announcement No. 89-02 states that "[e]ach SFO [Servicing Financial Office] is responsible for defining the cities, towns, and/or counties which are included in the 50-mile radius area for their Region." In conjunction with that policy the regional EPA financial office in Seattle established the local travel area to include Olympia, Washington. EPA's policy also provides that the Regional Administrator may waive the local travel rule for certain training sessions or meetings. However, EPA policy also prohibits granting a waiver for local travel reimbursement if the training sessions or meetings are sponsored by the EPA, as those in the instant case were.

Under the Federal Travel Regulation (FTR), 41 C.F.R. § 301-7.5(a) (1994), an agency generally has broad discretion to authorize a per diem allowance for temporary duty travel a short distance from an employee's official duty station in appropriate circumstances so long as the temporary duty site is not at or within the vicinity of the employee's residence. See e.g., Greg Snyder, B-252836, Aug. 4, 1993. However, where an agency has specifically limited its discretion by regulation, as EPA has done, it may not disregard its own regulation which sets the criteria for reimbursement in particular circumstances.³

Accordingly, the two employees' claims may not be allowed.

/s/ Seymour Efros
for Robert P. Murphy
Acting General Counsel

²See EPA Comptroller Policy Announcement No. 89-02 (Feb. 27, 1989). See also Federal Travel Regulation 41 C.F.R. §§ 301-1.3(c)(4) and 301-7.5(a) (1993).

³The fact that the hotel was actually outside the 50-mile radius is immaterial because the agency had determined that Olympia is within the local travel area and the hotel is in Olympia.