



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20546

RELEASED

OFFICE OF GENERAL COUNSEL

In Reply

Refer to: B-202183(MRV)

September 7, 1982

Warren P. Nixon, Chairman  
Committee for Simplified  
Travel Reimbursement

OPR/STP/T  
Room 1048-A, New State  
Department of State  
Washington, D.C. 20520

Dear Mr. Nixon:

This is in response to your letter of August 19, 1982, concerning a proposed experiment with the flat rate per diem concept by Foreign Service members in the Bureau of Public Affairs, Department of State.

Your letter states that, as a participant in the OMB-sponsored Travel Management Improvement Group, you propose to experiment with a simplified travel reimbursement system which, for travel in the United States, would involve the payment of per diem in the range of \$50-75 a day, instead of actual subsistence expenses, in high geographical areas. The legal issue involved is whether the experiment is permissible under the authority of the Secretary of State to pay the travel expenses of Foreign Service personnel as provided in the Foreign Service Act of 1980, Public Law 96-465, October 17, 1980, 94 Stat. 2074.

You have submitted with your letter a memorandum of law dated August 23, 1982, prepared by K. E. Malmborg, Assistant Legal Adviser for Management. The legal memorandum refers to section 901(14) of Public Law 96-465, 22 U.S.C. § 4081(14) (Supp. IV 1980), which provides, in part, that the Secretary of State may pay the travel expenses of members of the Foreign Service "assigned to or within the United States," including assignments to State and local governments. The memorandum states that the language of this section is broad and general and is not limited to travel in

connection with assignments to State or local governments. The memorandum concludes that, since the Foreign Service Act provisions governing travel do not contain statutory per diem or actual subsistence expense limitations, the language of section 901(14) may be used as the authority for regulations providing for an experiment using locality-based flat rate per diem reimbursement for members of the Foreign Service.

The concept of a flat rate per diem reimbursement was proposed for Federal employees who are reimbursed under 5 U.S.C. Chapter 57 and the Federal Travel Regulations (FTR), but, in our opinion, the language of section 5702 and the applicable paragraphs of the FTR precludes reimbursement in excess of \$50 except for "actual and necessary expenses." The Foreign Service Act of 1980 makes no specific reference to per diem. However, the Foreign Service Travel Regulations provide that the Federal Travel Regulations are not applicable to Foreign Service members. See 6 FAM 112. Accordingly, and in view of the broad language of section 901(14) of the Foreign Service Act of 1980, we would have no objection to regulations issued by your Department establishing a flat per diem rate of not to exceed \$75 per day for the trial program as outlined above.

We trust that this is responsive to your inquiry.

Sincerely yours,



F. H. Barclay, Jr.  
Associate General Counsel

FOREIGN SERVICE

Travel expenses

Reimbursement

Locality-based flat rate per diem  
experiment