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DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-193293 DATE: November 13, 1978

MATTER OF: Federal Acquisition Institute - Training at Department of Defense Facilities

DIGEST: Government Employees Training Act, 5 U.S.C. §§ 4101-4118, not the more general provisions of the Economy Act, is pertinent statute governing question of necessity for civil agencies to reimburse the Department of Defense (DOD) for DOD training courses financed with appropriated funds and attended by civil agencies' employees on a space-available tuition-free basis. Section 8 of the Government Employees Training Act, 5 U.S.C. § 4104 authorizes DOD to make its training facilities available on either a reimbursable or a nonreimbursable basis to civil agencies covered by the Training Act.

The Director of the Federal Acquisition Institute (FAI) requests a decision by this Office on whether civil agencies must be required to reimburse the Department of Defense (DOD) for Defense Management Education and Training (DMET) courses in procurement/acquisition, financed with appropriated funds and attended by employees of the civil agencies on a space-available, tuition-free basis. The FAI, formerly the Federal Procurement Institute, was established by a directive of the Administrator for Federal Procurement Policy issued on July 14, 1976, pursuant to the Office of Federal Procurement Policy Act (OFPPA), Pub. L. No. 93-400, August 30, 1974, 88 Stat. 796, 41 U.S.C. §§ 401-412 (1976), which established the Office of Federal Procurement Policy within the Office of Management and Budget. Under OFPPA, the functions of the Administrator include "recommending and promoting programs of the Civil Service Commission and Executive agencies for recruitment, training, career development, and performance evaluation of procurement personnel." 41 U.S.C. § 405(d)(6). In performance of this function, FAI acts as a broker to fill vacancies in DMET courses with employees from civil agencies.

The Director explains:

"The Defense Management Education and Training (DMET) [B]oard is the organization within DoD

responsible for initiating, scheduling and/or cancelling procurement/acquisition courses offered at the DoD schools. During the ad hoc period of the FAI and for the fiscal year 1978, the DMET Board's Agenda Planning Committee agreed to open DMET courses in procurement/acquisition to civil agency students on a space-available, tuition-free basis. The rationale for doing this was based on the fact that some student spaces in these courses remained open. Due to lack of travel funds and heavy workloads, some DoD students who were scheduled for attendance were required to cancel. With fill rates of slightly less than 100%, these necessary courses continue to be conducted as scheduled. Since expenses for conducting these procurement/acquisition courses are paid out of appropriated funds, it represents an efficient use of government training resources to allow civil agency students to attend, bringing the fill rate to 100% in many cases.

"The FAI acting as a broker for facilitating enrollment of civil agency students in the DMET schools was able to effect training opportunities for close to 500 civil agency personnel during the past fiscal year. Normal tuition rates for most DMET courses are set at $125.00 per week per student and the average DMET procurement/acquisition course runs approximately 2 weeks. The savings to the government as a result of the DMET Board's tuition-free, space-available policy for civil agencies have exceeded $125,000 in training costs for FY 1978.

"Notwithstanding the above, the Comptroller of the Army and a portion of the DMET Board's Agenda Planning Committee now wish to exact tuition charges from civil agency students attending DMET courses * * *."

According to the Director, the Comptroller of the Army and those members of the Agenda Planning Committee who favor charging

civil agencies for tuition, cite section 601 of the Economy Act of 1932, as amended, 31 U.S.C. § 686, and Comptroller General decisions construing that Act as requiring that civil agencies reimburse DOD for the training services provided by DOD. We do not agree.

The general provisions of the Economy Act do not apply to the present case because the Government Employees Training Act (Training Act), 5 U.S.C. §§ 4101-4118 (1976), provides independent and specific authority for DOD to make its training facilities available to any agency of the Government of the United States, as broadly defined in 5 U.S.C. § 4101. Only a few Government organizations, as set forth in 5 U.S.C. § 4102, are excepted from coverage of the Training Act.

Under the Training Act, each agency is required to establish a program for the training of its employees by, in, and through Government and non-government facilities. 5 U.S.C. § 4103. As regards interagency training and reimbursement therefor, 5 U.S.C. § 4104 provides:

> "An agency program for the training of employees by, in, and through Government facilities under this chapter shall * * *
>
> "(2) provide for the making by the agency, to the extent necessary and appropriate, of agreements with other agencies in any branch of the Government, on a reimbursable basis when requested by the other agencies, for--
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> "(A) use of Government facilities under the jurisdiction or control of the other agencies in any branch of the Government, and
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> "(B) extension to employees of the agency of training programs of other agencies." (Emphasis added.)

This section is derived without substantive change from Pub. L. No. 85-507, section 8, July 7, 1958, 72 Stat. 331. The intended effect of section 8 as described in the Report of the House Committee on Post Office and Civil Service, is as follows:

"Section 8 contains general provisions with respect to programs of training in Government facilities to the following effect:

"First, section 8 directs each department to provide for employee training in its own facilities insofar as practicable.

"Second, section 8 provides for the utilization by a department of the facilities of another department for employee training.

"Third, a department may, in the discretion of the department head, make its training facilities available to another department on a reimbursable or nonreimbursable basis.

"Fourth, section 8 also permits any agency, which is in any branch of the Government and which is not covered by the training programs under the bill, to make available its facilities, on a reimbursable or nonreimbursable basis, to those departments having training program under the bill.

"One purpose of section 8 is to encourage departments and agencies to make their training facilities available to other departments and agencies and to use available training facilities of other departments and agencies. However, this purpose is subject to the necessary limitation that no department or agency which requires the full capacity of its training facilities to carry out its own responsibilities shall be called upon to make such facilities available to another department or agency." (Emphasis added.) H.R. Rep. No. 1951, 85th Cong. 2d Sess. 21 (1958).

It is clear that 5 U.S.C. § 4104 authorizes DOD to make its training facilities available on either a reimbursable or a nonreimbursable basis to civil agencies covered by the Training Act and permits civil agencies covered by the Training Act to utilize the training facilities in another branch of the Government.

Limitations upon this authority might arise from operation of 5 U.S.C. § 4102(b)(1) which authorizes the President to except an agency or part thereof, or employee or group or class of employees therein, from the provisions of the Training Act, or limitations might also arise from regulations promulgated by the Civil Service Commission (CSC) pursuant to 5 U.S.C. § 4118. However, neither the President nor the CSC has taken any action restricting the authority of DOD to provide civil agencies with training.

We might point out that CSC regulations, which are mandatory upon agencies covered by the Training Act, authorize, but do not require, an agency that conducts interagency training activities to obtain reimbursement from participating agencies when the course meets or bears on a training need of the participating agencies and does not undesirably duplicate--in terms of time and location--other similar training programs listed by the CSC in interagency bulletins or their supplements. Federal Personnel Manual, Chapter 410, subchapter 4-3b (Inst. 212, September 6, 1974).

Accordingly, so long as the training otherwise complies with the Training Act, DOD may make its DMET courses available on a space-available tuition-free basis to employees of civil agencies.

R. F. Keller

Deputy Comptroller General
of the United States

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

CLAIMS DIVISION

PA Z-2623713-384

B-192536

The Comptroller General

We are forwarding the file pertaining to the claim of Mr. Paul W. Urff, an employee of the Department of the Navy. Mr. Urff is seeking additional travel expenses incurred with his permanent change of station from Jacksonville, Florida to Naples, Italy.

Under Travel Authorization No. T-11047, dated May 8, 1971, Mr. Urff was authorized a permanent change of station from Jacksonville, Florida to Naples, Italy. Prior to reporting to his new duty station, he was directed to perform temporary duty (TDY) at the Naval Air Station, North Island, San Diego, California. POV was authorized at the rate of $ .10 per mile as more advantageous to the Government. After completing his travel, Mr. Urff claimed mileage at the rate of $ .10 per mile for the distance from Ormond, Florida, his place of residence, to North Island, San Diego, California, his TDY point and then to New York, New York, place of embarkation, a total of 5377 miles as shown on the speedometer readings. The Department of the Navy allowed him mileage at the rate of $ .06 per mile for the distance from Jacksonville, Florida, his old duty station, to North Island, San Diego, California, TDY point and then to New York, New York, place of embarkation, a total of 5256 miles. Mr. Urff's claim was allowed in accordance with the provisions of paragraph C10154 of the Joint Travel Regulations. Mr. Urff did not question the additional 31 miles disallowed by the Navy, but believes that he is entitled to mileage at the TDY rate for the 5256 miles, plus an additional 90 miles from his residence in Ormond Beach to Jacksonville, since he did not work at Jacksonville but at the Pinecastle Electronic Warfare Range, Astor, Florida. He states that his residence at Ormond Beach is approximately the same distance from Jacksonville as was the distance from the Range to Jacksonville. He has stated that he commuted daily from his residence in Ormond Beach to the Range.

It was held in B-182427, October 9, 1975, that an employee's official duty station is the place at which he performs the major part of his duties and is expected to spend the greater part of his time. Accordingly, it appears that Mr. Urff is entitled to additional mileage from Astor, Florida to Jacksonville, Florida. However, doubt exists as to whether he is entitled to reimbursement at the TDY rate, or at the

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RCS rate as previously allowed by the Navy, since the travel orders authorized mileage at the rate of $ .10 per mile. Also in question is whether he is entitled to the additional 90 miles claimed from his residence in Ormond Beach to Jacksonville, which is approximately the same distance as from Astor to Jacksonville.

In view of the foregoing questions, we are referring the case for your consideration.

Chief, Payment Branch

Indorsement

B-192536-O.M. November 13, 1978

Director, Claims Division

Returned. The Department has not questioned the claimant's statement that his actual duty station was Astor, Florida, and not Jacksonville, Florida. Since his place of residence from which he commuted daily to his place of duty was Ormond Beach, Florida, mileage should be allowed from that place to his place of temporary duty.

The orders issued the claimant combined temporary duty travel with permanent change of station travel. We find no provisions in the applicable regulations which contain special rules for payment

of mileage for use of privately owned vehicles in this situation. Therefore, travel performed to and from San Diego, California, should be treated under the rules applicable to temporary duty travel. Under paragraph C8200-2, Volume 2, Joint Travel Regulations (JTR) (ch. 56, June 1, 1970), in force at the time this travel was performed, a mileage rate of 10 cents was authorized for temporary duty travel when use of privately owned vehicle was determined to be advantageous to the Government. The travel order here involved was apparently written with the intent of authorizing payment at the 10 cents rate for the temporary duty. This conclusion is based upon the fact that a mileage rate of 12 cents would have been prescribed for permanent change of station travel in view of the fact that the employee and 5 members of his immediate family were authorized to travel. Paragraph C8200-3, 2 JTR, ch. 56, June 1, 1970. Further, the order authorizes the employee mileage between place of lodging and place of duty at his temporary duty station.

Accordingly, mileage for travel from Ormond Beach, Florida, to San Diego, California, and thence to New York, New York, should be allowed at the 10 cents rate.

Milton J. Socolar
General Counsel

Attachment