



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Robert Samalis
File: B-252291
Date: June 18, 1993

DIGEST

A civilian employee of the Air Force who failed to obtain a nonavailability certificate may be partially reimbursed his lodging costs. The employee attended a training course at an Air Force base where on-base quarters were not available, so the agency procured hotel rooms for each participant at a discounted rate. However, due to a misunderstanding, the employee obtained his own lodgings at another hotel at a higher cost. Because the employee's original room reservation was canceled without cost to the agency, the employee may be reimbursed the lesser amount the agency would have incurred had the employee stayed in the agency-procured lodgings.

DECISION

Mr. Robert R. Samalis appeals our Claims Group settlement¹ denying his claim for lodging expenses he incurred on official travel. The claim may be paid in part in accordance with the guidelines in this decision.

BACKGROUND

Mr. Samalis, a civilian employee of the United States Air Force assigned to Hanscom Air Force Base (AFB), Massachusetts, attended a two-week training course at Brooks AFB, Texas, in 1992. On-base government quarters were not available and Brooks's billeting office arranged for each of the course participants to stay at a Holiday Inn off base at a total cost of \$324 per person. However, Mr. Samalis paid \$540 to stay at a Courtyard Marriot hotel.

His travel orders directed him to contact the base billeting office to determine whether government quarters were available. According to Mr. Samalis, prior to traveling to Brooks, he called the Brooks AFB billeting office to ask about lodgings and was told that the training class participants would be staying at a hotel off base and that

¹2-2868034.

he would not need a certificate of nonavailability (described below) if he had a hotel receipt. Mr. Samalis states that he understood these instructions to mean that the participants could make their own lodging arrangements off base, which he did and for which he did obtain the hotel's government rate for individual travelers. The agency has advised us that when Mr. Samalis failed to check into the room reserved by the billeting office, his reservation was canceled without cost to the agency.

OPINION

Section 1589 of title 10, United States Code, prohibits the Department of Defense (DOD) from using its available funds to pay the lodging expenses of civilian employees on official travel "where adequate Government quarters are available but are not occupied by such employee or person."

To effect this statute, the DOD has issued a regulation requiring civilian employees who do not stay in government quarters to obtain a "certificate of nonavailability" before they may be reimbursed for any lodging expenses incurred on official travel. Joint Federal Travel Regulations, Vol. 2, para. C1055, Change 267, Jan. 1, 1988. In the absence of such a certificate, there is a presumption that unoccupied government quarters are available. Henry L. Huffman, Jr., B-225082, Sept. 3, 1987.

Based on this regulation, the agency refused to reimburse any of Mr. Samalis's lodging costs. However, in these circumstances, we do not believe that either the statute or the regulation requires that Mr. Samalis's entire claim for lodgings be denied.

As to the regulations, we have allowed reimbursement to employees when government quarters, in fact, were not available and the employees were not at fault for failing to obtain a nonavailability certificate. Id.; James E. Vaughn, Aug. 28, 1975. In this case, it appears that Mr. Samalis made a good faith effort to comply with the rules, and clearly no on-base quarters were available for him. His failure to use the hotel room reserved for him by the billeting office apparently resulted from a miscommunication between himself and the base billeting office.

Implicit in the statute involved here is that appropriated funds may not be used to pay for lodgings while other appropriated funds are being used to maintain unoccupied

quarters.³ In this case the "government" quarters were a hotel room reserved for Mr. Samalis by the Air Force at a special rate. We understand that when Mr. Samalis did not occupy that room, the reservation was canceled at no charge to the Air Force, and thus the room did not remain available at government expense while Mr. Samalis occupied a room elsewhere at additional expense. In these circumstances we believe the statutory purpose would not be offended by reimbursing Mr. Samalis the amount the agency would have spent to provide him with the hotel room the billeting office arranged for him. This cost is readily ascertainable, \$324. Therefore, Mr. Samalis may be allowed that much of his claim, but the denial of the additional \$216 expense he incurred is sustained.

for
Stephen E. Hinchman

James F. Hinchman
General Counsel

³The legislative history of the Department of Defense Appropriations Act restriction, which is the predecessor of 10 U.S.C. § 1589, indicates that its purpose was to "prevent the expenditure of federal funds when adequate governmental quarters are available but not used." See H.R. Rep. No. 451, 95th Cong., 1st Sess. 122 (1977), discussed in B-187112, Nov. 8, 1978.