



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

# Decision

**Matter of:** Alan Hurdus—Foreign Transfer Allowance—Predeparture  
Subsistence Expense

**File:** B-256937

**Date:** April 27, 1995

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## DIGEST

Incident to his transfer to a post outside the United States, an employee was authorized the predeparture subsistence expense portion of a Foreign Transfer Allowance to cover expenses he incurred in temporary quarters prior to leaving the United States. He submitted claims that exceeded the fixed amount for meals and incidental expenses (M&IE) prescribed under the lodgings-plus system in the Federal Travel Regulation, but which did not exceed the total maximum per diem prescribed for the locality. The employee's claims for the amounts that exceeded the M&IE limit may be allowed since the respective limitations in the maximum per diem rate for lodgings and for M&IE do not apply to predeparture subsistence expenses allowance prescribed by the Standardized Regulations.

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## DECISION

The Controller for the U.S. Agency for International Development (AID) mission in Rabat, Morocco, requests an advance decision concerning the computation of the amounts payable on Mr. Alan Hurdus's claim for the predeparture subsistence expense portion of a Foreign Transfer Allowance (FTA) incident to his transfer from Washington, D.C., to Rabat, Morocco, in August 1994. The maximum predeparture subsistence expense payable is determined based on the maximum per diem rate for the locality prescribed in the Federal Travel Regulations (FTR). The issue in this case is whether, in addition to the maximum per diem rate, the separate limitations applicable to lodging expenses and to meals and incidental expenses (M&IE) applicable for determining allowable per diem under the FTR are also to be applied in determining allowable predeparture subsistence expenses. As explained below, only the maximum per diem rate is applicable in making this computation.

## BACKGROUND

Incident to his transfer, apparently it was necessary for Mr. Hurdus and his family to stay in a Washington area hotel for 10 days before leaving for Rabat. Mr. Hurdus was given

an advance of funds for the FTA to cover the expenses of the stay in the hotel, and after arrival in Rabat he filed a voucher covering these expenses.

The Standardized Regulations (Government Civilians, Foreign Areas) promulgated by the Department of State, include the regulations prescribing the FTA. Under these regulations, the predeparture subsistence expense portion of the FTA is prescribed for lodging, meals, laundry, cleaning and pressing expenses for the employee and members of his or her family for up to 10 days before final departure from a post in the United States to a post in a foreign area. Standardized Regulations (SR) § 241.2c. The regulations also provide that the amount of predeparture subsistence expense granted to an employee "shall be determined according to the maximum per diem rate for the U.S. locality from which transferred," and the regulations refer to the per diem rates published in the Federal Travel Regulations, Appendix A to Chapter 301, for this purpose. SR § 242.3.

The maximum per diem rate prescribed by the Federal Travel Regulations (FTR) applicable to the locality where Mr. Hurdus's expenses were incurred was \$151. In addition to the maximum rate, the FTR also prescribed a separate maximum lodging rate of \$113 and a fixed amount for M&IE expenses of \$38, which total the \$151 maximum per diem rate. FTR Appendix A, Chap. 301, Jan. 1, 1994. The additional lodging and M&IE rates are prescribed for use under the lodgings-plus system prescribed by the FTR for computation of per diem. Under this system, the per diem allowance for each day is established on the basis of the actual amount the traveler pays for lodging up to the applicable maximum prescribed in Appendix A for lodging in the locality, plus the fixed M&IE rate for the locality, with the total of the lodging and M&IE limited to the maximum prescribed per diem rate for the locality. FTR § 301-7.6 and Appendix A.

The total amounts Mr. Hurdus claimed for each of the 10 days he and his family stayed in the hotel did not exceed the amount allowable computed using the maximum per diem rate. However, applying the lodgings-plus system (viewing the lodging and M&IE amounts separately and comparing those with the amounts separately stated for them under the FTR), a different result appears. Under this system, the amounts Mr. Hurdus claimed for lodging were less than the maximum lodging rate, but the meals and incidental expenses exceeded the prescribed M&IE rate. The Rabat AID office applied these separate limitations to Mr. Hurdus's claims and disallowed the excess costs for M&IE in the amount of \$876.55.

Mr. Hurdus, however, asserted that he was told by agency representatives in Washington prior to departing for Rabat that the separate limitations for lodging and for M&IE apply only to reimbursement for official travel, not to the allowance for predeparture subsistence expenses, which is limited only by the total maximum per diem rate. The agency's Controller in Morocco states that authorized certifying officers in Morocco have divided opinions as to the correct interpretation of the regulations, and therefore he has submitted the matter to us for an advance decision.

## OPINION

The statutory authority for the FTA is provided in 5 U.S.C. § 5924(2) to offset the "extraordinary, necessary and reasonable subsistence and other relocation expenses (including unavoidable lease penalties), not otherwise compensated for" incurred incident to relocating to a foreign post. The implementing regulations are promulgated by the State Department pursuant to 5 U.S.C. § 5922(c) which provides that such allowances shall be paid under regulations governing, among others, the "respective rates" and "other related matters."<sup>1</sup>

As noted above, the State Department's governing regulations provide that one component of the FTA is the predeparture subsistence expense portion, which essentially reimburses employees for the costs of lodging, meals, and miscellaneous expenses incurred in temporary quarters after they have vacated their residences in the United States prior to reporting to their new foreign posts. SR § 242.3. As also noted, the regulations provide that payment of this allowance "shall be determined according to the maximum per diem rate" for the U.S. locality from which the employee transfers. *Id.* It also provides that in computing the amount payable, for the initial occupant of the temporary quarters, the amount of the allowance shall be a daily rate not in excess of the "published maximum per diem rate" for the locality, and for each other occupant of the quarters, the rate is set as a fraction of the daily rate applicable to the initial occupant. *Id.* For the per diem rates applicable to locations within the conterminous United States, the regulation refers to the rates published in Appendix A of Chapter 301 of the Federal Travel Regulation (FTR).

The Standardized Regulations provisions do not refer to or incorporate the lodgings-plus rules for computing per diem prescribed in the FTR, nor do they refer to the separate amounts the FTR prescribes for lodging and for M&IE. The Standardized Regulations refer only to the "maximum per diem rate" as the limitation in computing the predeparture allowance, and that rate is set out by locality in Appendix A, Chapter 301 of the FTR.

We note that the provisions of the FTR governing per diem payable under its provisions, are promulgated by the General Services Administration under separate statutory authority. See 5 U.S.C. §§ 5702 and 5707. There is no requirement in these statutes or in the statutes governing the FTA that the rules applicable to per diem computation prescribed in the FTR be applied in computing the predeparture subsistence expense portion of the FTA.<sup>2</sup> Clearly, the State Department has the authority to prescribe the predeparture

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<sup>1</sup>The authority to prescribe the regulations is granted by the statute to the President who has delegated it to the Secretary of State. See E.O. 10903, Jan. 11, 1961, as amended.

<sup>2</sup>We note that the predeparture subsistence allowance is similar in purpose to the temporary quarters subsistence allowance (TQSE) prescribed by GSA in the FTR, under another statute, for employees transferring within the United States. 5 U.S.C.

subsistence expense allowance provisions, as it has done in the Standardized Regulations, applying by reference the maximum per diem rates set out in the FTR, but not the separate lodgings and M&IE rates.<sup>3</sup>

Accordingly, Mr. Hurdus may be reimbursed the additional amounts claimed for meals and incidental expenses, provided they are otherwise proper.

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

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§ 5724a(a)(3). The computation rules applicable to both allowances appear similar, except that the FTR provides for use of the maximum standard CONUS per diem rate rather than the maximum locality per diem rate. FTR § 302-5.4(c)(1). See also, e.g., the computations in Marilyn L. Dean, B-234768, May 16, 1989.

<sup>3</sup>A representative of the State Department's Allowances Office, which is responsible for the cited provisions of the Standardized Regulations, informally confirmed that only the maximum per diem amount is applicable, and not the separate FTR allowances for lodging and for M&IE. She also advised, however, that employees are expected to be prudent in incurring expenses, and agencies may question claimed amounts which appear excessive or unreasonable in a particular category.