

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

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FILE: B-185098

DATE: JUL 6 1976

MATTER OF: Colonel

✓ USAF X

DIGEST:

1. The use of Aero Club-owned or Government-loaned aircraft is considered a Government conveyance when used as a mode of official travel but under current regulations such use will not take precedence over normal Government conveyance irrespective of whether use of the aircraft may be considered advantageous to the Government. See M4406-3 and M4405-2 of 1 JTR.
2. Air Force member who traveled on temporary duty using Aero Club aircraft which incurred mechanical difficulties causing a layover of four days may not be reimbursed per diem for the layover time since M4406-3 of 1 JTR, provides that per diem in this circumstance not exceed the amount which would have been payable had the member used such commercial transportation as would have been available.
3. Air Force member who traveled on temporary duty using Aero Club aircraft which incurred mechanical difficulties may not be reimbursed for travel to and from San Francisco, his permanent duty station, while waiting for the aircraft to be repaired, since the trip was not a necessary expense pursuant to public business but an expense as a result of a personal choice. See M4406-3 of 1 JTR.
4. The determination of the constructive transportation cost ceiling on Air Force travel vouchers involving Aero Club aircraft or private aircraft by including those commercial fares for the operator (pilot) plus corresponding fares for any passengers accompanying the operator who are also in an official travel status does not appear to be improper.

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PUBLISHED DECISION

55 Comp. Gen.

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This action is in response to a letter dated August 15, 1975, from the Chief, Accounting and Finance Division, Defense Supply Agency, Department of Defense, requesting an advance decision as to the propriety of making payment on a travel voucher in the case of Colonel _____, USAF, SSN _____, and in connection with his case, resolution of several questions concerning the use of Aero Club aircraft in the performance of public business. The request was forwarded here by endorsement dated October 8, 1975, from the Per Diem, Travel and Transportation Allowance Committee and has been assigned PDTATAC Control No. 75-30.

The submission indicates that the member, by Travel Order Number DCRC-Q-620, dated May 29, 1975, issued by Headquarters, Defense Contract Administration Services Region, San Francisco, was ordered to perform temporary duty travel away from his permanent duty station in San Francisco, beginning June 22, 1975, and was authorized the use of the Aero Club aircraft. On July 1, 1975, while enroute, from Great Falls, Montana, to Fairchild Air Force Base, Washington, the Aero Club aircraft developed mechanical problems, forcing return to Great Falls for repairs. Due to delays in the delivery of needed parts, it was determined that the aircraft could not be repaired prior to July 7. As a result, the member chose to fly back to San Francisco by commercial airline on July 4 and return to Great Falls on July 8 to bring the repaired Aero Club aircraft back to San Francisco.

The member filed a supplemental travel voucher for previously disallowed items which included per diem for layover time spent in Great Falls while the aircraft was being repaired and travel to and from San Francisco by commercial airlines on July 4 and July 8.

The following questions were asked concerning the supplemental travel voucher.

"1. Can the use of Aero Club aircraft be designated as more advantageous to the Government by the travel approving official?

"2. If the answer to question 1 is yes, can the subject order be amended to designate use of Aero Club aircraft as more advantageous to the Government by the travel approving official?

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"3. If the answer to question 1 is no can the traveller be reimbursed for the layover time on 1-3 July and the commercial air fares involved in travelling from Great Falls, MT to San Francisco on 4 July and return on 8 July to pickup the Aero Club aircraft?

"4. If the answer to question 1 is yes, and the answer to question 2 is yes, then can the traveller be reimbursed for the layover time on 1-3 July and the commercial air fares involved in travelling from Great Falls, MT to San Francisco on 4 July and return on 8 July to pickup the Aero Club aircraft?

"5. In determining the constructive transportation cost ceiling on vouchers involving Aero Club aircraft or private aircraft this Office has been including those commercial fares for the operator (pilot) plus corresponding fares for any travellers accompanying the operator in an official travel status. For example, in computing the maximum transportation cost for the travel of Col _____, who was accompanied by two employees, we determined the total air fares for three persons through the itinerary and commercial airline rates and used this sum as a limit on the aircraft expenses to be reimbursed. Is this procedure proper?"

With regard to whether the use of Aero Club aircraft can be designated as more advantageous to the Government, paragraph M4406-3 of Volume 1 of the Joint Travel Regulations (1 JTR) provides in part:

"* * * The use of Aero Club-owned or Government-loaned aircraft will not take precedence over normal Government conveyance. However, when the use of such aircraft is authorized for official duty travel, reimbursement for any necessary expenses will not exceed the cost to the Government for transportation by

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such commercial carrier as would have been available for use and per diem will not exceed that amount which would have been payable had such commercial transportation been used. Necessary expenses incurred include the hourly fee imposed by the Aero Club and 'tie down' fees charged at airports. Authorization or approval for travel by Aero Club aircraft will be in accordance with administrative regulations of the Service concerned."

Although paragraph M4405-2 of 1 JTR, provides that the official directing travel may authorize or approve travel by special conveyance to, from, or between duty stations, either permanent or temporary, under circumstances not permitting travel by the usual means of transportation, or when he has determined that the use of special conveyance is advantageous to the Government, it is noted that paragraph M4406-3 states specifically that the use of Aero Club aircraft will not take precedence over normal Government conveyance. No exception is made for cases where use of such aircraft is advantageous to the Government. It is further noted that although paragraph M4405-2 provides for reimbursement for the total expenses incurred in the use of a special conveyance, paragraph M4406-3 specifically provides reimbursement only for necessary expenses not to exceed the cost to the Government for transportation by such commercial carrier as would have been available for use.

Furthermore, although aircraft owned by the Aero Club is considered a Government conveyance when used as a mode of official travel--see 40 Comp. Gen. 587/(1961)--the purpose of the Aero Club is not to provide a more advantageous means of Government travel, but rather to provide a recreational activity which would give eligible personnel an opportunity to enjoy safe, low cost, light aircraft operations and to promote positive morale. See Air Force Regulation 215-2, February 13, 1970. Therefore, question one is answered in the negative.

In view of the negative answer to question one, answers to questions two and four are unnecessary.

With respect to whether the member can be reimbursed per diem for the layover time from July 1 to July 4, it is noted that paragraph M4406-3 of 1 JTR, provides that per diem will not exceed the amount which would have been payable had the member used such commercial transportation as would have been available had he traveled by commercial carrier.

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Under that provision the per diem expenses incurred during the member's layover in Great Falls due to the breakdown of the plane would be reimbursable only to the extent per diem would have been paid had he continued his travel by commercial means.

With respect to whether the member may be reimbursed for the commercial air fares involved in traveling from Great Falls to San Francisco on July 4, 1975, and from San Francisco to Great Falls on July 8, 1975, such reimbursement is to be determined on the basis of whether the expense was necessary in the performance of public business.

The record indicates that the member chose to return to San Francisco while the aircraft was being repaired in Great Falls rather than to remain with the aircraft in Great Falls. There is nothing in the record to show that the interim trip to and from San Francisco was pursuant to public business. Rather, it is indicated that it was an expense incurred as a result of a personal choice. Therefore, it is our view that reimbursement for commercial air fare is not authorized for such purpose in this case, nor is such cost includable in the determination of the amount which would have been payable had commercial transportation been used. Question three is answered in the negative.

With respect to the question involving the proper procedure to be used in computing the constructive transportation cost ceiling for the travel of the member, it is to be noted that a comprehensive definition for the determination of constructive travel cannot be given in view of the many different situations which may arise. Each case must be treated on the basis of the particular facts involved.

It appears reasonable in this instance, however, to compute the constructive cost ceiling for the member by determining what his cost would have been for travel over a usually traveled route by common carrier with times of departure and arrival reasonably coinciding with possible time of departure and arrival reasonably required to carry out the purpose of the travel order. Thus, in answer to question five as it relates to the present case, the determination of the constructive transportation cost ceiling on travel vouchers involving Aero Club aircraft or private aircraft by including those commercial fares for the operator (pilot) plus corresponding fares for any passengers accompanying the operator who are also in an official travel status does not appear to be improper.

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Accordingly, since it appears from the file that the member has received reimbursement for all travel expenses to which entitled, the supplemental travel voucher accompanying the submission will be retained here.

R.F. KELLER

Deputy Comptroller General
of the United States