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Putnam
C.P.

DECISION



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

FILE: B-190329

DATE: February 9, 1978

**MATTER OF: Que Quigley - Per Diem - Designated High-Rate
Geographical Area**

DIGEST: Department of Interior employee authorized reimbursement of actual subsistence expenses while performing temporary duty in Washington, D.C., a designated high-rate geographical area, from July 6 to 11, 1975. Employee may not be paid a per diem allowance as he requested since para. 1-8.1b, Federal Travel Regulations (FPMR 101-7) (May 1973), as amended, grants agency head, within his discretion and under certain conditions, power to authorize payment of a per diem allowance or actual subsistence expenses. As employee authorized reimbursement of actual subsistence expenses, reimbursement on that basis is required.

This action is in response to a request from Ms. Nedra A. Blackwell, an authorized certifying officer, Bureau of Reclamation, Department of the Interior, concerning the propriety of paying a per diem allowance in lieu of actual subsistence expenses to Mr. Que Quigley, an employee of the agency, for temporary duty he performed in Washington, D.C., a designated high-rate geographical area, during the period July 6 to 11, 1975.

By general Travel Authorization No. PN-1-76 dated June 17, 1975, Mr. Quigley was authorized actual subsistence expenses for his temporary duty assignment in Washington, D.C., a designated high-rate geographical area, at a daily rate not to exceed \$42 for the period July 6-11, 1975. In a memorandum dated July 15, 1975, the claimant made application for the minimum per diem allowance available to all Bureau of Reclamation employees in official travel status, i.e., lodging plus \$14, not to exceed \$33, computed on the time he was away from his official station. Mr. Quigley stated that he did not choose to maintain records, receipts, and justify actual expenses (other than lodging). He feels that an employee may elect to receive the minimum travel allowance which is offered to all employees rather than keep records to justify a higher allowance at certain designated locations.

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In her submission to this Office, the certifying officer reports that the per diem rate authorized under regulations of the Bureau of Reclamation is as follows:

"1. Official travel within the conterminous United States (except for designated high geographical areas): Lodging, rounded up to the next even dollar, plus an allowance of \$14, not to exceed \$33 in total.

"2. Designated High-Rate Geographical Areas - Actual subsistence not to exceed the prescribed maximum daily rate."

Based upon the agency regulations and an informal opinion obtained from officials of the General Services Administration, who issue the Federal Travel Regulations, payment was made to the claimant for those expenses itemized as actual subsistence expenses. The present claim is in the form of a reclaim voucher in the amount of \$75 for a per diem allowance which was disallowed by the agency during the temporary duty assignment.

The certifying officer requests our advice as to the legality of paying a per diem allowance in lieu of actual subsistence expenses in designated high-rate geographical areas. In the event per diem is payable, she inquires as to the point in time at which the traveler may elect to claim per diem in lieu of actual subsistence expenses.

Section 5702(c) of title 5, United States Code (Supp. V, 1975), provides that, in accordance with regulations prescribed by the Administrator of General Services, an employee may be reimbursed for the actual and necessary expenses of official travel when the per diem is determined to be inadequate for travel to high-rate geographical areas. The implementing regulations appear in the Federal Travel Regulations (FPMR 101-7) (May 1973), as amended. Effective July 1, 1975, and in effect during the period in which the employee performed temporary duty in Washington, D.C., Temporary Regulation A-11, Supplement 1, amended the FTR to specifically provide that where travel is performed to a designated high-rate geographical area, a per diem allowance may be authorized by the head of an agency under paragraph 1-7.3, FTR, provided the factors enumerated in paragraph 1-7.3a would reduce the employee's travel expenses. Paragraph 1-8.1b now provides, in pertinent part, as follows:

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"b. Travel to high rate geographical areas.
Actual subsistence expense reimbursement shall normally be authorized or approved whenever temporary duty travel is performed to or in a location designated as a high rate geographical area (see 1-8.6), except when the high rate geographical area is only an enroute or intermediate stopover point at which no official duty is performed. Agencies may, however, authorize other appropriate and necessary reimbursement as follows:

"(1) A per diem allowance under 1-7.3 if the factors cited in 1-7.3a would reduce the travel expenses of an employee provided the agency official designated under 1-8.3a(1) determines the existence of such factors in a particular travel assignment and authorizes an appropriate per diem rate * * *."

Paragraph 1-7.3a, quoted above, sets forth the factors that may reduce an employee's travel expenses and provides that the rules contained in paragraph 1-7.3 shall be applied in the situations covered.

It is noted that the FTR provides that employees traveling to designated high-rate geographical areas shall normally be authorized reimbursement for actual subsistence expenses, but, under certain conditions not applicable here and on an individual basis, the head of the agency may authorize a per diem allowance.

In reply to the specific question raised by the certifying officer and based upon the foregoing, the head of an agency may, under certain conditions, authorize payment of a per diem allowance in lieu of actual subsistence expenses for travel by agency employees to designated high-rate geographical areas in accordance with the regulatory provisions. Such determination should be made prior to the time the travel commences and must be made on a case-by-case basis. Matter of Jack O. Padrick, B-189317, November 23, 1977; Matter of Norma J. Kephart, B-186078, October 12, 1976; and Matter of John D. Sammon, B-184614, October 5, 1976.

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In the instant case, inasmuch as Mr. Quigley was authorized reimbursement for actual subsistence expenses incurred while on temporary duty in Washington, D.C., rather than payment of a per diem allowance, reimbursement is to be made on that basis. Hence, the amount claimed on the reclaim voucher, representing reimbursement of a per diem allowance, may not be certified for payment.

R. F. Katten
Deputy Comptroller General
of the United States