

DOCUMENT RESUME

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[Retroactive Approval of Actual Subsistence Expenses]. B-191447.
November 27, 1978. 3 pp.

Decision re: Department of Agriculture: Federal Grain Inspection
Service; by Robert F. Keller, Deputy Comptroller General.

Contact: Office of the General Counsel: Personnel Law Matters I.
Authority: 5 U.S.C. 5702. B-138032 (1959). B-184000 (1976).
B-188346 (1977). B-188924 (1977). I.T.B. (FPMR 101-7).

An advance decision was requested regarding reimbursement of prepaid room rents forfeited by 34 employees when their hotel was closed and adjudicated bankrupt. Reimbursement may be made on the basis of dividing the total payment made by the actual number of days of occupancy, so long as the individual daily expenditure does not exceed the maximum amount authorized per day for the area. The inability to procure receipts for the lodging will not bar reimbursement in this case. (Author/SC)

271. Gorman, P1111-1

DECISION



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

8437

FILE: B-191447

DATE: November 27, 1978

**MATTER OF: Employees of Federal Grain Inspection
Service - Retroactive Approval of Actual-
Subsistence Expenses**

- DIGEST:**
1. Civilian employees on training assignment paid for lodging in advance. Training assignment was unexpectedly cut short after 2 weeks due to bankruptcy proceeding against hotel and employees incurred hotel expenses (1 week) following termination of training assignment. Because of unexpected curtailment of assignment, reimbursement may be made on basis of dividing total payment made by actual number of days of occupancy, so long as the individual daily expenditure does not exceed maximum amount authorized per day for the area where the training assignment was performed.
 2. Inability to procure receipts for lodging will not bar reimbursement when hotel closed due to bankruptcy and no receipts were ever prepared. Other documentation such as credit card receipts, cancelled checks, cash receipts, if available, may be accepted in lieu of a copy of the hotel bill.

This action is in response to a request for an advance decision from Mr. H. Larry Jordan, an authorized certifying officer of the United States Department of Agriculture, as to the propriety of reimbursement of prepaid room rents forfeited by 54 Department of Agriculture employees when the hotel at which they were staying while attending a training session was closed and adjudicated bankrupt.

The facts reveal that the Federal Grain Inspection Service (FGIS) scheduled a 3-week training session at the Rice Rittenhouse Hotel in Houston, Texas, to be held August 8 through 26, 1977. After final arrangements had been made, but before the program was to begin, FGIS was put on notice that the hotel's solvency was questionable. Assurance of the hotel management that the training sessions could be completed without interruption prompted FGIS personnel to go ahead with the program as scheduled.

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At the close of the second week of the training course, the FGIS staff was notified that the hotel's mortgagee, Southern National Bank, had obtained a court order closing the hotel as of midnight, August 21, 1977. The issuing judge could not be reached to modify the order, permitting FGIS employees to stay, and the mortgagee bank refused to allow the FGIS people to remain because additional security guards would be required if the hotel were occupied. Accordingly, the training program was discontinued as of Sunday, August 21, 1977, and the employees were sent home.

It was then discovered that some attendees had prepaid their hotel bills for the third week of the training session. By this time, the hotel's cash receipts had been impounded and there was no possibility of obtaining a refund. In fact, six prepaid employees who returned to the hotel after the front office had closed were unable even to obtain copies of their hotel bills. Prepayments by the employees totalled \$2,723.40, with \$108.21 the largest amount lost by any individual employee. The U.S. Attorney for the United States District Court for the Southern District of Texas filed a claim in the bankruptcy court to cover the amounts paid by the employees. However, it is the opinion of the U.S. Attorney in Houston that there is virtually no hope of any recovery from the bankrupt estate. It appears, therefore, that the 34 employees will forfeit their payments if the agency does not reimburse them.

The statutory authority for permitting reimbursement is found in 5 U.S.C. § 5702, and the implementing regulations are the Federal Travel Regulations, specifically paragraphs 1-8.1 et seq. This Office has in the past allowed reimbursement of lodging rentals on an actual-subsistence-expense basis when an employee authorized to travel on per diem prepaid costs of lodging and, through no fault of the employee, the need for accommodations was cut short. See B-138032, January 2, 1959, and Matter of Robert L. Davis, B-128346, August 9, 1977. The proper method of determining the actual cost per day in such a case is a proration of the entire bill over the number of actual days of occupancy. Matter of George Avery, B-184006, November 16, 1978.

In order to qualify for such treatment, it must be determined that the travelers are eligible to be reimbursed on an actual-expense basis. Federal Travel Regulations (FTR) (FPMR 101-7) para. 1-8.1b (May 1973) states that heads of agencies may authorize reimbursement of actual-subsistence expenses when the unavoidable cost of hotel


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accommodations would consume nearly all the maximum statutory per diem allowance. There is no evidence in the record as to the cost of rooms at the Rice Rittenhouse or the authorized per diem for the training session, but it appears that the amount was computed with reference to the actual cost of hotel room rents.

The determination to reimburse on an actual-subsistence basis may be made after the travel has been completed if unusual and unforeseen circumstances created unexpected expenses. Robert L. Davis, supra. The closing of the hotel, abandonment of the training program and the additional costs incurred in connection therewith would most certainly warrant a retroactive approval of actual-subsistence expenses. The decision to authorize actual subsistence, however, rests with the agency head. If a determination is made to reimburse on an actual-subsistence basis for the 34 employees, this Office would have no objection to prorating the room cost paid for at the hotel over the period the employees actually occupied the rooms, not to exceed the maximum amount authorized per day for the Houston area at the time. Matter of Texas C. Ching, B-188924, June 15, 1977.

With regard to the six employees who were unable to obtain copies of their hotel bills, the failure to provide a receipt should not operate as a bar to their recovery. Paragraph 1-8.5 of the FTR, which requires presentation of lodging receipts contemplates the normal situation in which an itemized statement of the guest account is presented on checkout. It would be inequitable to apply the requirement to a situation where the hotel was closed, the travelers never checked out and in all likelihood no receipt was ever prepared. If other documentation such as a credit card receipt, cancelled check, or cash receipt, is available, they may be accepted in lieu of a copy of the hotel bill. In the unlikely event that no documentation of the prepayment exists the prepayment claims may still be certified for payment if the agency is otherwise satisfied that the employees actually paid for the rooms in advance.

Accordingly, the claims of the 34 employees may be certified for payment in accordance with the foregoing.


Deputy Comptroller General
of the United States