

13061

PLM-1
Mr. Kirkpatrick



DECISION

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

FILE: B-195479

DATE: March 7, 1980

MATTER OF: Ronald L. Esquerra ^{Request for} Training Travel and
Transportation Expenses

DIGEST: Travel and transportation expenses are payable for training at distant location in absence of travel orders, since there was previously existing administrative intention to authorize training before expenses were incurred. Expenses are limited under Government Employees Training Act, 5 U.S.C. § 4109, to either employee's per diem or, if estimated to be less costly, travel and transportation of family, household goods, and personal effects authorized by 5 U.S.C. § 5724.

Mr. Richard S. Dawson, Authorized Certifying Officer, Department of the Interior, asks whether Mr. Ronald L. Esquerra is entitled to expenses for travel, transportation, and movement of household effects incident to long-term training away from his former duty station.

Travel expenses & temporary quarters subsistence allowance

The issue is whether there was a previously existing administrative intention to relocate Mr. Esquerra for training at the time the expenses were incurred.

Mr. Esquerra was an employee of the Bureau of Indian Affairs (BIA) at Albuquerque, New Mexico, when he was offered a fellowship at the University of Arizona in Tucson. He applied for long-term training under the Government Employees Training Act, and his request for training was officially approved in writing by Mr. Raymond Butler, Acting Deputy Commissioner, BIA, on August 2, 1977. He subsequently accepted the fellowship on August 8, 1977, and proceeded to arrange his relocation to Tucson. However, on August 22 and 24 he was informed by superiors that he should not report to the University in Tucson because his key position with BIA (Area Director) could not be vacated. Nonetheless, he left for Tucson on August 22 and incurred the expenses in issue between then and September 30, 1977. He believed he could not stop his departure because of the University's registration date requirements and his job commitments.

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On September 19, 1977, the Director, Office of Administration, BIA, who had authority to allow the training, informed Mr. Esquerra

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that the training was disapproved "* * *because necessary documentation was not available to satisfy the regulatory requirements." However, by letter of September 26, 1977, Mr. Richard R. Hite, Deputy Assistant Secretary, Policy, Budget and Administration, Department of the Interior, advised Mr. Esquerra that BIA had been unaware of their communication concerning Mr. Esquerra's situation, that BIA's disapproval of training was superseded, and that if the required documentation were submitted, the training should be approved unless expressly prohibited by law or implementing regulation. Subsequently, Mr. Esquerra submitted the necessary documentation and the training was approved retroactively for the period of August 22, 1977, to August 21, 1978. On October 23, 1977, Mr. Esquerra was reassigned to Tucson for training with his employing office designated as the Office of the Secretary, Department of the Interior, Washington, D.C. DL600433

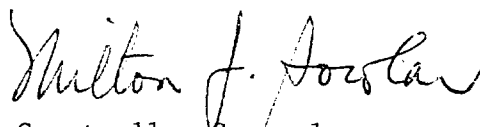
The Government Employees Training Act at 5 U.S.C. § 4109 authorizes the payment of the employee's travel and per diem during training or relocation expenses allowable under 5 U.S.C. § 5724 limited to travel and transportation of family, household goods, and personal effects when such costs are estimated to be less than per diem costs for the training period. B-169555, July 2, 1970. The Department of the Interior evidently authorized the applicable section 5724 benefits for Mr. Esquerra's training. Consequently, the rules governing these limited relocation benefits are instructive, even though a change of residence for a fixed period of training is not a permanent change of station permitting relocation benefits other than those allowable under section 4109. 52 Comp. Gen. 834 (1973). In common with relocation allowances generally, section 5724 benefits are payable in the absence of travel orders only if there is a previously existing administrative intention, clearly evident at the time the expenses were incurred by the employee, to transfer the employee. 58 Comp. Gen. 208 (1979); Richard E. Fitzgerald, B-186764, March 3, 1977. The rule is appropriate for training relocation and applies to Mr. Esquerra's claim.

Mr. Esquerra's training authorization on August 2, 1977, effectively showed an administrative intent to allow him to change his residence to Tucson before he incurred the travel and transportation expenses in question. The subsequent attempts by BIA officials to disapprove the training were nullified when the training was finally approved by the Deputy Assistant Secretary of Interior in October 1977, thus carrying out the original authorization of August 2, 1977.

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Since there was a pre-existing intention to allow training at a distant location, the applicable travel and transportation expenses may be reimbursed under 5 U.S.C. §§ 4109 and 5724 as discussed above, if otherwise payable. Mr. Esquerra's claim for temporary quarters subsistence allowance in Tucson is disallowed, since this relocation benefit is not permitted for training under the above statutory provisions. See Robert V. Brown, B-185281, May 24, 1976.

Finally, since Mr. Esquerra signed a 12 month service agreement in connection with the training, it is a matter for determination by the Department of the Interior as to whether his entry into leave without pay status on August 26, 1978, should affect his entitlement to the expenses in question.



Acting Comptroller General
of the United States

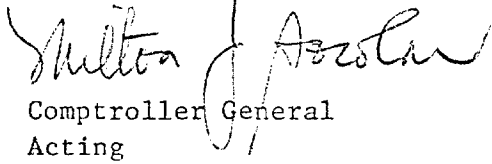
UNITED STATES GOVERNMENT

GENERAL ACCOUNTING OFFICE

Memorandum

March 7, 1980

TO : Director, Claims Division


FROM : Comptroller General
Acting

SUBJECT: Claim of Ronald L. Esquerra - B-195479-O.M.

Attached with the claims file is our decision of today in the
Matter of Esquerra.

Attachments