

DECISION

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

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FILE: B-203762**DATE:** December 15, 1982**MATTER OF:** R. Edward Palmer**DIGEST:**

Volume 2 of the Joint Travel Regulations (2 JTR) does not specify an across-the-board dollar limitation for the purpose of determining the reasonableness of actual subsistence claims for meals and miscellaneous expenses. In this case the accounting and finance officer considered a meal expense to be excessive and applied a dollar limitation to reimbursement. Absent a sufficient justification for the higher dinner cost that action is upheld. It is noted that the provisions of 2 JTR para.C4611 limit meal and miscellaneous expenses reimbursement to 50 percent of the high cost area rate in specific situations where lodging costs are not incurred. A similar limitation for application to subsistence expenses claims involving commercial lodging costs could be applied.

An accounting and finance officer for the Defense Logistics Agency, Marietta, Georgia, requests an advance decision regarding his authority to limit an employee's reimbursement for meal expenses in a high cost area. The submission was approved by the Per Diem, Travel and Transportation Allowance Committee and has been assigned Control No. 82-3.

The voucher that gives rise to this decision was submitted by Mr. R. Edward Palmer in connection with his temporary duty assignment to Philadelphia, Pennsylvania. Philadelphia is a high cost area for which actual subsistence expenses not in excess of \$75 per day may be reimbursed. Mr. Palmer's claim for May 27, 1981, is based on lodging costs of \$31.80 and \$45.50 for meals, including \$38 for a single dinner. Considering this meal expense to be excessive and based on information indicating that the General Accounting Office limits its employees' daily reimbursement for subsistence expenses other than lodgings to

\$28, the accounting and finance officer disallowed Mr. Palmer's claim for meal expenses in excess of \$28. In submitting his reclaim voucher for \$15.20, Mr. Palmer states that the meal expenses in question are consistent with what he would incur if traveling on personal business. He questions the accounting and finance officer's authority to limit reimbursement for meal costs actually incurred.

In response to an initial inquiry concerning the extent of his authority to limit reimbursement for meal expenses, the Per Diem, Travel and Transportation Allowance Committee advised the accounting and finance officer that Volume 2 of the Joint Travel Regulations does not give individual Department of Defense (DOD) components authority to establish a maximum amount which may be reimbursed for meals purchased in high cost areas. The Committee pointed out that each disbursing officer, nevertheless, has a responsibility to question unreasonable meal costs and that it is the responsibility of the DOD component involved to make a determination of reasonableness in any given case. In asking that the matter be submitted to this Office for decision, the accounting and finance officer explains that the case-by-case determination contemplated by the Committee results in almost continual confrontation with travelers over the reasonableness of subsistence expenditures. For the purpose of reviewing actual subsistence expense claims and to provide guidance to those assigned to temporary duty in high cost areas, he asks whether he may treat the \$28 maximum prescribed for travel by General Accounting Office employees as de facto guidance as to the reasonableness of amounts spent for meals. In addition, he questions the claimant's suggestion that it is appropriate to consider an individual employee's income level and lifestyle in determining whether an expenditure is reasonable and prudent.

Under 5 U.S.C. 5702(c), a DOD employee may be reimbursed actual and necessary expenses for travel to a high cost area in an amount not to exceed the maximum rate prescribed by the Administrator of General Services in the Federal Travel Regulations (FPMR 101-7) (May 1973, as amended) (FTR) and reflected at Appendix E of Volume 2 of the Joint Travel Regulations (2 JTR). Within that maximum, an employee's reimbursement is subject to the following general limitations set forth at FTR para. 1-1.3:

"a. Employee's obligation. An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

"b. Reimbursable expenses. Traveling expenses which will be reimbursed are confined to those expenses essential to the transacting of official business."

See also 2 JTR para. C4464. Under these authorities, we have held that employees are only entitled to be reimbursed for reasonable meal expenses. Matter of Frisch, B-186740, March 15, 1977.

The agency's responsibility for the authorization and reimbursement of actual subsistence expenses is outlined in paragraph 1-8.3b of the JTR as follows:

"b. Review and administrative controls. Heads of agencies shall establish necessary administrative arrangements for an appropriate review of the justification for travel on the actual subsistence expense basis and of the expenses claimed by a traveler to determine whether they are allowable subsistence expenses and were necessarily incurred in connection with the specific travel assignment. Agencies shall ensure that travel on an actual subsistence expense basis is properly administered and shall take necessary action to prevent abuses."

This regulation serves a dual function. It requires an agency determination of the reasonableness of actual subsistence expenses and it gives the agency authority to issue written guidelines to serve as a basis for review of an employee's expenses. Matter of Davis, B-197576, September 8, 1980, and Matter of Kephart, B-186078, October 12, 1976.

As discussed in Matter of O'Brien, B-187344, February 23, 1977, the regulations of the General Accounting Office impose a limitation by dollar amount (currently \$28)

on the actual subsistence expenses other than for lodgings that may be reimbursed incident to travel to a high cost area. In the absence of unusual circumstances justifying a higher amount, this limitation is applicable regardless of whether the employee incurs or does not incur lodging costs. We have also recognized that an agency may limit reimbursement to a percentage of the maximum rate, provided that limitation does not serve as an absolute bar to payment of additional amounts that can be adequately justified. Thus, in Matter of Bayne, B-201554, October 8, 1981, 61 Comp. Gen. 13, we sustained agency action imposing a limitation of 46 percent of the statutory maximum on meals and miscellaneous expenses incurred while lodging at no cost with friends or relatives in a high cost area. In each of these instances, the limitation was imposed by agency action and not by the individual certifying or disbursing officer.

Department of Defense guidance concerning actual expenses reimbursement is contained in 2 JTR, Chapter 4, Part M. Some criteria are contained in these regulations regarding maximum expenses allowable for meals when actual expense reimbursement is authorized. For example, actual subsistence expense reimbursement is limited to 50 percent of the maximum amount prescribed for the particular high cost area on any day during which lodgings are not required, a lodging cost is not incurred or Government quarters are available. 2 JTR para. C4611-1e. The same 50 percent limitation on meals and miscellaneous expenses is imposed when an employee performs temporary duty at the place of his family's domicile or when he stays with friends or relatives. 2 JTR 4611-1h, 4611-1i. Larger expenditures are allowable in unusual circumstances as justified in the individual case. However, these regulations do not specify a maximum amount that may be reimbursed for meals and miscellaneous expenses when an employee also incurs lodging expenses in a high cost area. And, as indicated by the Per Diem, Travel and Transportation Allowance Committee, the regulations do not delegate to individual LOD components or disbursing officers the authority to establish specific maximums for this purpose.

We feel that the regulatory provisions cited would provide a reasonable basis for an accounting and finance officer to adopt a 50 percent guideline for the purpose of reviewing claims for actual subsistence expenses for meals

and miscellaneous expenses, when lodgings costs are involved. The disbursing officer in this case did not use that guidance but adopted another criteria based upon the General Accounting Office practices. On July 10, 1981, he issued a command policy which adopted the \$28 subsistence limitation used in Mr. Palmer's case. While the Joint Travel Regulations do not establish maximum guidelines for meal reimbursement, we do not find that those regulations restrict the action of an individual disbursing officer to the extent that the action taken in this case to limit reimbursement to Mr. Palmer was prohibited. However, the July 10, 1981 policy appears to be inconsistent with the views expressed by the Committee.

Mr. Palmer submitted a meal claim which the disbursing officer considered to be excessive. His only explanation of the high cost of the meal was that he was accustomed to pay that much for meals because of his overall lifestyle. We agree with the disbursing officer's conclusion that this explanation is not sufficient to justify payment of the excessive costs. The effect of his use of the \$28 maximum was to allow the sums actually expended for breakfast and lunch (\$7.10) and the balance for dinner. Absent a further justification for the high dinner cost, our Office will not question the action taken.

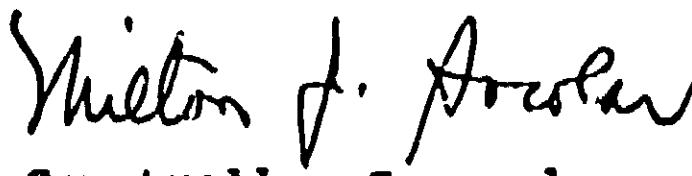
Accordingly, no additional amount is payable to Mr. Palmer for reimbursement of his actual expenses on May 27, 1981.

Regarding Department of Defense policy and regulation concerning the disallowance of excessive meal costs when individuals are entitled to subsistence on an actual expense reimbursement basis, we reaffirm that it is the primary responsibility of the approving official within the guidelines established by his agency to determine when excessive meal costs are claimed and to establish allowable reimbursement.

Regarding the disbursing officer's attempt to fix a dollar limit for reimbursement of meal expenses which he would pay without further explanation, we have suggested that agencies adopt guidelines in order to put individual travelers on notice of the amount which may be claimed for meals without providing specific justification for their

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high cost. We feel that guidelines in terms of a percent or a specific dollar figure can benefit both the traveler and the approving official. The Department of Defense has provided guidelines for determining excessive meal costs only in limited situations. Officials responsible for approving travel vouchers are subject to those guidelines. In this case specific guidelines were not applicable. By letter of today we have asked the Per Diem, Travel and Transportation Allowance Committee to consider giving DOD components more definitive guidance in the travel situation covered in this decision.

for 
Comptroller General
of the United States