

123774

**DECISION**



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

**FILE: B-207447**

**DATE: March 30, 1984**

**MATTER OF: Matter of William T. Burke**

**DIGEST:**

Upon reconsideration of decision B-207447, June 30, 1983, the employee may be allowed per diem as authorized by the agency for the period of his extended assignment under the Intergovernmental Personnel Act (IPA). In view of the absence of clear guidance from this Office and the Office of Personnel Management on the authorization of per diem for such assignments at the time the agency authorized the per diem, the authorization of per diem is deemed to be valid. However, the principles set out in the June 30, 1983 decision and recent Office of Personnel Management guidance should be followed for subsequent IPA assignments.

Mr. William T. Burke and his attorney Mr. Marshall L. Hendricks have requested that we reconsider our decision, Matter of Burke, B-207447, June 30, 1983. In that decision we held that the Bureau of Indian Affairs had improperly authorized Mr. Burke payment of per diem during the period of his assignment under the Intergovernmental Personnel Act (IPA), 5 U.S.C. §§ 3371-3376, to the Pueblo of Taos, New Mexico. The act authorizes either per diem or change of station allowances. Upon reconsideration we find that Office of Personnel Management directives and decisions of our Office in effect at the time of Mr. Burke's assignment did not give clear guidance to agencies as to the limitations on their authority to authorize per diem for such assignments. Accordingly, our June 30, 1983 decision is modified, and Mr. Burke is entitled to per diem at the rate of \$50 per day, as authorized by the agency, while he was at his IPA assignment site. However, the principles set out in the June 30, 1983 decision and recent Office of Personnel Management guidance should be followed for subsequent IPA assignments.

Under the authority of the Intergovernmental Personnel Act, Mr. Burke, whose permanent duty station was in Washington, D.C., was detailed to the Pueblo of Taos, New

B-207447

Mexico, to serve as the Director of Economic Development from approximately June 1, 1981, to June 1, 1983.<sup>1</sup> Mr. Burke purchased a home in the Taos area and he and his family relocated there for the period of his IPA assignment.

By travel order dated May 26, 1981, the Bureau authorized Mr. Burke payment of per diem at the maximum allowable rate of \$50 per day while he was at his IPA assignment location and additional subsistence expenses for temporary duty at various locations while on travel away from Taos, New Mexico. The estimated cost of the per diem authorization was \$37,250. In connection with the authorization of per diem Mr. Burke was given a travel advance of \$28,500.

In our June 30, 1983 decision we also took issue with the amount of the travel advance and the types of expenses the agency apparently considered in deciding to authorize per diem rather than change-of-station allowances.

We note that after our decision in Mr. Burke's case the Office of Personnel Management modified its guidance concerning IPA assignments to state clearly that cost should be a major factor to be considered by the agency in determining whether per diem should be allowed and that a per diem at the assignment location is to be used for short assignments. The current guidance provides,

"b. Agencies are authorized to pay for either relocation expenses to and from the assignment location or a per diem allowance at the assignment location during the period of assignment. The agency may select either of these approaches to relocation and living expenses but cannot pay both types of costs. The cost to the government should be a major factor taken into account when determining which approach will be used. A per diem allowance at the assignment location is

---

<sup>1</sup>Mr. Burke is actually a permanent employee of the Environmental Protection Agency who, under an arrangement with the Bureau of Indian Affairs, was detailed to the Pueblo of Taos, New Mexico, under the IPA.

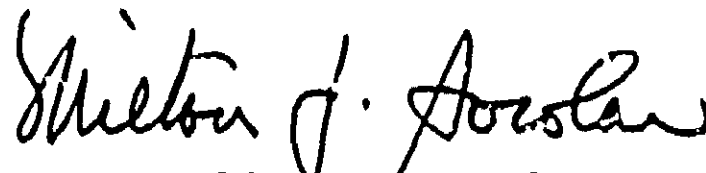
B-207447

intended for short term assignments and not for longer assignments. Per diem allowances should not be paid for more than one year."

Paragraph 1-7b, Chapter 334, Federal Personnel Manual (Installment 310, December 1, 1983).

In view of the absence of specific precedent by this Office or clear guidance by the Office of Personnel Management on the authorization of per diem for an extended IPA assignment at the time of Mr. Burke's assignment, we now hold that the agency's authorization of per diem to Mr. Burke pursuant to 5 U.S.C. § 3375 was valid, and he is entitled to the payment of per diem at the rate of \$50 per day as provided for in the travel orders dated May 26, 1981.

However, we expect that agencies will follow the principles set out in our June 30, 1983 decision and the December 1983 Office of Personnel Management guidance for subsequent IPA assignments.

for   
Comptroller General  
of the United States