

**DECISION**

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

**FILE:** B-219147

**DATE:** February 11, 1986

**MATTER OF:** Dale Adams et al.

**DIGEST:** In June 1984 the Army rented a block of hotel rooms for employees assigned to temporary duty in Newport Beach, California, during the time of the 1984 Summer Olympics. The cost of the rooms should have been treated as a lodging cost for the purpose of determining the employees' actual subsistence expense entitlement. However, in this case we will not object to the Army treating the cost of the hotel rooms as an administrative expense since at the time the arrangements were made agencies had been erroneously advised that a recent Comptroller General decision allowed this procedure for lodgings secured in the vicinity of the 1984 Summer Olympics. The employees, therefore, may be reimbursed meal and incidental expenses in an amount not to exceed 46 percent of the actual subsistence expense rate authorized for the high-cost area.

This decision concerns the payment of per diem to employees for whom the Army leased hotel rooms during the period and in the vicinity of the 1984 Summer Olympics.<sup>1/</sup> Under the particular circumstances, the cost of the hotel rooms may be considered an administrative expense of the agency and need not be charged against the actual subsistence expenses allowance payable to each employee. Consistent with applicable Department of Defense regulations, the employees may be reimbursed for meal and miscellaneous

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<sup>1/</sup> Mr. Bernard F. McCullough, Finance and Accounting Officer, Armament Research and Development Center, U.S. Army Armament Munitions and Chemical Command, Dover, New Jersey, has requested an advance decision on the claim of Mr. Adams and 46 other employees. The matter was forwarded through the Per Diem, Travel and Transportation Allowance Committee and assigned PDTATAC Control No. 75-24.

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expenses in an amount not to exceed 46 percent of the actual subsistence expenses allowance authorized for the high-rate area.

#### BACKGROUND

Mr. Dale Adams and approximately 46 other employees of the U.S. Army Armament Research and Development Center, Dover, New Jersey, were directed to perform temporary duty in conjunction with the Sergeant York Production Management Team. The team was established in June 1984 to provide on-site management for production of the Sergeant York Air Defense System. The initial stages of the project were conducted on a temporary duty basis by team members at the DIVID Division of Ford Aerospace and Communication Corporation, Newport Beach, California. During the planning stages of the project it appeared that because of the proximity of Newport Beach to the site of the 1984 Summer Olympics the hotel and motel costs in the area would equal or exceed the maximum daily subsistence rate of \$75 allowable for Government employees assigned to the high-rate geographical area. In order to obtain more reasonably priced accommodations, the Army activity leased a block of 10 rooms for a 90-day period between July and September 1984 at a price of \$58 per night. It was intended that this cost would be an administrative expense of the agency and that the rooms would be furnished without charge to the employees. Based on this assumption, team members were informed that they were entitled to actual meal and incidental expenses of up to \$37.50 per day. However, when team members filed their travel vouchers, the Finance and Accounting Office treated each as having incurred lodging costs of \$58 per day and applied the \$75 limit on actual subsistence expenses to allow no more than \$17 as reimbursement for meals and incidental expenses. We have now been asked whether reimbursement for meals and incidental expenses in excess of \$17 per day may be allowed in these circumstances.

#### ANALYSIS

Reimbursement for actual expenses while on temporary duty to a high-rate geographical area is limited by statute to \$75 per day. 5 U.S.C. § 5702(c) (1982). Implementing regulations are promulgated by the General Services Administration at chapter 1, Part 8, of the Federal Travel Regulations, incorp. by ref., 41 C.F.R. § 101-7.300 (1984).

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For civilian employees of the Department of Defense, these regulations are further implemented and reflected in Volume 2 of the Joint Travel Regulations (2 JTR), para. C4600 et seq. Normally, an employee traveling on official business is responsible for obtaining his own meals and lodging. The employee then submits a voucher which details his expenses, and he is reimbursed on the basis of that voucher for expenses actually incurred. The regulations make specific provision for situations in which the government furnishes meals and lodgings. See 2 JTR, para. C4611. Subsequent to the travel here in question, the Joint Travel Regulations were amended to provide:

**"4. LODGING AND/OR MEALS OBTAINED UNDER CONTRACT.** When a contracting officer contracts for rooms and/or meals for employees traveling on temporary duty, the total daily amount paid by the Government for the employee's lodging, meals, and incidental expenses may not exceed the applicable maximum expense allowance authorized in this Part. \* \* \*"  
2 JTR, para. C4600-4, change 231, December 1, 1984.

The regulation quoted above reflects our holding in Bureau of Indian Affairs, 60 Comp. Gen. 181 (1981). In that decision we recognized that, with exceptions not relevant here, an agency may contract for rooms for employees traveling on official business. However, because this procedure cannot be used to circumvent the limitations on per diem and actual subsistence expense reimbursement contained in 5 U.S.C. § 5702, we held that lodgings procured in this manner are to be treated as government-furnished quarters and that the full cost of the room is to be charged against the employee's per diem or actual subsistence expenses reimbursement. It is because of this restriction that the finance office limited reimbursement for the meals and incidental expenses incurred by Mr. Adams and the other team members to \$17, the difference between the \$75 amount authorized for Newport Beach and the \$58 cost of the individual hotel rooms.

We have recognized a very limited exception to the rule set forth in Bureau of Indian Affairs, 60 Comp. Gen. 181. Our holding in United States Information Agency (USIA), B-209375, December 7, 1982, involved employees who were

required to stay at a particular hotel in order to perform their duties. In that case we held that where the use of the particular accommodation is an integral part of the employee's job and failure to provide that accommodation would frustrate the ability of the agency to carry out its statutory mandate, the agency, under appropriate administrative safeguards, could rent the accommodations as an administrative expense of transacting official business. The specific situations mentioned in that case involved USIA employees who were accompanying foreign dignitaries or traveling with the Presidential Press Corps.

The USIA decision did not address the problems associated with travel of employees to high-cost areas when any available lodging could be used, and it was not intended to resolve the subsistence expense problems inherent in situations such as temporary duty travel to the site of the 1984 Summer Olympics or the national political conventions which occurred shortly thereafter. Nevertheless, the decision was misinterpreted by many parties. In March 1984 the General Services Administration, which promulgates the Federal Travel Regulations, advised agencies that, under limited conditions surrounding the Olympics and national political conventions, where the agency's mission necessitated, rooms could be rented or leased for use by employees as an administrative expense of the agency. In this connection the General Services Administration advised that as a general rule a 50 percent reduction in the high-cost-area rate would establish an appropriate ceiling on reimbursement for meals and miscellaneous subsistence expenses. This advice was given with the consent of appropriate committees of the House of Representatives and the Senate.

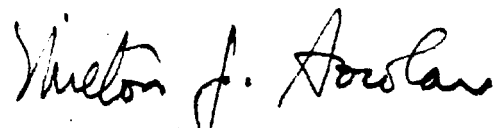
By letter dated May 1, 1984, this Office advised the General Services Administration that its interpretation was outside the scope of our holding in United States Information Agency, supra. In that letter we recognized that it was not practical at that late date to raise objections to plans already made by agencies for employees being assigned to temporary duty at the sites of those upcoming events. Our primary concern was to prevent future extensions of the USIA decision to situations which were outside its scope. The General Services Administration issued clarifying instructions explaining the limited scope of the USIA decision on July 18, 1984. Thus, in June 1984 when the Army contracted for hotel rooms for the Sergeant York

Production Management Team, the Joint Travel Regulations contained no specific guidance and the Army's actions were in accordance with the advice given by the General Services Administration.

Since the procedure used to obtain rooms for Mr. Adams and other team members was in accordance with the advice initially given by the General Services Administration to Federal agencies, including the Department of Defense, as discussed above, we will not object to the Army treating the cost of the rooms rented for team members in Newport Beach as an administrative expense of the agency. However, in all future instances when a contracting officer leases or rents accommodations for employees traveling on official business, the cost of the rooms must be included in the employee's per diem or actual expense allowance in accordance with 2 JTR, para. C4600-4, supra.

Since hotel costs may, in this case, be treated as an administrative expense, reimbursement to individual team members for meals and incidental expenses is not limited to \$17. The travel orders issued to Mr. Adams and presumably those issued to other members of the team authorized reimbursement at the high-cost-area rate, which in this case was \$75. The regulations applicable to actual subsistence expenses limit the amount allowable for commercial meals to 46 percent of the maximum actual expense allowance prescribed for each day a civilian employee of the Department of Defense is in a travel status. 2 JTR, para. C4611e(1). Under this provision reimbursement to team members for meals and incidental expenses would be limited to \$34.50. This specific limitation would render inapplicable to civilian employees of the Department of Defense the advice given by the General Services Administration in its letter of March 1984 that, as a general rule, the high-cost-area rate should be reduced by 50 percent.

The vouchers submitted by Mr. Adams and other members of the Sergeant York Production Management Team should be processed in accordance with this decision.

*for*   
Comptroller General  
of the United States