



**The Comptroller General  
of the United States**

Washington, D.C. 20548

*Ritzsonberger*

## **Decision**

**Matter of:** Hector J. Le Blanc and Alison P. Angel - Per Diem  
Expenses at Headquarters

**File:** B-233130

**Date:** May 19, 1989

---

### **DIGEST**

Employees claim expenses at their official duty station incident to their duties as escort officers for the United States Information Agency's International Visitors Program, which required their continuous presence at local hotels and restaurants. Absent specific statutory authority, employees are not entitled to subsistence or per diem at their official duty station regardless of unusual working conditions. However, to the extent such expenses were erroneously authorized by the agency, repayment of amounts advanced to cover such expenses may be considered for waiver under 5 U.S.C. § 5584, as amended.

---

### **DECISION**

This is in response to a request from the Associate Director, United States Information Agency (USIA), for our decision concerning the entitlement of Mr. Hector J. Le Blanc and Ms. Alison P. Angel to reimbursement for lodging and meals expenses incurred in the vicinity of their official duty station. For the reasons stated below, Mr. Le Blanc and Ms. Angel are not entitled to reimbursement for those expenses. However, repayment of amounts advanced under orders erroneously authorizing such expenses may be considered for waiver under 5 U.S.C. § 5584, as amended.

### **BACKGROUND**

Mr. Le Blanc and Ms. Angel, employees of the USIA, were asked to serve as "escort officers" for the agency's International Visitors Program and were issued travel orders authorizing them to travel from Washington, D.C., their official duty station, to various cities and return. Mr. Le Blanc and Ms. Angel received travel advances to be used for this purpose. At the completion of this duty,

045501/138700

Mr. Le Blanc submitted a voucher claiming expenses, including actual expenses for hotel and meals, in Washington for the period from February 28 through March 6, 1987. The certifying officer denied the portion of the claim for meals and hotel in Washington under the provision of the Federal Travel Regulations (FTR) disallowing payment of expenses at an employee's official duty station. As a result, Mr. Le Blanc has an outstanding travel advance balance of \$1,050.

Ms. Angel similarly submitted a voucher including a claim for per diem in Washington, D.C. for the periods February 28 through March 6, 1987, and March 25 through March 28, 1987. This voucher was erroneously approved for payment. A re-audit of the voucher was made denying Ms. Angel's per diem under the FTR provision. Ms. Angel has been billed by the agency in the amount of \$1,026 for the erroneous payment. The agency has suspended collection pending our decision.

The agency recommends payment of these expenses based upon the unusual circumstances of the "escort officer" program. The agency notes that participants in the International Visitors Program are foreign leaders in a wide variety of fields, nominated by U.S. Missions abroad and invited on behalf of the government by the American ambassador. The designated escort officers are with the visitors or on call around the clock throughout the program and are responsible for providing a context for the visitors' experience that will make it more meaningful for them. As such, the escort officers have to incur the expenses of staying in the same hotels and eating at the same restaurants with the visitors. Inasmuch as the employees in this case incurred the costs in pursuit of their duties under this program, the agency contends that payment should be permitted.

#### OPINION

It is a well-established rule that without specific authority of law the government may not pay, in addition to an employee's regular compensation, per diem or subsistence expenses to civilian employees at the employees' official duty stations, even though they may be working under unusual conditions. See 42 Comp. Gen. 149 (1962). See also 5 U.S.C. § 5536 (1982), which states that no employee of the government "unless specifically authorized by law," shall receive any pay or allowance in addition to that provided by statute. In this regard the Federal Travel Regulations (FTR) (Supp. 1, Sept. 28, 1981), para. 1-7.4a (Supp. 20, May 30, 1986), incorp. by ref., 41 C.F.R. § 101-7.003 (1987), provide as follows:

"a. No allowance at official station. A per diem allowance shall not be allowed within the limits of the official station (see definition in 1-1.3c(1)) at, or within the vicinity of, the place of abode (home) from which the employee commutes daily to the official station except as provided in Part 1-14. Agencies may define a radius or commuting area that is broader than the limits of the official station within which per diem will not be allowed for travel within one calendar day."

Reimbursement of actual and necessary subsistence expenses follows the same rules as entitlement to per diem. See FTR, para. 1-8.1d (Supp. 20, May 30, 1986).

Consistent with this general rule, we have disallowed claims for expenses under circumstances similar to those in this case. For example, in B-202104, July 2, 1981, we considered the circumstances of Secret Service agents who are required to purchase meals at high-cost hotels or other facilities at their headquarters as a result of 24 hour-a-day protective duty assignments. We found that the Secret Service agents could not be paid a daily allowance for the added costs they incur since such an allowance is prohibited by 5 U.S.C. § 5536. We held that the increased cost of food due to unusual working conditions is not a sufficient reason by itself to pay for the costs of meals out of appropriated funds. See also Geological Survey Inspectors' Lunch Expenses, B-194798, Jan. 23, 1980.

We have also denied claims for lodging expenses by employees who had special duties to perform in connection with certain government-sponsored conferences. Karen A. Killian, B-223500, Mar. 16, 1987; Richard Washington, B-185885, Nov. 8, 1976.

A limited exception to the general rule authorizes government purchase of meals for employees at headquarters based upon findings that furnishing these meals was necessary in an extreme emergency involving danger to human life or destruction of federal property. See 53 Comp. Gen. 71 (1973); Richard D. Rogge, B-189003, July 5, 1977. Also, additional statutory authority exists to allow payment for subsistence expenses at headquarters in some specific cases. See, e.g. 5 U.S.C. § 5706a (Supp. IV 1986), concerning law enforcement, investigative, or similar employees whose lives are threatened. See also B-193034, July 31, 1979, regarding ACTION employees.

Mr. Le Blanc and Ms. Angel's situation does not fall within the extreme emergency exception mentioned above, nor are we aware of any additional statutory authority which would serve as a basis for the payment of the expenses of USIA escort officers incurred within the limits of their official duty station. Accordingly, in the absence of such authority, the claims may not be allowed.

We note, however, that the erroneous payment of these per diem expenses to Ms. Angel may be considered for waiver under 5 U.S.C. § 5584 (Supp. IV 1986). Similarly, inasmuch as Mr. Le Blanc received a travel advance based on erroneous travel orders, repayment of that advance may also be considered for waiver. We have held a travel advance payment to be erroneous and subject to waiver to the extent it was made to cover the expenses erroneously authorized and the employee actually spent the advance in reliance on the erroneous travel orders. Major Kenneth M. Dieter, B-226842, June 28, 1988, 67 Comp. Gen. \_\_\_\_; Rajindar N. Khanna, B-225263, June 28, 1988, 67 Comp. Gen. \_\_\_\_\_. Requests for waiver may be filed in accordance with our procedures in 4 C.F.R. Parts 91-93 (1988).

*Sheldon J. Fowler*

for  
Comptroller General  
of the United States