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Civilian Personnel Law Manual

Title III—Travel

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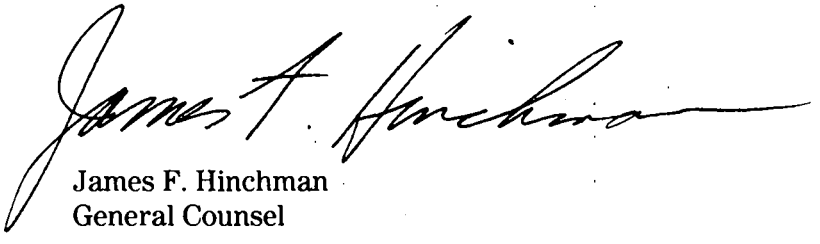
Foreword

This is Title III of the Third Edition of the Civilian Personnel Law Manual. The Manual is prepared by the Office of General Counsel, U.S. General Accounting Office (GAO). The purpose of the Manual is to present the legal entitlements of federal employees, including an overview of the statutes and regulations which give rise to those entitlements, in the following areas: Title I—Compensation, Title II—Leave, Title III—Travel, and Title IV—Relocation. Revisions of Titles III and IV are being issued now. Revisions of Titles I and II will be issued at a later date.

This edition of the Civilian Personnel Law Manual is being published in loose leaf style with the introduction and four titles separately wrapped. The Manual generally reflects decisions of this Office issued through September 30, 1988. The material in the Manual is, of course, subject to revision by statute or through the decisionmaking process. Accordingly, this Manual should be considered as a general guide only and should not be cited as an independent source of legal authority. This Manual supersedes the Second Edition of the Civilian Personnel Law Manual which was published in June 1983 and the supplements published in 1984, 1985, and 1986.



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Abbreviations

AFB	Air Force Base
AID	Agency for International Development
AMTRAK	National Railroad Passenger Corporation
AWOL	absent without leave
BOAC	British Overseas Airways Corporation
CAB	Civil Aeronautics Board

Canal Zone	former Panama Canal Zone
C.F.R.	Code of Federal Regulations
ch.	chapter
CIA	Central Intelligence Agency
Comp. Gen.	Decisions of the Comptroller General of the United States (published volumes)
CPLM	Civilian Personnel Law Manual
CSC	former Civil Service Commission
DEA	Drug Enforcement Administration
DIA	Defense Intelligence Agency
DOD	Department of Defense
DOE	Department of Energy
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FAM	Foreign Affairs Manual (Volume 6 concerns General Services)
FBI	Federal Bureau of Investigation
FCC	Federal Communications Commission
FHA	Federal Housing Administration
FPM	Federal Personnel Manual
FPMR	Federal Property Management Regulation
FTR	Federal Travel Regulations
GAO	General Accounting Office
GAO	(in a citation) - General Accounting Office Policy and Procedures Manual for the Guidance of Federal Agencies
GBL	government bill of lading
GSA	General Services Administration
GTR	government transportation request
HHG	household goods
HHS	Department of Health and Human Services
HRGA	high-rate geographical area
H.R. REP. NO.	House of Representatives Report Number
HUD	Department of Housing and Urban Development
ICA	former International Cooperation Agency
IPA	Intergovernmental Personnel Act
IRS	Internal Revenue Service
JFK	John Fitzgerald Kennedy Airport
JTR	Joint Travel Regulations (Volume 2 concerns civilian employees of DOD)
LWOP	leave without pay
MAC	Military Airlift Command
M.B.A.	Master of Business Administration degree

MCO	Miscellaneous Charge Order
MSPB	Merit Systems Protection Board
NASA	National Aeronautics and Space Administration
NLRB	National Labor Relations Board
NMB	National Mediation Board
NOAA	National Oceanic and Atmospheric Administration
NRC	Nuclear Regulatory Commission
NSA	National Security Agency
Office	General Accounting Office
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OTA	Office of Technology Assessment
para.	paragraph
paras.	paragraphs
PCS	permanent change of station
PDY	permanent duty
PHS	Public Health Service
POE	port of entry
POV	privately owned vehicle
PSNS	Puget Sound Naval Shipyard
Pub. L. No.	Public Law Number
RIF	reduction-in-force
R&R	rest and recuperation
SBA	Small Business Administration
SES	Senior Executive Service
SF	Standard Form
S.R.	Standardized Regulations (Government Civilians/ Foreign Areas)
SSA	Social Security Administration
Stat.	Statutes at Large
State	Department of State
TDY	temporary duty
U.S.C.	United States Code
USIA	United States Information Agency
VA	Veterans Administration
VISTA	Volunteers In Service To America
WAE	when actually employed
§	section
§§	sections

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Authority for Travel

A. Statutory Authority

Subchapter I of Chapter 57 of Title 5, U.S.C. (5 U.S.C. §§ 5701-5709) provides the authority to allow employees of the government travel and subsistence expenses, and mileage. Other statutes applicable to certain classes of personnel or to certain types of travel are discussed in Civilian Personnel Law Manual (CPLM) Title III, Chapter 13.

B. Regulations

Federal Travel Regulations

1. Authority

Executive Order 11609, 3 C.F.R. § 586 (1971-1975 Compilation) and the Travel Expense Amendments Act of 1975, Pub. L. No. 94-22, 89 Stat. 84, authorized the Administrator of GSA to prescribe the regulations necessary to administer the laws governing travel and relocation allowances and entitlements for federal employees. Under this authority, the GSA regulations implementing 5 U.S.C. Subchapter I of Chapter 57, are contained in Chapter 1 of the Federal Travel Regulations (FTR), FPMR 101-7, incorporated by reference, 41 C.F.R. § 101-7.003.

The September 28, 1981, revised edition of the FTR, GSA Bulletin FPMR A-40, consolidates all travel regulations now in effect by incorporating in one basic publication the provisions of the May 1973 edition and Supplements 4, 8, 9, 10, 11, and 12 to FPMR Temporary Regulation A-11. Supplements to FPMR A-40 are issued by GSA specifying changes to the regulations as deemed necessary.

Many departments and agencies have issued regulations further implementing the FTR. The most widely used of these is 2 JTR, applicable to travel by civilian officers and employees of DOD.

2. Effect of the FTR

The FTR has the force and effect of law and may not be waived or modified by the employing agency or GAO, regardless of the existence of any extenuating circumstances. See, B-189775, September 22, 1977.

Joint Travel Regulations

1. Authority

The Joint Travel Regulations are promulgated by the Per Diem, Travel and Transportation Allowance Committee of the Department of Defense (DOD). Volume 2 is a restatement and implementation of the FTR, and concerns per diem, travel, and transportation allowances of civilian officials and employees in the DOD. JTR, Vol. 2, also applies to DOD personal service contract employees and civilian officials and employees of other federal government departments and agencies who perform official assignments for and at the expense of the DOD. (See, 2 JTR para. C1000.)

2. Deviation from FTR

A proposed amendment to former 2 JTR para. C2050-3 eliminating the requirement of written orders for sea trial trips would not have been proper, since FTR para. 1-1.4 required that written orders should be issued prior to incurring expenses. B-181431, February 27, 1975.

3. Waiver of regulations

The adoption of a proposed amendment to 2 JTR to authorize the Per Diem, Travel and Transportation Allowance Committee to grant exceptions to any civilian travel regulations in Volume 2 is not approved, since the Committee has no authority to waive these regulations. A statute which authorizes an administrative officer to prescribe regulations does not imply the authority to include waiver provisions therein permitting an administrator to waive regulations in certain cases and enforce them in others. Moreover, the regulations must contain guidelines applicable to all individuals similarly situated so that anyone interested may determine his own rights or exemptions therein. B-158880, October 27, 1966 and 37 Comp. Gen. 820 (1958).

4. Agency regulations effective at time of travel

An employee of the Customs Service performed local travel in July 1975, incident to overtime duty assignments. He should be reimbursed mileage in accordance with the agency travel policies in effect at the time the travel was performed, since his rights became vested upon the performance of the travel. Subsequent regulations may not retroactively apply to increase or decrease his rights.

B-191425, October 11, 1978. Similarly, under 2 JTR, when travel orders indicate that per diem is in accordance with 2 JTR, a change in 2 JTR that modifies the per diem rate applicable to the employee must be applied on a prospective basis from the effective date of the change. Therefore his claim was denied. B-182324, July 31, 1975. And, this rule is applicable not only to cases where the individual employee has not received notice of the increase or decrease in the rate, but also to cases in which the installation responsible for the employee's TDY assignment is not on actual notice of the amendment. B-190014, August 30, 1978; B-183633, June 10, 1975; and B-173927, October 27, 1971.

U.S. Department of State Standardized Regulations (Government Civilians, Foreign Areas)

These regulations cover such areas of entitlement for government employees in foreign areas as travel for educational purposes, travel expenses for dependents of certain employees, and the establishment of maximum per diem allowances for civilian officers and employees of the government in a travel status at localities in foreign areas. See, CPLM Title III, Chapter 8.

U.S. Department of State Foreign Affairs Manual, Volume 6, General Services

These regulations cover the travel of Foreign Service employees and the members of their families, and apply to travel and transportation within the U.S., as well as abroad. (See, 6 FAM § 111.) See, CPLM Title III, Chapter 13. For Orders and Authorization on Approval of Travel, see, CPLM Title III, Chapter 2, Subchapter III.

C. Appropriations Available for Travel Expenses

Appropriation Acts

1. Individual appropriation acts may contain special authority and/or limitations on travel with respect to the agency concerned. For example:

a. Section 401 of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1989, Pub. L. No. 100-404, August 19, 1988, generally provides that appropriations expendable for the travel expenses of employees which have no specific limitation placed thereon, may not exceed the amount set

forth therefor in the budget estimates submitted for the respective appropriations.

b. A government contracting officer may contract for rooms or meals for employees traveling on TDY. Appropriated funds are not available, however, to pay per diem or actual subsistence expenses in excess of that allowed by statute or regulations, whether by direct reimbursement to the employee or indirectly by furnishing the employee rooms or meals procured by contract. Because of the absence of clear precedent, the appropriations limitation will be applied only to travel performed after the date of this decision. 60 Comp. Gen. 181 (1981).

See also, Chapter 2—Applicability and General Rules, Subchapter III—Orders and Authorization or Approval of Travel, H. Government-Furnished Quarters.

Appropriation Chargeable

1. Generally

The travel expenses of a civilian employee of the U.S. are properly chargeable to the appropriation current at the time such expenses are incurred by the employee, in the absence of a specific statutory provision to the contrary. 27 Comp. Gen. 25 (1947).

Where travel expenses are incurred near the end of one fiscal year, and the travel extends into the next fiscal year, the total costs often are chargeable in part to both fiscal year appropriations. See, 42 Comp. Gen. 699 (1963).

2. Through ticket

The transportation by rail, bus, or airplane to a port of embarkation procured on a through ticket for the entire trip to an overseas destination may be regarded as the beginning of a continuous journey, so that the cost of the entire trip is chargeable to the appropriation current at the time the through ticket is purchased and the obligation is incurred. 26 Comp. Gen. 961 (1947).

3. Separate tickets

Where it is necessary to purchase separate tickets in different fiscal years for various parts or segments of a journey, the appropriation properly chargeable with each separate item of the transportation expense would be the appropriation current at the date of the purchase of the ticket for the performance of each particular portion of the journey; and if transportation requests are used, the obligation arises when the transportation is procured on the request. 26 Comp. Gen. 961 (1947).

4. Exchange of transportation request

When a transportation request is exchanged for a ticket near the close of one fiscal year for travel to begin in the next fiscal year, the appropriation chargeable is that available at the time the travel is commenced. The material factor in determining the appropriation properly chargeable with the expense is not the need for the ticket, but the need for the travel. 27 Comp. Gen. 764 (1948).

5. POV

Where official travel performed under orders authorizing the use of a POV—at not to exceed the cost of similar travel by rail—would have been completed prior to the end of the fiscal year, if rail travel had been used, and the constructive cost of the travel by rail is less than the expenses incurred prior to the end of the fiscal year in traveling by automobile, the allowable cost of such travel may be charged to the fiscal year appropriation current at the time the travel began, even though the travel was not completed until after the end of the fiscal year. 30 Comp. Gen. 147 (1950).

6. State

Section 2677 of 22 U.S.C. authorizes State Department to charge travel and transportation costs to the appropriation current at the time travel begins, notwithstanding the fact that such travel or transportation may not be completed during that same fiscal year. However, in order for State, under what is now 22 U.S.C. § 2677, to charge the entire cost of travel extending into two fiscal years to the appropriation current at the time the travel costs were first incurred, such costs must be incurred pursuant to travel orders issued during that fiscal year. 42 Comp. Gen. 699 (1963).

7. Dual purpose travel

A civilian employee traveling on civilian and military reserve assignments is entitled to reimbursement by the civilian agency to the extent his reimbursement by the military did not equal what he would have received at civilian rates. B-130324, February 15, 1957.

Applicability and General Rules

Subchapter I—Applicability

A. Generally, Persons Covered

The FTR applies to the travel of civilian officers and employees of the U.S., including civilian employees of DOD. The FTR also applies to persons employed intermittently as experts or consultants, and to persons serving without compensation. FTR para. 1-1.2.

B. Specific Classes of Persons Covered

Employees Engaged in Collective Bargaining

The United States Supreme Court has found that employees representing their union in collective bargaining with their agency are not entitled to the payment of travel expenses and per diem allowances under the Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111. Bureau of Alcohol, Tobacco and Firearms, Petitioner v. Federal Labor Relations Authority et al., 44 CCH S. Ct. Bull. B281 (No. 82-799 Nov. 29, 1983). See also, George J. Keenan and Gerald S. Goodman, B-209285, March 22, 1983.

U.S. Tax Court Commissioners

Prior to October 1, 1982, the travel entitlements of commissioners (Special Trial Judges) of the U.S. Tax Court (established under Article I of the Constitution), were tied by 26 U.S.C. § 7456(c) to the entitlements of commissioners of the U.S. Court of Claims (established under Article III of the Constitution). Upon abolishment of the Court of Claims and its commissioner system in 1982, 26 U.S.C. § 7456(c) was amended to designate subchapter I of Chapter 57 of Title 5, U.S.C., as governing Tax Court commissioner's travel, effective October 1, 1982. Under subchapter I, travel of judicial branch employees governed by regulations of the Administrative Office of the U.S. Courts, and travel of other employees covered by that subchapter is governed by the FTR. Since the U.S. Tax Court, as an Article I court, is not within the judicial branch, the travel entitlement of its commissioners is governed by the provisions of the FTR, effective October 1, 1982. U.S. Tax Court - Travel Entitlements of Special Trial Judges, B-215525, January 17, 1985.

Temporary Employees

A temporary employee may be paid transportation expenses and per diem while in a travel status away from his official duty station on the same basis as other employees in a travel status. B-127271, August 29, 1976.

Employees on LWOP

An employee on LWOP may be reimbursed for round-trip travel and per diem incident to duty services performed at his official duty station. An employee who is not restored to an active duty status, and is thus not receiving compensation, may be regarded as an "individual serving without pay" where the administrative office has an official need of the service which he has performed. B-162863, December 5, 1967.

Witnesses

See also, CPLM Title III, Chapter 13, Subchapter II, Part D.

1. Nonemployees

a. As "persons serving without pay"

The payment of travel expenses may be made to witnesses who are not government employees, on a commuted basis, as well as on an actual expenses basis, as the term persons "serving without pay" in 5 U.S.C. § 5703 is sufficiently broad to cover all persons serving the government without compensation, despite the fact that they may be serving in other than an advisory capacity. 48 Comp. Gen. 110 (1968). Compare: our decision B-202845, September 29, 1982, holding that in the absence of specific authority therefor, NASA may not pay in advance the travel expenses of an outside applicant/complainant to attend an equal employment opportunity hearing requested by the complainant.

Individuals who are not members of the uniformed services or who are not federal civilian employees may be called as witnesses in adverse administrative proceedings, whether in behalf of the government or in behalf of a member or an employee, and they may be paid transportation and per diem allowances as "individuals serving without pay" within the scope of 5 U.S.C. § 5703, if the presiding hearing officer determines that the member or employee reasonably has shown that the testimony of the witness is substantial,

material, and necessary, and that an affidavit would not be adequate. JTR may be amended accordingly, and any inconsistent prior decisions will no longer be followed. 48 Comp. Gen. 644 (1969).

b. Courts-martial proceedings

The issuance of invitational travel orders and the payment of commuted travel allowances under 5 U.S.C. § 5703 to civilian persons other than federal employees who are requested to testify at pretrial investigations pursuant to Article 32 of the Uniform Code of Military Justice, 10 U.S.C. § 832, which is implemented by the Manual for Courts-Martial prescribed by Executive Order No. 11476, 3 C.F.R. 132 (1969), may be authorized, even though the manual makes no provision for the subpoena and payment of witnesses, since the investigations are an integral part of the courts-martial proceedings. However, as the approval authority is discretionary, it should be exercised within the framework of the Military Code. 50 Comp. Gen. 810 (1971).

c. Merit Systems Protection Board Hearing

An individual who was separated through a reduction-in-force prior to the expiration of her term appointment in March 1982, appealed the separation in hearings before the Merit Systems Protection Board in May 1982. The appellant prevailed, was awarded backpay for the unexpired period of her appointment, and now claims travel expenses for her attendance at the hearings. The appellant may not be allowed travel expenses authorized for a government employee under 5 U.S.C. §§ 5702 and 5704, since she traveled to the hearings after the expiration of her term appointment. Furthermore, she is not eligible for travel expenses payable to nonemployee witnesses under 5 U.S.C. § 5703, since she was a party to the proceeding. Gracie Mittelsted, B-212292, October 12, 1984.

2. Employees

a. Private litigation

(1) Potential liabilities under Federal Tort Claims Act—An employee attended as a witness in a criminal hearing which involved an automobile accident that occurred while the employee-witness and another employee were on an official assignment. He attended for the purpose of strengthening the other employee's

case to obtain a favorable verdict, so that the government would not become involved in a subsequent tort action as a result of the automobile accident occurring in the scope of the employee's employment. Even though the witness was not summoned on behalf of the U.S., his appearance must be regarded as an appearance in the best interest of the government, and, therefore, the travel of the employee-witness to the hearing could be considered official business for the payment of his travel expenses. 44 Comp. Gen. 188 (1964).

A part-time Schedule A employee who was involved in an automobile accident while operating a POV on official business, and who was charged with failure to obey a stop sign and summoned to appear in court, could be reimbursed for her mileage expenses incident to her travel from her home in Camden, New Jersey, to the court in New Castle, Delaware, and return. Since the federal government, under 28 U.S.C. § 2674, the Federal Tort Claims Act, was potentially liable for the damages caused by the employee who was operating the motor vehicle while acting within the scope of her employment, the appearance of the employee at the judicial proceeding to which she was summoned could be regarded as the performance of official duty within the meaning of 5 U.S.C. § 6322(b)(2). 53 Comp. Gen. 214 (1973).

(2) Official capacity—When a government employee is subpoenaed to testify in private litigation in his official capacity, he is in an official duty status, not a leave status, and he may be reimbursed travel expenses to the same extent as expenses are paid to other employees traveling on official business. B-166938, July 17, 1969.

b. Government witnesses

The payment of the travel expenses of an officer or employee of the government appearing as a witness on behalf of the U.S. is governed by the regulations of the agency in which he is employed, only if the case involves the activity in which he is employed or is serving, and then his expenses are properly payable from the appropriations otherwise available to that agency concerned for the travel expenses of that agency. Otherwise, pursuant to 28 U.S.C. § 1823, now 5 U.S.C. § 5751, payment of the travel expenses of an employee-witness comes under regulations prescribed by the Attorney General. 46 Comp. Gen. 613 (1967).

(1) Activity concerned no longer connected with employment—Traveling expenses of a witness who, although still a government employee, is no longer employed by the activity involved at the time he testifies, should be paid from appropriations for Justice. 22 Comp. Gen. 1074 (1943).

(2) Grand Jury—An employee who is required to testify before a Grand Jury concerning knowledge acquired as a part of his duty may be regarded as an employee appearing in a case involving the activities in which he is employed, and the payment of his travel expenses must be from funds of his employing agency under 28 U.S.C. § 1823—now 5 U.S.C. § 5731. 39 Comp. Gen. 1 (1959).

(3) Employee testifying while on sick leave—An employee on sick leave pending disability retirement could be paid transportation and per diem expenses in connection with his travel from his retirement home in Florida to his PDY station in Detroit to give testimony in connection with a Federal Torts Claims Act proceeding in view of 5 U.S.C. § 6322(b), which provides that an employee is performing official duty during the period he is assigned by his agency to testify on the behalf of the U.S. B-179134, January 2, 1976.

Experts and Consultants

See, FPM Chapter 304 and CPLM Title I, Chapter 10.

1. Employed intermittently

a. Generally

Payment of the transportation and per diem expenses of an expert or a consultant serving under an intermittent appointment is authorized by 5 U.S.C. § 5703.

b. Intermittently employed expert or consultant defined

(1) Generally—The term employed "intermittently" as used in 5 U.S.C. § 5703, refers to occasional or irregular employment as distinguished from continuous employment. 35 Comp. Gen. 90 (1955).

Where an expert's appointment was variously designated as temporary and/or intermittent, we have held that it is the actual nature of this employment that is determinative of its character, as well as his entitlement to transportation and per diem expenses. B-180698,

August 19, 1974. See also, 35 Comp. Gen. 90 (1955). Each case must depend upon the particular facts involved, as well as upon the particular provisions of the appropriation which may be involved. 23 Comp. Gen. 245 (1943).

Although an expert or consultant works full-time, he may still be regarded as intermittent, if the record shows that intermittent employment was actually intended and there was an inability to reasonably anticipate the need for the services on a full-time basis. B-193170, May 16, 1979.

Where an individual consultant's services were procured under a contract which established an employer-employee relationship with the government rather than an independent contractor relationship, his entitlement to travel and relocation expenses is determined by the statutes and regulations concerning reimbursement for travel and relocation expenses of government employees. Where the consultant was apparently employed in a manpower-shortage position, he may be allowed reimbursement under 5 U.S.C. § 5723 for his travel expenses and for the transportation of his household goods and dependent from his residence at the time of his initial employment to his duty station, but not for return to his residence upon completion of the contract. Lynn Francis Jones, 63 Comp. Gen. 507 (1984). See also page 2-16 "Manpower-shortage positions."

(2) Serving more than 130 days—Consultants and experts who are hired on an intermittent basis may not be employed more than 130 working days in a year, and when the 130-day limitation has been reached, their intermittent employment is automatically converted to a temporary appointment. However, such conversion does not retroactively invalidate previous payments of travel expenses and per diem for the period of intermittent service. 36 Comp. Gen. 351 (1956).

A consultant of the EPA was not entitled to the payment of his travel expenses from his residence in Reading, Massachusetts, to his duty station in Arlington, Virginia, after 130 days of service, since his appointment then ceased to be intermittent and became temporary. Under a temporary appointment, a consultant must bear the cost of his transportation from his place of residence to his official duty station. B-187389, July 19, 1978.

(3) Administrative duties—An employee who was employed as a "consultant," and was subsequently assigned duties as an administrative officer while still serving under his original appointment as a consultant, may not be regarded as a "consultant" on or after the date he assumed the duties as an administrative officer so as to entitle him to the payment of per diem and traveling expenses to and from his home, etc. The term "consultant" denotes one who serves in an advisory capacity as distinguished from one who serves as an administrative officer or employee in the performance of duties and responsibilities imposed by law upon the agency in which employed. 23 Comp. Gen. 497 (1943) and 30 Comp. Gen. 495 (1952).

(4) Expenses allowable

(a) Residence within metropolitan area of place of duty—An intermittently employed consultant may be paid transportation expenses pursuant to 5 U.S.C. § 5703 and para. C3053, (now see para. C4503), subpara. 2, of 2 JTR for commuting from his residence to his place of employment, where his residence is outside the corporate limits, but within the metropolitan or geographic area of his place of duty, insofar as the intermittent employment occasions him transportation expenses he would not otherwise have incurred. 55 Comp. Gen. 199 (1975). See also, B-204794, March 26, 1982.

(b) Travel to point other than home or "regular place of business"—Under what is now 5 U.S.C. § 5703, which authorizes the payment of transportation expenses and per diem to persons serving without compensation while away from their homes or regular places of business, a person employed as a consultant without compensation who was authorized to travel on official business from a point other than his home or regular place of business to attend a work conference may be reimbursed the expense of such travel, even though the expense exceeds the constructive cost of travel between his home or regular place of business and the site of the conference. The words "regular place of business" need not be applied in such a restricted sense so as to limit reimbursement of travel expenses to trips from and to the individual's headquarters office. 33 Comp. Gen. 39 (1953).

(c) Travel from place other than residence—A consultant employed on a WAE basis who was at a place other than his residence when he traveled to attend an official business meeting, and who then

returned home, was not required to have the excess cost of his transportation based on the estimated round-trip from his home deducted from his payments of per diem. 34 Comp. Gen. 628 (1955).

(d) Travel for personal reasons—Experts and consultants who are employed on a WAE basis may be allowed travel expenses incurred incident to return travel to their homes or regular places of business for personal reasons when such travel is authorized or approved by an appropriate administrative officer. B-99100, November 20, 1950.

(e) Per diem—Per diem in lieu of subsistence may be allowed at places of employment other than the home or regular place of business of consultants and experts who are employed intermittently on a per diem "when actually employed" basis, in view of the specific provisions of what is now 5 U.S.C. § 5703, which provides for such an allowance. 26 Comp. Gen. 564 (1947) and B-121178, October 20, 1954. See also, B-204794, March 26, 1982.

2. Temporarily employed

a. Generally

Where an expert worked daily on a regular tour of duty from February 26 to June 30, 1973, he was, in fact, employed on a temporary basis, and was entitled only to those travel and per diem expenses payable to a regular employee. B-180698, August 19, 1974. Appointment as an intermittent consultant immediately following service as a temporary consultant does not necessarily change the character of the employment. It is the actual nature of the employment that is determinative of the employment's character, as well as the employee's entitlement to transportation and per diem expenses. B-191330, December 4, 1978.

b. Home to work

A temporary consultant of the EPA was not entitled to the payment of his travel expenses from his residence in Cedar Grove, New Jersey, to his duty station in Washington, D.C., nor to the payment of per diem while on duty at Washington, D.C. The travel expense entitlement of an expert or consultant employed on a temporary basis is the same as a regular government employee who is only entitled to travel and per diem expenses when on official business

away from his duty station. B-191330, December 4, 1978 and B-180181, February 22, 1974.

Members of Federal Boards, Committees, Etc.

1. Travel before taking oath of office

Members of the Defense Manpower Commission, who are not subject to confirmation by the Senate, could be paid their travel expenses in connection with any official duty performed before the date that they were sworn in. When the oath is taken, it relates back to the date of the appointee's entrance on duty. B-181294, November 8, 1974.

2. Travel to regular place of business

A member of the Presidential Emergency Board who traveled from California to Washington, D.C., to perform board duties and who made personal trips to Vermont and Montreal, rather than returning home, could be allowed the costs of both trips, (which were less than the cost of the travel to his home). The nature of the duties to be performed by the board member here involved, as well as the terms of his appointment, require only intermittent employment similar to that of experts and consultants under 5 U.S.C. § 5703, who are allowed travel expenses incident to returning to their homes or places of regular business. The term "regular place of business" under 5 U.S.C. § 5703 is broadly interpreted to include places other than the home or the headquarters office of the employee. B-160283, November 4, 1966. See also, B-204794, March 26, 1982.

3. Early departure after completion of TDY

A member of the Energy Research Advisory Board was issued a round-trip airline ticket for travel to attend a 3-day Board meeting in Seattle which was due to end on a Friday afternoon. His return flight to his home in Oklahoma City was scheduled for Saturday. When the meeting ended several hours earlier than anticipated on Friday, he decided to return to Oklahoma City that afternoon on a different airline at an additional cost of $223. Because he unilaterally altered the approved travel schedule, his reimbursement for the additional expense incurred is limited by the constructive cost of the approved travel. His claim for $223 may be paid only in the

amount he would originally have been allowed that Friday and Saturday if he had not departed from Seattle earlier than scheduled. Dr. Francis G. Stehli, B-225352, September 21, 1987.

4. Unauthorized council or committees

In the absence of statutory authority for the creation of the National Minerals Advisory Council by the Secretary of the Interior, the travel expenses and per diem in lieu of subsistence provided for persons serving without or at nominal compensations in what is now 5 U.S.C. § 5703 could not be paid in view of the provisions of what is now section one of Money and Finance, 31 U.S.C. § 1346, generally prohibiting the use of public moneys for the expenses of any council, unless the creation thereof has been authorized by law. 27 Comp. Gen. 630 (1948) and 31 Comp. Gen. 454 (1952).

Contract Employees

An individual serving the VA under a contract, who reported to duty at the VA hospital in West Haven, Connecticut, from his residence in Shaker Heights, Ohio, may not be reimbursed for his travel and transportation expenses, because there was no provision for the payment of such expenses in his contract. B-162537, December 21, 1967.

Independent contractor of National Mediation Board (NMB) was authorized round-trip transportation from his residence in Stamford, Connecticut, to St. Paul, Minnesota. On December 3, 1984, he traveled by airplane from New York City to Chicago on personal business and later the same day traveled to St. Paul. He returned to New York City after participating in several hearings the following day. Under FTR para. 1-2.5b, travelers are entitled to reimbursement for travel by indirect route, in an amount not to exceed the cost by the usually traveled route or the actual cost, whichever is lower. Thus, claimant may be reimbursed the cost of round-trip travel, by air coach, between New York City and St. Paul, Minnesota. Irwin M. Lieberman, B-221760, August 11, 1986.

Prospective Employees

1. Recruiting

Government agencies may not pay the travel and subsistence expenses of individuals to the appropriate headquarters office for the purpose of interesting or persuading them to accept government positions. 31 Comp. Gen. 175 (1951).

2. Interviews

a. SES employees

The Civil Service Reform Act of 1978, 5 U.S.C. § 5752, provides that employing agencies may pay candidates for SES positions their travel expenses incurred incident to preemployment interviews requested by the employing agency.

b. Excepted positions

When the responsibility for determining the qualifications of applicants is vested in the departments and agencies, as in the case of excepted positions, the applicants may be paid necessary travel expenses incident to such a determination. 38 Comp. Gen. 483 (1959) and 40 Comp. Gen. 221 (1960).

c. Competitive positions

In limited circumstances where the CSC concludes that certain positions in the competitive service are of such a high level or have such peculiar characteristics that an employing agency is better suited to determine through interviews certain factors of the appointee's suitability, the employing agency may reimburse prospective employees for their travel expenses incurred in traveling to the place of an interview. 54 Comp. Gen. 554 (1975). We amplified this reasoning in 60 Comp. Gen. 235 (1981) in reference to a request from OPM that we modify our general rule which prohibits agencies from paying preemployment interview travel expenses of applicants for the competitive service. We concluded that in view of the increasing delegation by OPM of personnel management responsibilities to agencies under the Civil Service Reform Act of 1978, 5 U.S.C. § 1104, and since our decisions limiting the payment of preemployment interview travel expenses rely on outmoded concepts of an agency's management responsibility, we held that agencies may pay the preemployment interview travel expenses of applicants for

the competitive service, subject to guidelines or standards imposed by OPM.

d. Employee interview

An employee of the FAA who was required by his agency to travel to another city from the location of his present employment for the purpose of an interview in order to ascertain his qualifications for a new position within the agency was entitled to reimbursement for his travel expenses, because an agency can authorize an employee to travel at government expense when the agency establishes additional requirements which it considers necessary in connection with the selection of an employee for a transfer or promotion. B-159089, May 31, 1966. See also 34 Comp. Gen. 435 (1955) and B-176624, September 6, 1972.

Four government civilian employees who interviewed with the Marine Corps Air Ground Combat Center, Twentynine Palms, California, may be reimbursed for actual travel expenses they incurred when attending interviews to determine their qualifications for an appointment to a vacant position with the Marine Corps, even though they were then currently employed by other governmental agencies and were on annual leave. The employees were issued orders by the Marine Corps authorizing the preemployment interview travel at Marine Corps expense. In these circumstances they may be considered to be in a similar position to a non-government employee for whom such travel is authorized by a government agency. Roger L. Twitchell, B-219046, September 29, 1986.

e. Excepted appointment under Indian Preference Act

The general rule is that an employee may be allowed his travel expenses for a preemployment interview when applying for a different position, if the position is an excepted position, or if there are additional administrative qualifications imposed by the agency. The fact, however, that an employee may receive an excepted appointment under the Indian Preference Act, 25 U.S.C. § 472, for a position which would otherwise be in the competitive service, is not, alone, determinative of his entitlement to his travel expenses, absent an indication that the interview was necessary to determine his qualifications. B-185908, February 2, 1977.

Appointee's Travel to First Duty Station

1. Positions not in a manpower-shortage category

a. General rule

The general rule applicable to all public officers, civilian as well as military, is that, unless otherwise provided by statute or regulations having the force of statute, such officers must place themselves at the place where they are first to perform duty, without expense to the government. 22 Comp. Gen. 885, 886 (1943); 53 Comp. Gen. 313 (1973); and 58 Comp. Gen. 744 (1979).

b. SES

5 U.S.C. § 5723 allows the travel expenses of a new appointee to the SES; and the transportation expenses of his immediate family, his HHG, and personal effects; to the extent authorized by 5 U.S.C. § 5724, from his place of residence at the time of selection or assignment to his duty station.

c. Permanent station

The rule that an employee must bear the expense of travel to the first official headquarters of his position refers to the PDY station of the position, and not to the first TDY station at which he actually performs duty. 30 Comp. Gen. 373 (1951).

d. Oath effect

An employee traveled at his own expense from his home in Houston, Texas to Wisconsin for an interview, and at the close of the interview was sworn in and told to report to Dallas, Texas, for training prior to his entrance on duty in Wisconsin. The employee, who returned home, and, later, attended the training en route to Wisconsin, was not entitled to the constructive round-trip travel between Wisconsin and Dallas, as, although he had taken the oath, he had not entered on duty prior to the training. Generally, the expenses of travel for interviews and reporting to the first duty station are to be borne by the employee. B-182876, September 17, 1975.

c. TDY en route to first duty station

(1) New appointees who travel to training sites en route to reporting to their first duty station may be authorized travel expenses in excess of what they would have incurred in traveling direct from their homes to their first duty station. 58 Comp. Gen. 744 (1979).

(2) A new employee was assigned to TDY in the Washington, D.C., area prior to reporting to the first duty station overseas. Because the employee commuted from the permanent residence to the training sites, the agency questioned the employee's entitlement to subsistence. An employee is not entitled to per diem or a subsistence allowance where he commutes to a TDY station from his permanent residence and incurs no additional expense. However, both new hires and transferees may be authorized subsistence at Washington, D.C., where under the circumstances presented, it is a training or TDY site, not a PDY station, and the employee would undoubtedly incur additional expenses. B-193401, May 5, 1981.

f. Temporary field office

Where a newly appointed employee, assigned to duty requiring substantially continuous travel from place to place in the field, reports for duty at a temporary field office—rather than to his designated PDY station at which no performance of duty is contemplated—and he actually performs some duty at that place, such temporary field office is proper for regarding as his first duty station. Upon leaving such station under competent travel orders, per diem in lieu of subsistence accrues, even during occasional periods when the employee returns to the first duty station, so long as his travel status continues; but per diem must cease upon the arrival at his true, designated PDY station. 22 Comp. Gen. 342 (1942).

g. TDY at place of employment

A newly appointed employee who performs TDY at the place of his appointment before reporting to his first TDY station may be paid administratively authorized subsistence for the TDY period up to the time of the departure for his first permanent post, unless the TDY is performed in the city of the employee's residence. 22 Comp. Gen. 869 (1943).

h. Orientation at place of appointment

In view of the established rule that an employee, upon appointment to the government service must bear the expense of reporting to the place at which his duty is to be performed, an employee who is appointed in Washington to a position in the field, and who is required to remain in Washington for a period of indoctrination, may not be allowed traveling expenses or the cost of transporting the dependents and household effects to the field station, even though the travel orders were issued authorizing travel and transportation at government expense. 32 Comp. Gen. 537 (1953).

i. Orientation en route to official station

A newly appointed employee directed to stop en route to his first official duty station for a period of indoctrination and orientation may be paid a subsistence allowance for the period of such TDY and for additional transportation expenses caused by the stopover, but not for travel from his TDY post to his official duty station. 34 Comp. Gen. 346 (1955).

j. TDY where exact location of permanent assignment cannot be determined

An employee who is directed to report to a TDY station for instruction in connection with field work—his exact duty station to be later determined—is entitled to salary and subsistence during such TDY period, but is not relieved of bearing the part of the travel expenses of reporting to his regular station as he would have incurred had no stopover been made to perform duty en route. 10 Comp. Gen. 184 (1930).

k. Performance of duty at place of appointment where place of TDY station is not known

Where the point of final assignment cannot be known at the time of appointment, it may be proper to designate as the appointee's first duty station—the place of appointment—even though his permanent assignment eventually is to be elsewhere, if some actual and substantial duty, as distinguished from taking the oath of office, physical examination, or job training, is required at the place of appointment. 22 Comp. Gen. 869 (1943). See also, 21 Comp. Gen. 7 (1941).

2. Manpower-shortage positions

a. Generally

Under 5 U.S.C. § 5723, an agency may pay the travel expenses of a new appointee, or a student trainee when assigned on completion of college work, to a position in the U.S. for which OPM determines there is a manpower shortage. Allowable travel expenses are for travel from the place of residence at the time of selection or assignment to the duty station.

b. Authorization of travel expenses

(1) Authorization requirement—Under the authority of 5 U.S.C. § 5723, new appointees to shortage category positions are entitled to travel and transportation expenses only to the extent reimbursement is properly authorized or approved by the agency. B-186260, July 12, 1976.

(2) Appointee's travel to first duty station in Alaska—A new appointee who was not authorized reimbursement for travel and transportation expenses from Whitesboro, New Jersey, to Fairbanks, Alaska, could not be reimbursed, as such travel is governed by 5 U.S.C. §§ 5722(a)(1) and 5722(a)(2), and the statutory regulations issued pursuant thereto. The regulations require the authorization or approval of travel and transportation expenses by an appropriate agency official, and this was not granted. B-171495, March 4, 1971.

(3) Authorization after travel is completed—Where the agency did not authorize reimbursement for the travel expenses for an employee appointed to the shortage category position of architect until after the travel was completed, due to the erroneous belief that as a "temporary appointee" he would not be eligible for reimbursement under 5 U.S.C. § 5723, the employee could be paid travel expenses, as it was the established policy of the agency to so authorize travel. B-164720, August 5, 1968.

A temporary employee was offered and accepted a permanent position with the U.S. Forest Service in Alaska while serving in California. The appointment was deferred due to a hiring freeze. He was then offered a temporary position in Alaska pending the lifting of the freeze. He resigned his position, had a break in service of 11

days, and traveled at his own expense to accept the temporary appointment. After the hiring freeze was lifted, the employee was again offered a permanent appointment. He accepted, and his temporary appointment was converted to a permanent one. Because of the break in service, he could be reimbursed travel and transportation expenses as a new appointee in traveling to accept a temporary position at a post of duty outside the continental U.S. under 5 U.S.C. § 5722, even though a travel authorization had not been issued. Robert E. Demmert, B-207030, September 21, 1983.

c. New employee requirement

The claim for travel and transportation expenses of an employee who moved to his official duty station when his tenure was changed from WAE to full-time was denied, even though the employee occupied a position classified in the shortage category. 5 U.S.C. § 5723 does not allow travel costs for employees other than new appointees or student trainees in manpower shortage positions, and the employee's conversion from WAE to full-time did not constitute a new appointment, as the employee was already on the agency's rolls. B-166146, May 15, 1969.

d. Entitlement where spouse is service member

The wife of a Marine Corps member who had an appointment to a manpower shortage position in the Navy, and who had orders authorizing her travel from Norman, Oklahoma, to Washington, D.C., and traveled by a POV with her husband, who was being transferred from Norman to Quantico, was entitled to reimbursement for her travel expenses either as a service members' dependent or in her own right as a civilian employee. B-158319, January 24, 1966.

e. Shortage category determination after travel completed

Notwithstanding that an employee's position was not placed in a manpower-shortage category prior to his appointment, he could be paid travel expenses to his first duty station, if he executed a written agreement to remain in the government service for twelve months after his appointment, where the CSC had placed the position in the shortage subsequent to the appointment, and the CSC would have placed the employee's position in the shortage category classification prior to the appointment, if the agency had made a timely request. B-161599, August 29, 1967.

f. Return travel on cancellation of appointment

There is no authority under the shortage category provisions of 5 U.S.C. § 5723 for the reimbursement of the travel expenses of the return from the duty station of a prospective shortage category employee in the event the appointment is cancelled. B-174092, November 19, 1971.

Intergovernmental Personnel Act

1. Generally

The Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, provides that an employee in an executive agency may be assigned to a state or local government, and that employees of a state or local government may be assigned to an executive agency. 5 U.S.C. § 3375 provides that an agency may pay or reimburse a federal, state or local government employee in accordance with Subchapter I of Chapter 57 of Title 5, U.S.C., for travel expenses and per diem. A per diem allowance may be paid at the assignment location, and travel expenses, including a per diem allowance, may be paid for travel to and from the assignment location, and for travel on official business away from the designated post of duty, when such travel is determined by the head of the executive agency to be in the interest of the U.S.

The legislative history of the IPA indicates that Congress intended the language in 5 U.S.C. § 3375 to be broad enough to provide for the needs of federal, state, and local employees en route to, from, and during their assignments in either the federal government or state and local governments. However, it would appear that these needs can be met without the necessity of applying a different rule for employees traveling on IPA assignments from that which applies to employees traveling on training assignments or on official business generally. Under section 3375, the various allowances are authorized to be paid under the provision of Chapter 57 of Title 5, U.S.C. See, 53 Comp. Gen. 81 (1973).

2. Cost-of-living differential

Where there is no provision in the IPA for a cost-of-living differential, such an allowance is in the nature of a per diem allowance, which under appropriate circumstances, could be paid or reimbursed under 5 U.S.C. § 3375. However, an employee may not receive

both a per diem for the entire assignment period and change-of-station allowances authorized by 5 U.S.C. § 3375. B-195373, August 10, 1979.

3. Federal government employees

a. Per diem versus station allowances

Under the IPA, federal employees temporarily assigned to state and local governments, and institutions of higher education, are not entitled to both per diem and change-of-station allowances for the same assignment, even though 5 U.S.C. § 3375 permits the payment of both the benefits associated with a PCS and those normally associated with a TDY status, since nothing in the statute or its legislative history suggests that both types of benefits may be paid incident to the same assignment. Therefore, an agency should determine, taking cost to the government into consideration, whether to authorize PCS allowances or per diem in lieu of subsistence under 5 U.S.C. Chapter 57, Subchapter I to employees on an intergovernmental assignment. 53 Comp. Gen. 81 (1973). See also, B-193797, May 11, 1979.

Agencies should recognize that ordinarily for assignments of 2 years, per diem would be inappropriate. William T. Burke, B-207447, June 30, 1983.

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. William T. Burke, B-207447, March 30, 1984.

b. Per diem at official station

When employees are assigned under the Intergovernmental Personnel Act and are authorized per diem, their IPA duty stations are considered TDY stations, since per diem may not be authorized at their

headquarters. Therefore, an employee stationed in San Francisco, California, who was authorized per diem while on an IPA assignment in Washington, D.C., would not be entitled to per diem under 5 U.S.C. § 3375(a)(1)(C) while performing TDY at San Francisco, since the government may not pay subsistence expenses or per diem to civilian employees at their headquarters, regardless of any unusual conditions involved. However, the employee was entitled to a travel allowance under 5 U.S.C. § 3375(a)(1)(C). 57 Comp. Gen. 778 (1978).

c. Per diem at original PDY station while on assignment

Federal employees on detail to a state government under the IPA may be reimbursed for travel expenses, including a per diem allowance, while away from the place of assignment with the state or local government when the head of his federal agency considers the travel to be "in the interest of the United States." Accordingly, an employee traveling under the IPA may receive per diem while at the place which is his duty station with the federal government while he is in travel status away from his place of assignment under the IPA. B-182697, June 9, 1975.

d. Travel expenses in commuting from residence to place of assignment

An employee assigned under the IPA to Bethesda, Maryland, on TDY who desired to commute each day to Bethesda from his residence in Baltimore, Maryland, the employee's original PDY station, could be paid travel expenses, including a per diem allowance and mileage in accordance with the FTR. B-178759, March 12, 1975. In this case, we also stated that an employee assigned to Washington, D.C., under the IPA on a temporary basis for a 4-day period each week could be paid travel expenses and per diem en route for travel to and from his residence in New York City, so long as the payment did not exceed the per diem that the employee would have been paid had he stayed in Washington for the 3 nonworkdays.

e. Per diem while away from IPA duty station

An employee assigned under the IPA and receiving per diem at his IPA duty station, may receive an additional per diem allowance for TDY at another location, since 5 U.S.C. § 3375(a)(1) permits such payment. The amount of additional per diem should reflect only the

increased expenses resulting from the TDY assignment. 57 Comp. Gen. 778 (1978).

4. State employee

Per diem while in leave status

An employee of a state institution of higher education was detailed to an executive agency and authorized per diem during the term of his assignment under 5 U.S.C. § 3375(a)(1)(B). However, per diem payments in these circumstances must be made in accordance with Subchapter I of Chapter 57, Title 5, U.S.C., and the implementing rules contained in the FTR. Under FTR para. 1-7.5, the employee is not entitled to per diem for the period of twelve days during which he was in a leave status. The regulation is controlling notwithstanding any erroneous advice by agency officials. B-201431, July 7, 1981.

Private Parties

1. Award ceremonies

a. Federal

(1) Family—There is no authority for the CSC to issue regulations authorizing the payment of travel and transportation expenses of members of the immediate family of honor award recipients to attend the award ceremonies, as such an expense is not considered as "a necessary expense" under 5 U.S.C. § 4503. 54 Comp. Gen. 1054 (1975).

(2) Surviving spouse of employee—Under the government employees incentive award program, the surviving spouse of a deceased employee who had been designated to receive a Distinguished Service Award may be reimbursed for her travel expenses incident to attending the award ceremony to accept her spouse's award. The travel expenses of the surviving spouse are considered to be necessary expenses under the Government Employees Incentive Awards Act, 5 U.S.C. § 4503. B-111642, May 31, 1957.

(3) Attendants for handicapped employees—Where a handicapped employee who is selected to be honored under the Government Employees Incentive Awards Program is unable to travel unattended because of his particular handicap, and would otherwise be

unable to attend the awards ceremony, the travel expenses for an attendant to accompany him in traveling to and from the award ceremony may be paid by the employing agency as a "necessary expense" for the honorary recognition of that particular employee under 5 U.S.C. § 4503. 54 Comp. Gen. 1054, distinguished by 55 Comp. Gen. 800 (1976). See also, the discussion under "Escorts and attendants" below.

b. Non-federal

(1) Dependents—There is no authority to issue regulations authorizing the payment of travel and transportation expenses of dependents of civilian employees or military members to accompany such employees or members who are receiving non-federal honor awards; nor is there authority for the payment of travel and transportation expenses of such dependents to receive honor awards themselves. 55 Comp. Gen. 1332 (1976).

(2) Escorts and attendants

(a) Attendants for handicapped employees—A physically handicapped individual who is confined to a wheelchair, serving on the Commerce Technical Advisory Board, could be reimbursed for the travel expenses of his wife, including per diem, who accompanied him as an attendant while he was on official travel. Based on the federal government's policy of nondiscrimination because of physical handicap set forth in what is now 5 U.S.C. § 7203 and 29 U.S.C. § 791, where the agency determines that a handicapped employee who is incapable of traveling alone should perform official travel, the travel expenses of the escort are necessary expenses of travel. 56 Comp. Gen. 661 (1977) and B-187492, May 26, 1977.

And, there is no reason to distinguish between TDY and PCS for the purpose of reimbursing the expenses of an attendant of a handicapped employee. 59 Comp. Gen. 461 (1980).

(b) Escorts accompanying injured or ill employees from TDY station—Where an employee suffered a heart attack while on TDY, under what is now FTR para. 1-2.4, which authorizes the reimbursement of the return travel of an employee incapacitated prior to the completion of TDY, a wife who attended an employee could be allowed the cost of her transportation from the PDY station to the TDY post and return from the TDY post to the PDY station by a direct

route. However, the additional cost incurred by the employee in rerouting his travel for the purpose of recuperation could not be allowed, as under the law and regulations only travel by a direct usually traveled route is contemplated, and circuitous travel at government expense for the purpose of recuperation is not authorized. B-169917, July 13, 1970.

While reimbursement has been authorized for the transportation expenses of an employee's spouse in accompanying an ill employee back to his official duty station, there is no basis under what is now FTR para. 1-2.4 to authorize the payment of subsistence expenses for the spouse. B-174242, November 30, 1971.

Where an employee was injured while on TDY, and another employee drove the injured employee back to the TDY station, reimbursement could be allowed to the employee-escort for the actual expenses of travel not to exceed the cost by commercial carrier. There is, however, no authority for the payment of per diem or subsistence expenses to an attendant. B-176128, August 30, 1972.

(c) Escort for overseas employee—(See, CPLM Title III, Chapter 13)—An employee's claim for the reimbursement of the travel expenses from Frankfurt, Germany, to Beruit, Lebanon, incurred by his wife subsequent to his travel, incident to his hospitalization, was properly disallowed. The applicable regulations in Subsection 686.2 of Volume 3 of the Foreign Affairs Manual, provides that reimbursable travel of medical attendants is limited to one who is accompanying an employee who is too ill to travel alone, so there is no authority for his wife's later travel. B-178529, June 22, 1973. See also, B-191190, March 16, 1979, where we held that an overseas employee of the FBI could not be reimbursed for the travel expenses incurred by his wife from Caracas to Oklahoma City in order to be with the employee, as there is no statutory authority for the payment of the employee's travel expenses, nor was there a certification that his wife's presence as an attendant was medically required.

2. Attending conventions, conferences, etc.

Attendees at a National Solid Waste Management Association Convention, which was cosponsored by the Association and by EPA, were not providing a direct service to the government, and were, therefore, not covered by what is now 5 U.S.C. § 5703, and were,

therefore, not entitled to reimbursement for their travel expenses. Section 5703 of Title 5, U.S.C., was not intended to establish the proposition that anyone may be deemed a person serving without compensation merely because he or she is attending a meeting or convention the subject matter of which is related to the official business of some federal department or agency. 55 Comp. Gen. 750 (1976).

3. Invitational travel

a. Reimbursement procedure

Expenses incurred by international visitors and paid for by a contract escort are not reimbursable on voucher form SF 1012, since each traveler is required to sign a voucher to claim reimbursement for authorized travel expenses which he personally incurred in the performance of his official travel. However, assuming that travel authorizations have been obtained, travel expenses may be claimed and paid on SF 1164 ("Claim for Reimbursement for Expenditures on Official Business") or SF 1034 ("Public Voucher for Purchases and Services other than Personal"). 55 Comp. Gen. 437 (1975).

b. Category "Z" fares

Prior to the Travel Expenses Amendments Act of 1975, Pub. L. No. 94-22, May 19, 1975, 89 Stat. 84, category "Z" fares did not apply to the invitational air travel, under 5 U.S.C. § 5703, of private individuals furnishing intermittent services for DOD. By section 2 of the Travel Expenses Amendments Act of 1975, codified at 5 U.S.C. § 5701(2), the word "employee" for the purposes of the administration of travel allowances was enlarged to include an individual employed intermittently in the government service as an expert or consultant and paid on a daily WAE basis and an individual serving without pay or at $1 a year. B-187402, May 19, 1977.

c. Fly America Act

The Fly America Act, 49 U.S.C. § 1517, applies to invitees, as the law applies to all government-financed air travel, and does not differentiate between government employees and invitees. 58 Comp. Gen. 612 (1979).

d. Medical examination

An individual not employed by the government, but invited to participate in an exercise with the Naval Ocean Research and Development Activity, Department of the Navy, claimed the cost of a required physical examination on her claim for travel expenses. The cost of a physical examination necessary to participate in an exercise may not be paid as a travel; however, as in the case of an employee, when a physical examination is undergone for the benefit of the government, the cost of the examination may be reimbursed to the invitee. Nancy Wittpenn, B-220822, June 26, 1986.

4. Dependents—TDY travel

See also, "Private Parties," "Escorts and attendants" above.

a. Transportation

A proposal by the Secretary of Labor that under appropriate circumstances, an official of the government traveling on official business be able to apply the value of the lowest first-class fare authorized for himself to the purchase of two tourist or economy class fares for himself and his wife would require changes in existing regulations and controlling statutory provisions. 5 U.S.C. § 73b, (now 5 U.S.C. § 5731). GAO is aware of no statutory provision which would authorize the expense of transportation of the dependents of an employee who may accompany him on TDY unrelated to his travel to a permanent post of assignment. B-147476, November 6, 1961. See also, B-190755, June 15, 1978.

An employee who procured, by means of a transportation request, a single first-class airline ticket for use in authorized travel, and who then converted the ticket into "family rate plan" tickets for himself and his wife by the payment of an additional amount out of his personal funds, and at no additional expense to the government, was not required to refund one-half of the savings accruing to him for his wife's transportation. However, this decision should not be viewed as condoning the utilization in any future case of GTRs for any purpose other than authorized travel on official business. 33 Comp. Gen. 435 (1954).

b. Travel in government vehicle

A union proposal which would allow federal employees on TDY for more than a specified period of time to transport their dependents

in government vehicles would not be rendered non-negotiable by what is now section one of Money and Finance, 31 U.S.C. § 1344, which prohibits the use of government vehicles for other than "official purposes." Where the agency determines that the transportation of dependents in government vehicles is in the interest of the government, and the vehicles' use is restricted to official purposes, the statute would not be violated. 57 Comp. Gen. 226 (1978).

For dependent travel incident to an employee's transfer, see, CPLM Title IV, Relocation.

c. Evacuation of dependents

Employees of Padre Island National Seashore were ordered to leave the island and travel to a place of safety due to the threat of a hurricane. If the agency determined that an evacuation, in fact, occurred under its regulations, the employees would be entitled to mileage for dependent transportation by private automobile incident to the evacuation. Title 5, U.S.C., section 5725 provides the authority for the transportation at government expense of the immediate family of a government employee, when an official determination by a proper authority is made that emergency evacuation of families is required. 58 Comp. Gen. 134 (1978).

d. Expenses connected with the deaths of certain employees

For the transportation of the remains of an employee, or the remains of a member of the immediate family, see, CPLM Title III, Chapter 11.

Subchapter II—General Rules and Definitions

A. Prudent Person Rule

1. Early departure for TDY

An employee departed on an early flight from his duty station to his TDY point when later flights were available that would have arrived at his destination at a reasonable hour. Per diem incident to

the premature departure was disallowed, since para. 1-1.3a of the FTR requires that a government employee exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. B-185652, December 28, 1976. Generally, when an employee departs early for a TDY station, and qualifies for a lower airfare by doing so, he may be paid the costs he incurs by virtue of such an early departure, not to exceed his savings in airfares. See FTR para. 1-2.5b and B-188689, February 7, 1978. See also, Theodore E. Dorman, B-224131, July 8, 1987.

An employee in Seattle, Washington, who was assigned to TDY in Atlanta, Georgia, departed early and traveled by way of Minneapolis and Aitken, Minnesota. He qualified for a supersaver fare by departing early, and, within the constructive cost of full fare travel, he claimed his costs of travel between Minneapolis and Aitken. Although reasonable and necessary costs incurred as a result of an early departure may be paid, not to exceed the savings attributable to such an early departure, the employee's presentation of a lump-sum receipt from his relative did not demonstrate that he, in fact, incurred reasonable and necessary costs which may be reimbursed by the government. B-204127, April 12, 1982.

2. Reasonableness of expenses for meals

An NLRB employee who was authorized actual subsistence expenses of up to $42 per day during a TDY assignment in Washington, D.C., obtained lodging at an apparently reasonable daily rate of $13.78, but spent between $27.10 and $38.25 daily for meals, and submitted a claim for daily expenses at or near the maximum rate. The employee was entitled to reimbursement only for reasonable expenses for meals, since travelers are required under FTR para. 1-1.3a to act prudently in incurring expenses. The employing agency had to determine what constitutes reasonable expenses for meals under the circumstances. B-186740, March 15, 1977.

An employee on TDY travel who was authorized actual subsistence expenses claimed a breakfast expense incurred in returning home. A breakfast expense is not a necessary expense of official travel prudently incurred, when the employee, instead of having a breakfast meal at home at a customary time, elects on the basis of his personal preference to purchase a meal at the train station at 12:30 a.m. while still in a travel status. B-198775, April 16, 1981.

An employee on a TDY assignment to a HRGA who was authorized actual subsistence expenses claimed reimbursement of a dinner expense. His agency determined that this expense was not prudently incurred, and disallowed the entire amount of the employee's dinner expense. The total disallowance was improper, because the agency has the duty in the first instance to determine what constitutes reasonable amounts for meal expenses. The dinner voucher was returned for agency action. When the agency makes that determination, we will not overturn it, unless its determination is clearly erroneous, arbitrary, or capricious. B-198775, April 16, 1981.

3. Delay in travel

An employee who remained overnight in a HRGA before proceeding to a TDY location in a non-HRGA as scheduled, because he had been in a work or travel status from before 8 a.m. until after 4 p.m., and further travel would have required extensive driving over unfamiliar roads, acted prudently under the circumstances. He could be reimbursed his actual subsistence expenses based on the unusual circumstances of the travel assignment, since, consistent with FTR para. 1-8.1c(3)(d), he necessarily occupied lodgings in an HRGA. The same is true with regard to his return to the HRGA the following night, because of a forecast of a winter storm and because of an early morning flight the next day. B-200081, March 25, 1981. Compare: B-190163, February 13, 1978, where we held that an employee on official travel who missed his scheduled flight due to circumstances beyond his control, and who elected to stay overnight, instead of traveling on the next available flight that day, could not be allowed any additional per diem, as he did not act in a prudent manner as required by para. 1-1.3a of the FTR.

4. Return to official station on nonworkdays

Under the "prudent person rule" set out at FTR para. 1-1.3a, which provides that employees traveling on official business are expected to exercise the same care in incurring expenses that a prudent person would exercise for traveling on personal business, we have held that a traveler must return to his official station on nonworkdays, if his presence at his TDY station is not required and a substantial savings to the government would result from such return. B-172565, August 3, 1971 and B-139852, July 24, 1959.

5. Distance of lodging from TDY station

The fact that an employee on a TDY assignment stays in a motel which is 74 miles from the TDY duty station, and only 25 miles from his home, does not necessarily indicate imprudent conduct by the employee. Each case must be considered on its own facts. Here, since there was no showing of any increased cost to the government, and no indication that the distance impeded the employee in the performance of his assignment, the employee should be reimbursed for his lodging expenses. B-193740, August 6, 1979.

6. Travel delays for personal convenience

An employee, after completion of his TDY on Friday afternoon, went on a personal trip, took annual leave on Monday, and used Tuesday as a day of travel to return to his office. The agency's charge of 8 hours to the employee's annual leave account was within its administrative discretion and reasonable under these circumstances. No additional per diem was payable to the employee by reason of his failure to return to his headquarters on the weekend, and the per diem entitlement was limited to the amount otherwise payable had the return travel had been performed after the completion of his TDY on Friday, without interruption. The agency's allowance of 3/4 day's per diem was correct and reasonable. B-203915, June 8, 1982. See also, Dan Wendling, B-224048, April 24, 1987.

B. Reimbursable Expenses

1. Official business requirement

An employee who was authorized to rent an automobile on official business took annual leave while retaining the rented vehicle. The rental charges for the days the employee was on leave could not be reimbursed, since what is now FTR para. 1-1.3b confines travel expenses to those necessary to transact official business, and no official business was transacted on those days. B-190698, April 6, 1978.

An IRS employee who traveled from his TDY station to his PDY station in order to attend a National Guard drill could not be allowed reimbursement for the travel, as the travel back to the employee's official station for the purpose indicated had no relation to the

duties of his civilian position, and what is now FTR para. 1-1.3b provides that reimbursement for travel expenses are confined to those expenses essential to the transaction of official business. B-163906, April 25, 1968.

2. Assistance to ill employee

An employee remained at his TDY station after the TDY was completed in order to be with a fellow employee who, while also assigned to the same TDY, had became ill and required hospitalization. During the time the employee remained at his TDY station, he incurred expenses for lodging, meals, and telephone calls to his and the injured employee's family. The employee could not be reimbursed for these expenses, since the decision to remain at the TDY station was a personal choice not connected with the performing or transacting of official business, and the reimbursement of travel expenses is confined to those expenses essential to the transacting of official business. B-198299, October 28, 1980.

3. Attendance at funeral

In the absence of a statute expressly authorizing payment, the costs of travel incurred by an employee who traveled as the official representative of his station on official travel orders to attend the funeral of a deceased son of a fellow employee were not reimbursable, not having been incurred while traveling on official business. B-199526, February 23, 1981.

4. Attendant for child at residence

A member of the former National Arthritis Board who had to hire an attendant to care for her arthritic child when she attended official activities of the Board could be reimbursed the cost of such expenses by the Board. In view of the former statutory requirement that one of the Board members be the parent of a child who has arthritis, such expense could be considered essential to the Board carrying out its advisory functions under what was 42 U.S.C. § 289c-4. In requiring that one of the Board members have an arthritic child, the Congress had determined that the advice of such an individual was necessary to enable the Board to properly carry out its responsibilities. B-194131, July 19, 1979.

5. Additional expenses incurred at domicile

An employee whose wife worked in the evenings claimed reimbursement in the amount of $30 for an attendant for his children at his home while he was in travel status. The claim could not be allowed, as the law and regulations authorizing the reimbursement of a traveler's expenses while on TDY away from his domicile do not relate to expenses incurred by his family at his domicile. The allowable reimbursement was limited to the subsistence of the traveler and the expense of his actual transportation in going to and from his TDY station, as well as certain specified expenses at the TDY station. What is now FTR para. 1-1.3b provides that reimbursable travel expenses are confined to those expenses essential to the transacting of official business. The fact that an employee or his family would not have had an occasion to incur a personal expense at his PDY station—except for his performance of official travel—is not a sufficient basis for shifting such an expense to the government. B-162466, September 27, 1967.

6. Subsistence at PDY station airport

A NSA employee on TDY from Fort Meade, who was authorized his actual expenses, claimed the cost of dinner obtained at the Baltimore-Washington International Airport upon his return, before proceeding to his residence at Columbia. The claim was disallowed. Subsistence expenses at a PDY station airport are not generally allowable. The employee's election to eat dinner at the airport, rather than at home, was personal, and the cost was not a necessary expense of official travel within the purview of 5 U.S.C. § 5702(c) and FTR para. 1-1.3b. B-189622, March 24, 1978.

7. Weekend personal travel

An employee whose official duty station was Birmingham, Alabama, and who was performing TDY in Washington, D.C., traveled to Portland, Maine, over the weekend for personal reasons. The employee could not be reimbursed his actual transportation expenses to and from Portland, since such travel was not to the employee's headquarters or place of abode under FTR para. 1-8.4f. While the location at which an employee chooses to spend his nonworkdays while in a travel status is of no particular concern to the government, insofar as it does not interfere with the performance of his assigned duties, his entitlement to per diem or actual

subsistence expenses as authorized continues, unless otherwise restricted under FTR para. 1-7.5c or FTR para. 1-8.4f. However, this does not entitle the employee to the reimbursement of his transportation costs incurred for personal reasons. B-205696, June 15, 1982 and B-198827, August 3, 1981.

C. Travel Agencies

1. Restriction on use

Employee who purchased airline ticket for travel in March 1984, from travel agent, may be reimbursed to the extent amount paid does not exceed cost of ticket procured directly from carrier, even though change to Federal Travel Regulations (Supp. 9, May 14, 1984) (FTR), specifically allowing this result was issued after travel was completed. This addition of FTR para. 1-3.4b(2)(b) was not revision of regulations, but instead was a clarification to bring FTR into accord with GAO cases. Since record shows that employee had no alternative but to use travel agent, reimbursement is allowed as limited above. Joel L. Morrison, 63 Comp. Gen. 592 (1984).

An Army employee who was unaware of the general prohibition against the use of travel agents purchased coach-class air transportation for official travel from a travel agent. He could be reimbursed for transportation costs which would have been incurred if he had obtained his transportation directly from the carrier. In view of the requirement to purchase such transportation using a GTR, his reimbursement was limited to the lower fare available for transportation procured with a GTR, since the evidence does not establish that his failure to obtain a GTR was for reasons beyond his control. Seymour Epstein, B-213340, April 4, 1985.

An employee, who was an infrequent traveler and who was authorized official travel to Germany and return, purchased his airline ticket through a travel agent with personal funds at a cost less than government-procured airfare. In accordance with the provisions of Volume 2, Joint Travel Regulations, the employee may be reimbursed for the airline ticket where he was unaware of the prohibition on purchasing transportation with personal funds from travel agents. Billy J. Slinger, B-228664, March 2, 1988.

D. Official Duty Station

See also, CPLM Title III, Chapter 6.

1. Determination question of fact

The location of an employee's official station is a question of fact, and is not limited by the administrative designation. It has been held that an employee's official station is the place at which he performs the major part of his duties and is expected to spend the greater part of his time. B-182427, October 9, 1975. Although, a determination as to whether an assignment to a particular location would be considered TDY or a PCS is a question of fact, and is not limited by the administrative designation, an agency may correct an erroneous administrative designation in an employee's personnel records. B-198061, December 11, 1980.

An employee was reassigned to a new duty station, but later returned to his former duty station after a grievance examiner concluded that the reassignment was improper. The employee's claims for mileage, parking fees, and overtime for commuting to the new duty station were denied. The determination that the reassignment was improper did not convert the assignment to TDY, and these claims could not be paid for commuting to the employee's official duty station. B-198381, February 13, 1981.

A Navy employee was detailed away from her official duty station in Arlington, Virginia, to work for another Navy component in Baltimore, Maryland, for a period not to exceed fourteen months. The assignment could be considered TDY, and the employee could be authorized mileage for commuting between her residence and her assignment within the discretion of the agency. The Navy determination should be based on the duration of the detail and the cost of mileage as compared to the relocation expenses which would be paid under any transfer orders. The question as to whether an assignment to a particular location would be considered TDY or a PCS is a question of fact to be determined from the orders directing the performance of the duty. When necessary, the answer would depend upon the character of the assignment, particularly its duration and the nature of the duties. B-192838, March 16, 1979.

An employee was advised by a memorandum of his transfer to a new duty station. Due to the short notice involved, he was detailed to his former duty station pending his reporting to the new station. He became ill at the duty station to which he was "detailed" and claimed 168 days of per diem while there during his illness, because the illness prevented his reporting to his new duty station. In the

absence of exceptional circumstances, the claim could not be allowed, as FTR paras. 1-7.6 and 2-1.4, when construed together, constitute a requirement that an employee must actually report to his new duty station before it is regarded as the PDY station so as to entitle the employee to per diem at the former duty station. B-191492, November 2, 1978.

An employee transferred to Pompano Beach, Florida, could not be paid mileage for commuting on weekends between his Orlando residence and his PDY station. The fact that his superior indicated that the assignment to Pompano Beach was temporary, until a position could be found in Orlando, does not change the duration, and, thus, permanent in nature. Doubt as to its ultimate duration does not convert an indefinite assignment from permanent to temporary. John J. D'Anieri, B-217574, September 18, 1985.

An employee of the U.S. Forest Service grieved his entitlement to per diem in connection with his assignment to a seasonal worksite every 6 months. We agreed with the Grievance Examiner's factual determination that the employee was in a TDY status and therefore was entitled to per diem as provided for in the U.S. Forest Service's regulations. No transfer orders were prepared or relocation expenses allowed in connection with the annual assignment, and the employee maintained his permanent home at his official duty station while living in government quarters at the seasonal worksite. Frederick C. Welch, B-206105, December 8, 1982.

The assignment of a U.S. Customs Service employee to a new duty station for 2 years under a rotational staffing program was held to be a PCS rather than TDY. We have held that the duration of an assignment and the nature of the assigned duties are the vital elements in the determination of whether an assignment is TDY or a PCS. Although the assignment here was for a definite time period and further reassignment of the employee was contemplated, the duration of the assignment was far in excess of that normally contemplated as temporary. Moreover, the duties assigned were not those usually associated with TDY. Peter J. Dispenzirie, 62 Comp. Gen. 560 (1983).

2. Corporate limits of city or town

The provisions of FTR para. 1-1.3c(1) clearly state that, for purposes of entitlement to travel allowances, the corporate limits of a

city or town determine an employee's official duty station. B-186090, November 8, 1976.

National Park Service employees stationed at Saint Croix National Scenic Riverway, Wisconsin, could not be paid per diem for travel within the park prior to the date the Riverway was subdivided into three districts for the purpose of establishing official duty stations for park employees. Barbara J. Voss and Daniel D. Schultz, B-217681, September 30, 1985.

3. Official duty station distinguished from workplace

The claim of a U.S. Customs Service employee for parking fees while assigned for 6 months to the Seattle Federal Office Building from his usual place of duty on the Seattle waterfront could not be authorized for payment. The Customs Service has the discretion to determine whether relocation of a workplace within the claimant's official station is of a short duration, and travel thereto official business, or whether such relocation is a change of regular workplace, and travel thereto nonreimbursable commuting expenses. The agency policy places the employee's relocation within the latter class. GAO will not question an agency policy, if reasonable as it was here. B-186065, October 8, 1976.

E. Conterminous U.S.

Para. 1-1.3c(2) of the FTR defines "conterminous United States" as meaning the 48 contiguous states and the District of Columbia.

F. Continental U.S.

An employee who was recruited in Anchorage, Alaska, for a position in Juneau, who was transferred from Juneau to Petersburg, Alaska, had to refund the money expended by the government incident to his transfer within Alaska. Under 5 U.S.C. § 5724(i), which provides for travel, transportation, etc., of employees transferred within the continental U.S., the term "continental United States" means the 48 contiguous states and the District of Columbia. Section 5724 (i) does not apply to employees transferred within or between the states of Alaska and Hawaii, but it does apply to employees transferred within or between the other 48 states and the District of Columbia. B-163726, September 10, 1978.

The term "within the continental United States," as used in former section 1.3c(1), Bureau of the Budget Circular No. A-56, and

derived from section 28 of the Administrative Expenses Act of 1946, as amended, 5 U.S.C. § 5724(i), may not be interpreted to mean "to and within the continental United States" absent a proper basis to justify such an interpretation. 47 Comp. Gen. 122 (1967).

G. Government

"Government" means," the Government of the United States and the government of the District of Columbia. * * *" 5 U.S.C. § 5701(5).

Subchapter III—Orders and Authorization or Approval of Travel

A. Delegation of Authority

1. Generally

Where nothing in the record indicates that the head of the agency, the Director, IRS, had delegated travel approval authority to a Justice strike force head, an IRS employee who claimed that he was authorized travel by the head of the strike force was not entitled to the payment of his travel expenses. B-171969, August 8, 1974.

2. Redelegation of authority

Under what is now FTR para. 1-1.4, the head of a department may delegate to a subordinate his power to authorize travel, but the subordinate was without power to redelegate the duties delegated to him. B-105723, November 2, 1951.

B. Administrative Determination

Although an employee may be reimbursed for his travel from his residence to his nearby TDY station, an employee who drove daily to his TDY station was not entitled to the payment of any mileage, since his agency did not authorize it, and such authorization is within the agency's discretion upon its consideration of the best interest of the employee and the government. B-184175, August 5, 1975.

C. Written Orders Requirement

1. Generally

The authority to pay per diem and reimburse travel expenses incurred by an employee while traveling on official business is provided by Chapter 57 of Title 5, U.S.C. The FTR issued by the Administrator of GSA pursuant to 5 U.S.C. § 5707 governs the official travel of federal employees. FTR para. 1-1.4 provides as follows:

"Authority for travel. Except as otherwise provided by law, all travel shall be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated. Ordinarily, an authorization shall be issued before the incurrence of the expenses. . . ."

The above-quoted provision has been construed by this Office as requiring a written authorization or approval, although the words themselves are not clear on the matter. See, B-192590, December 14, 1978. This construction is supported by FTR para. 1-11.3b, which states that the travel voucher must be supported by a copy of the travel authorization. Therefore, except when prior issuance is impracticable, or when the travel is of such a limited nature that it is unnecessary, written authorization should be issued prior to the incurrence of travel expenses. B-181431, February 27, 1975. We have stated that written travel order procedures assist in fund control and meeting the requirements of recording obligations at the time they are incurred. Moreover they also serve to provide a notice and record of the employee's instructions and entitlements. B-198937, April 15, 1981. See also, B-203820, October 19, 1981. An employee voluntarily incurred travel expenses with the understanding that his travel would be at no cost to the government, in order to attend a training course at a time that the agency's travel funds were frozen. The employee could not be reimbursed for his return travel, which was performed after the freeze was lifted. As a travel authorization at government expense was never executed, and travel was authorized at no expense to the government, no authority existed to authorize the reimbursement for his travel retroactively in the absence of an error apparent on the face of the orders, and where all facts and circumstances have not clearly demonstrated that some provision previously determined and definitely intended has been omitted through error or inadvertence. B-192636, December 15,1978.

Where a transferred employee reported to his new administrative headquarters location for a period of orientation before reporting

to the contractor facility that was to be his new duty station, he could be paid per diem, rather than temporary quarters subsistence expenses for the orientation period, even though his PCS travel orders did not provide for a period of orientation away from his new duty station. The headquarters was located 60 to 70 miles from the contractor facility, and he was directed in advance, in writing, to report to that location prior to beginning his assignment at the contractor's facility. Under these circumstances, the absence of a properly executed travel order form will not prevent payment of appropriate TDY allowances. Gene H. Rhodes, B-218910, October 23, 1985.

2. Local and vicinity travel

Expenditures for streetcar tokens, passes, ferry tickets, etc., for local transportation of employees at their official station where a travel status may not exist, do not constitute traveling expenses, and, therefore, properly are chargeable as an administrative expense, rather than as a travel expense. The issuance of travel orders for such travel is neither required, nor proper. 24 Comp. Gen. 858 (1945).

Where under an agency's departmental regulations, no written travel order or advance approval is required for local travel, reimbursement for travel expenses consisting of mileage and parking for four daily trips between an employee's residence and his TDY point is approved, since the approval of the reimbursement voucher by the appropriate official is sufficient administrative approval of the mode of travel as being advantageous to the government. B-173279, August 16, 1971.

D. General Travel Orders

General orders may be issued, under certain circumstances. In those cases where the duties of an employee require repeated and frequent travel and the exercise of individual discretion, the use of general travel orders has been permitted. However, even in such cases, in order for the travel to be specified as definitely as circumstances will permit within the meaning of the regulation, the order should be renewed at least each fiscal year, and as frequently during the fiscal year as there is any change in status affecting the travel required by the employee. See, 14 Comp. Gen. 414 (1934). Such a blanket order should be confined by its terms to the area in which the persons covered thereby perform frequent travel, such as the

district to which assigned or, if justified, to any place in the continental U.S. B-99445, June 4, 1951.

What is now 2 JTR para. C3050-4 may be amended so that general written travel orders may be issued to civilian employees for sea trial trips. The orders should set out the rate of per diem, and the accounting data, together with a list of the employees assigned to each trip, with a copy of the orders being given to each employee. This procedure would meet the purposes for which written orders are prepared—fund control and definite notice of entitlement to the employees involved. B-181431, February 27, 1975.

E. Modification, Cancellation, or Revocation of Travel Authorizations

1. General rule

It is well established that legal rights and liabilities in regard to travel allowances vest as and when travel is performed under competent orders, and that, in general, such orders may not be revoked or modified retroactively so as to increase or decrease the rights and benefits which have become fixed under the applicable statutes and regulations. We have recognized an exception to the above rule when an error is apparent on the face of the orders or where all the facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence in preparing the orders. 23 Comp. Gen. 713 (1944); 24 Comp. Gen. 439 (1944); 47 Comp. Gen. 127 (1967); 54 Comp. Gen. 638 (1975); and 55 Comp. Gen. 1241 (1976).

a. Some case examples:

A transferred employee of the Defense Contract Audit Agency was authorized travel, relocation, and miscellaneous expenses. He was entitled to retain such expenses, since legal rights and liabilities in regard to per diem and other travel allowances vest when the travel is performed under orders, and such orders, if valid, may not be cancelled or modified retroactively to increase or decrease the rights which have become fixed under the applicable statutes and regulations. Since the original orders were not clearly erroneous, the agency's redetermination 4 years after the fact that the transfer had not been in the best interest of the government could not be given effect. Steve W. Fredrick, B-217630, July 25, 1985.

An employee served a 2-year tour of duty overseas and was issued a travel authorization to travel from Saudi Arabia to Fort Collins, Colorado, by way of Washington, D.C., for debriefing. While serving a short-term detail in Washington, D.C., the agency agreed to establish a position for him there, and he signed an agreement to remain in government service for 1 year. Since the employee was notified while at the TDY station that it had been changed to his PDY station, he could be reimbursed for round-trip travel and transportation expenses incurred between Washington, D.C., and Fort Collins for the purpose of arranging for the movement of his family and household effects, and assisting in other matters incident to the relocation. Dr. Tommye Cooper, B-213742, August 5, 1985.

Travel orders may not be changed retroactively to increase or decrease entitlements after travel is performed. Where a travel order was altered after it was signed to permit travel by POV as in the interest of the government, the employee should be limited to reimbursement of the cost that would have been incurred by common carrier, unless it is shown that the provision authorizing travel in the government's interest was a part of the approved travel when the travel was performed. Julie M. Gunderson, B-215569, January 11, 1985.

2. Competent orders

It should be noted that the prohibition against retroactive modification, except in the limited circumstances described above, applies only to competent orders. It is not a mechanism by which an authorizing official may expand the scope of his authority as otherwise limited by the applicable law and regulations. For this reason, the general rule against retroactive modification applies only to the extent the specific provision in the orders is properly within the scope of authority granted the authorizing official. B-174428, April 17, 1972.

While a travel order may not be amended to correct an error in judgment committed in the proper exercise of authority, it is not a bar to the retroactive amendment of an order whose provisions are clearly in conflict with a law, agency regulation, or instruction. B-151457, May 23, 1963; B-161732, October 5, 1967; and B-171315, November 20, 1970.

Retroactive modification of travel orders is permissible where the agency initially misconstrues or misapplies its written policy guidelines in authorizing a rate or reimbursement other than that prescribed by law or regulation. B-183886, July 30, 1975.

Two ambassadors resigned their positions and returned to Washington, D.C., pending nomination and confirmation for new duty posts. Under existing agency procedures, the ambassadors were transferred to Washington after 50 days, even though both were shortly thereafter transferred to their new duty posts. Where the ambassadors claim only TDY expenses while in Washington, and where the agency did not intend to transfer these two ambassadors to Washington between assignments, we did not object to the agency issuing amended travel orders treating the entire period in Washington as TDY. Peter J. DeVos and Terence A. Todman, B-214519, February 19, 1985.

3. Absence of travel orders

In B-203820, October 19, 1981, we considered whether an employee may receive additional reimbursement for expenses he incurred in connection with his TDY assignment where the assignment has been completed and no travel authorization was ever issued. The general rule regarding the retroactive modification or amendment of travel orders is that under orders entitling an officer or employee to travel allowances, a legal right to such an allowance vests in the traveler when the travel is performed. It may not be divested or modified retroactively so as to increase or decrease the right which has accrued. 55 Comp. Gen. 1241 (1976). However, in one line of prior decisions of our Office, we have permitted "approval" by administrative action after the fact. B-198062, June 23, 1981, citing B-197960, August 6, 1980. The significant factor for these cases was that the item approved was not included in the authorization issued prior to the travel. Thus, the cases did not involve a retroactive modification of the travel orders. Rather, the approval was the original determination concerning the item in question. As a result of the agency's oversight, the employee's right to a specific per diem rate did not vest at the time of his travel, as no travel order was issued in connection with his TDY assignment. Thus, since the pivotal point for the disallowance of a retroactive modification of travel orders is that the rights and obligations of the employee have already vested, the general rule did not apply. See, B-185355, July 2, 1976.

An employee appointed to a manpower-shortage position was not issued orders authorizing travel and transportation allowances to his first duty station, but was advised that family travel and transportation of HHG had to be accomplished within 1 year. Since these entitlements are in accordance with the statute and regulations, original orders by competent authority to perform the travel and transportation could be issued. Such orders could permit travel within the 2-year period authorized by the FTR, unless there is a mandatory agency regulation limiting travel and transportation in these circumstances to 1 year after the appointment. Dr. Chih-Wu Su, B-217723, August 12, 1985.

4. Correction of administrative error

a. Administrative error—per diem rates

The travel authorizations of Forest Service employees may be modified to correct a mileage rate that was erroneously fixed at a lower rate than was authorized under the agency's travel manual based on the FTR. B-183886, July 30, 1975.

Amendments to the travel regulations, providing a maximum $30 per diem had not been received by an agency, and an employee had been authorized the previous maximum allowable per diem of $23. GAO will not object to the retroactive amendment of the travel orders to authorize the $30 per diem rate, where the agency has a firm administrative policy precluding the exercise of discretion in designating a rate below the maximum. B-177665, March 9, 1973.

A civilian employee of AID performed TDY travel in Kinshasa, Zaire, from January 24 to February 10, 1979, and was authorized the reimbursement of his actual subsistence expenses. Effective February 1, 1979, based upon information from the American Embassy of a currency devaluation in Zaire, the Secretary of State reduced the actual expense rate from $106 to $75 in Kinshasa. However, upon the delayed receipt in February 1979, of information that prices had increased simultaneously with the devaluation, the Secretary increased the rate in Kinshasa to $111, effective March 1, 1979. The rate decrease in February was caused by an administrative error on the part of the Embassy in failing to furnish State with timely information of concomitant price increases. Accordingly, the prior rate was deemed to continue in effect through the period of

travel, and the employee was entitled to the reimbursement of the additional subsistence expenses. B-198930, April 6, 1981.

5. Cancellation of travel orders

a. Improper

Where an agency's issuance of travel orders was a matter properly within its administrative discretion, once the administrative discretion was exercised, the resultant travel orders could not be retroactively rescinded on the sole basis of a subsequent reversal of administrative policy. B-173978(1), December 20, 1971.

b. Oral cancellation of orders

Under circumstances where proper oral authority is sufficient to initiate travel, such oral authority can also rescind travel orders upon the communication of the cancellation of the travel. B-178510, June 20, 1973.

c. Improper curtailment

The authorization or approval to curtail TDY travel on the assumption of the incapacity of an employee to perform TDY without the establishment of the fact of the incapacity is not, in itself, sufficient to allow the payment for the cost of the return travel to the headquarters under what are now FTR paras. 1-2.4 and 1-7.5b(4). 41 Comp. Gen. 573 (1962).

d. Cancellation of orders after premature departure

An employee, after a premature departure for his TDY station, and while on leave at a point beyond the TDY station, received a notice of the cancellation of his travel orders. Assuming he would not have traveled to the point of leave, if he had not been ordered on TDY, he could be reimbursed the cost of the travel, not to exceed the cost of the travel from his headquarters to the TDY station and return. 36 Comp. Gen. 421 (1956).

H. Government-Furnished Quarters

1. Generally

Section 5911(e) of Title 5, U.S.C., provides in pertinent part, that the head of an agency may not require an employee to occupy government-furnished quarters on a rental basis, unless such occupancy is necessary for the performance of the mission or for the protection of government property.

2. Temporary duty

Civilian employees of DOD, while performing TDY in the U.S., are not required to occupy available government-furnished quarters, whether furnished with or without charge, unless the head of the agency determines pursuant to 5 U.S.C. § 5911(e) that the required service cannot be rendered or that government property cannot adequately be protected otherwise. However, when a civilian employee does occupy government quarters, an appropriate reduction from the authorized per diem rate is required under what is now FTR para. 1-7.6f. However, an employee using other accommodations, despite the availability of suitable government quarters, may be authorized a per diem rate in excess of the rate he would have been paid had he resided in the government quarters. 44 Comp. Gen. 626 (1965).

3. Use of government quarters essential to mission

An agency policy requiring civilian employees to use government quarters, if available, when on TDY overseas is valid under 5 U.S.C. § 5911(e), only if the use of such quarters is essential to the mission. However, where TDY was at an overseas military station where only enlisted personnel quarters were available in which officer-grade civilians were not required to stay and at which government messing facilities were not fully available, and where the agency failed to inform employees of the need to occupy such quarters as essential to the mission in an unequivocal manner, full per diem could be allowed. B-185376, August 19, 1976.

4. Training

a. Generally

The Army proposed to establish a per diem rate of $13.80 for training courses, including a fixed charged of $2 per day for government

quarters with an authorization for the payment of a $25 per diem allowance in the event that government quarters were not available. Such a proposal is unauthorized. Since higher per diem rates are authorized for training where government quarters are not available, it is clear that the ultimate effect of the reduced rates is to coerce employees toward the utilization of government quarters in violation of 5 U.S.C. § 5911(e). B-170618, October 15, 1970.

Under 5 U.S.C. § 5911(e), the FAA may not require its employees, while they are assigned as students at the FAA Academy, to use government-furnished quarters, without making the finding that the use of such quarters was necessary in order to accomplish the employee's mission. The Court of Claims holding in Boege v. United States, 206 Ct. Cl. 560 (1975), should be limited to the peculiar facts of that case, and is not applicable here. The "necessity" determinations cannot be made on a blanket basis, but must be tailored to each particular case. B-195859, March 18, 1980.

b. Use of government quarters essential to training

The action of the Bureau of Land Management, Interior, to reduce the per diem of employees attending training where government quarters are available, was proper where an administrative determination was made that the use of government quarters was essential to the successful completion of the training. The required use of government quarters with a consequent lowering of per diem rates is permissible, where an administrative determination is made that such occupancy is essential to the successful completion of the training involved. B-177752, May 17, 1973.

Purpose for Which Travel May Be Authorized

A. Regulation

Para. 1-1.3b, FTR, provides as follows:

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

See also, CPLM Title III, Chapter 4.

B. Change of Station and Return to Duty After Furlough or Separation

See, CPLM Title IV, Relocation.

C. Change of Official Duty Station While on TDY

An employee who is notified while at his TDY station that his TDY station has been changed to his PDY station, may be reimbursed for his round-trip travel expenses from his new station to his old station for the purpose of arranging and effecting the move of his family and household effects. B-169392, October 28, 1976 and B-167022, July 12, 1976.

D. Failure to Enter on Duty

An employee who traveled to the city to which he was transferred and requested to be placed on sick leave, but who resigned prior to his actual entrance upon duty, could not be regarded as having performed travel "in the interest of the government" as required by FTR, para. 2-1.3, so as to be allowed reimbursement for his travel expenses. 32 Comp. Gen. 280 (1952); 34 Comp. Gen. 53 (1954); B-160397, December 2, 1966; and B-157961, January 6, 1966. See also, 54 Comp. Gen. 993 (1975).

An employee stationed in Rome, Italy, was transferred to the U.S. and later discharged for failure to report for duty in the U.S. Notwithstanding the MSPB order requiring her reinstatement, she could not be reimbursed for travel from Rome to the U.S. on the basis of her transfer, since she never reported for duty in the U.S. Colegera L. Mariscalo, B-214873, June 25, 1985.

E. Resignation After Performance of Brief Period of Duty

A former civilian employee, although separated 3 months after his transfer, was not required to refund any travel expenses paid by the government, since the costs paid by the government would have been allowable had the employee incurred the expenses on TDY, and

he did perform official duty for a period of 2-1/2 months after his change of station. B-162241, August 29, 1967.

F. Training

1. Per diem versus station allowances

Under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, federal employees temporarily assigned to state and local governments, and institutions of higher education, are not entitled to both per diem and change of station allowances for the same assignment, even though 5 U.S.C. § 3375 permits the payment of both the benefits associated with a PCS and those normally associated with a TDY status, since nothing in the statute or its legislative history suggests that both types of benefits may be paid incident to the same assignment. Therefore, in contrast to the provisions of the Government Employees Training Act, 5 U.S.C. § 4109(a)(2)(B), an agency should determine, taking cost to the government into consideration, whether to authorize PCS allowances or per diem in lieu of subsistence under Title 5, U.S.C., Chapter 57, Subchapter I to employees on an intergovernmental assignment. 53 Comp. Gen. 81 (1973) and 39 Comp. Gen. 140 (1959).

An employee was sent to a location away from his old duty station for long-term training to be followed by a PCS to a then undetermined location. The employee claimed reimbursement for his move to the training site as a PCS move, since he was promoted for the purpose of that travel under an agency merit promotion program. Since travel to a location for training contemplates either a return to the old duty station or another PDY station upon its completion, a training site is but an intermediate duty station. Until the employee is actually transferred to a new PDY station, the duty station from which he traveled to the training site remains his PDY station. John E. Wright, 64 Comp. Gen. 268 (1985).

2. Official duty away from training site

An employee who incident to moving his family residence to a training site under the authority in 5 U.S.C. § 4109(a)(2)(B) forfeits his right to per diem is entitled to transportation costs and per diem when required to travel on official business away from the training site, even while performing official duties at the location which would otherwise be his official station. For the purpose of what is now FTR para. 1-7.6a, which prohibits payment of per diem at a PDY

station, the training site may be considered the employee's PDY station, thus entitling him to per diem while temporarily assigned official duties away from the training site. 48 Comp. Gen. 313 (1968) and 52 Comp. Gen. 834 (1973).

G. Travel Incident to Illness of Dependent

An employee who claimed per diem for a period of stopover in New York, incident to his return trip to his overseas post, which was caused by the illness of his dependent, was not entitled to payment, since what is now the FTR does not authorize per diem to employees for periods of delays due to the illness of dependents. B-148398, April 6, 1962.

H. Temporary Duty

Return to Headquarters on Nonworkdays

1. Voluntary return to headquarters

An employee on temporary duty rented lodging by the month rather than by the day, but actually occupied them for a lesser period because he voluntarily returned home on weekends. He may be reimbursed for his weekend return travel under para. 1-8.4f of the Federal Travel Regulations up to actual subsistence expenses which would have been allowable had he remained at his duty site for the weekend, including the average cost of lodging based on the monthly rental. Coleman Mishkoff, B-212029, August 13, 1984.

An employee whose duties require substantial and continuous TDY travel and who does not commute daily from his residence to his official station may nonetheless be reimbursed his transportation expenses and per diem en route for the return travel from his TDY station to his permanent residence for nonworkdays under FTR para. 1-7.5c and what is now 2 JTR para. C4662. Those paragraphs allow the reimbursement of the expenses of voluntary return to the employee's official station or to the residence from which he commutes daily to his official station, not to exceed the expenses of remaining at the TDY station. B-186266, August 10, 1976.

A Customs Service employee who is on TDY and receiving actual subsistence returned home for a weekend. During the time away from the TDY, he did not incur costs for 3 nights' lodging and 2-1/3

days of meals. Under FTR para. 1-8.4f, an employee may receive reimbursement for his travel up to the actual subsistence expenses which would have been allowable at the TDY site. Since the employee's weekend round-trip travel expense was less than the average subsistence expenses at the TDY site, the employee could be reimbursed for his travel expenses. 59 Comp. Gen. 293 (1980).

An employee who voluntarily returned home from TDY on the weekend could not include the constructive cost of a car rental for the period in which no official business was performed. The employee contended that the government would have saved money if the car had been retained over the weekend, since the constructive cost of returning the car to the rental agency would have exceeded the cost of returning. However, the rental car was used by the employee incident to his travel to and from the airport, and such cost equals or exceeds the alleged constructive savings. B-194166, January 22, 1980.

An employee who stays with friends or relatives during the week at no cost to the government may use commercial lodging rates in determining "what would have been allowed" if he had remained at his TDY site, when he voluntarily returns home on nonworkdays, and he may be reimbursed for his return home travel. B-194791, March 10, 1980.

2. Employee directed to return to headquarters

An employee was directed to return from TDY assignments to his PDY station on nonworkdays on two occasions. The employee could be reimbursed his total travel expenses, although the total costs exceeded the per diem that would have been payable had he remained at his TDY station. The employee's agency had the discretion to order his return, the excess costs of the return home travel were small, and the employee performed work at his headquarters on one occasion. B-186200, January 27, 1977.

The Department of Housing and Urban Development (HUD) regulations provide that, generally, employees may be ordered to return to their official duty stations from long term temporary duty stations at intervals of not less than 2 weeks, if the cost is outweighed by such factors as increased morale and reduced recruitment costs. Under these regulations, HUD has the discretion to order return

travel on a weekly basis if warranted by the particular circumstances of the case. Under the circumstances of this case the authorization of weekly return travel is proper. Norman L. Deas, B-222711, October 17, 1986.

An agency regulation provided that per diem may not be paid on nonworkdays to employees assigned to TDY between Baltimore, Maryland, and Washington, D.C. An employee headquartered at Baltimore and assigned to TDY at Rockville, Maryland, near Washington, relinquished his Baltimore residence and obtained lodgings in Chevy Chase, Maryland, during his temporary assignment. Although the employee had no Baltimore residence, he could be paid only per diem for 4-3/4 days per week, plus mileage for constructive weekend travel pursuant to the agency regulation, since an agency may require employees to return on nonworkdays to headquarters where no per diem may be paid. B-188515, August 18, 1977.

3. Authorized return to headquarters

Where an agency, after a cost analysis, determines that the costs of reimbursing employees who are required to perform extended periods of TDY for the expense of periodically traveling between their TDY points and official station for nonworkdays is outweighed by savings in terms of employee efficiency and productivity, and reduced costs of employment and retention of such employees, the cost of authorized weekend return travel may be considered a necessary travel expense of the agency. 55 Comp. Gen. 1291 (1976).

Until such time as GSA issues guidelines concerning cost analysis, agencies can still effectively perform comparative analyses of costs of periodic weekend return travel versus any savings associated with increased efficiency and productivity, as well as any costs of recruitment and retention. However, the mere statement by the agency that a 3 week TDY assignment is sufficient to allow employees' travel expenses for voluntary weekend return travel does not comply with the above analysis, as no basis exists upon which to determine that any net savings would accrue to the government as required in 55 Comp. Gen. 1291 (1976). B-200601, July 31, 1981.

Under 55 Comp. Gen. 1291 (1976), employees on extended TDY assignments may be reimbursed for their travel expenses in returning home on a weekend, if the agency conducts a cost analysis. The

Federal Home Loan Bank Board, without a cost analysis, allowed field examiners to return home one weekend for every four weeks of TDY. The Board was allowed to temporarily continue this practice, but had to conduct a cost analysis before renegotiating collective bargaining agreements or changing that practice. B-202544, August 31, 1981.

Weekend return travel should be performed outside the employee's regular duty hours or during periods of authorized leave. Authorized leave includes scheduled and approved annual or sick leave, compensatory time off, and LWOP. Administrative leave does not constitute authorized leave within the meaning of that term as used in 55 Comp. Gen. 1291 (1976). B-202544, August 31, 1981.

An employee who is issued GTRs for weekend return travel to his PDY station while on TDY is not entitled to the reimbursement of his travel expenses incurred for personal reasons to locations other than the PDY station. Under such circumstances, the employee is only entitled to the per diem and any travel expenses which would have been allowable, if the employee had remained at his TDY station. B-200856, August 3, 1981.

An employee was on a TDY assignment at Albuquerque, New Mexico. He traveled to Topeka, Kansas, on the Thanksgiving holiday weekend for personal reasons. His official duty station was Denver, Colorado. The employee could not be reimbursed his actual transportation expenses to and from Topeka, since such travel is not to the employee's headquarters or place of abode under FTR para. 1-8.4f. B-198827, August 3, 1981.

An employee who is stationed in Portsmouth, New Hampshire, and resides in Portland, Maine, was assigned to temporary duty in Arlington, Virginia. Based on agency officials' verbal approval, which was later confirmed in writing, the employee traveled to Kansas City, Missouri, on the Thanksgiving holiday weekend for personal reasons. The employee may not be reimbursed for his transportation expenses to and from Kansas City, since such travel was not to the employee's headquarters or place of abode from which he commutes daily to his official station. FTR paragraphs 1-7.5c and 1-8.4f. Furthermore, the government cannot be bound by the erroneous acts or advice of its agents. Michael K. Vessey, B-214886, July 3, 1984.

4. Travel expenses incurred by wife of employee for visit

An employee whose duty station was Portland, Oregon, was on a TDY assignment in San Francisco, California. In conjunction with the assignment, he was authorized his travel expenses for two intervening weekend round-trips to his home in Portland, and was issued two GTRs. The employee made one weekend return trip to his residence. The second GTR was used by the employee's wife to travel to San Francisco to visit the employee. The employee's wife returned to Portland with him on a workday when the employee traveled to Portland for business purposes. Traveling expenses which may be reimbursed are confined to those expenses essential to the transacting of official business. Although the employee was authorized weekend round-trip travel to his headquarters, this authorization could not be transferred to his wife to travel to the employee's TDY station to visit him. Such expenses are considered personal. B-190810, July 18, 1978.

5. Travel by wife to become naturalized citizen

An employee, in advance of an overseas transfer, performed vacation travel away from his permanent duty station. He returned to his permanent duty station for a short period to accompany his spouse while she completed the steps necessary to become a naturalized citizen prior to their overseas travel. The employee's claim for his wife's travel, subsistence, and other expenses on her behalf under 5 U.S.C. § 5702 (1982) is denied. Only employees traveling away from their permanent stations on official business are entitled to travel and subsistence reimbursement. Since the employee's spouse was not an employee as defined in 5 U.S.C. § 5701(2), her travel expenses may not be allowed. James E. Moynihan, B-229074, March 28, 1988.

Unscheduled Return to Official Station on Workdays

1. Generally

An employee was ordered to TDY at a point 100 miles from his residence, which was located near his permanent headquarters. Although his orders did not so provide, he voluntarily returned to his residence on workdays after the close of business, as well as on nonworkdays. He could be reimbursed for his travel expenses for the days he returned to his home in an amount not to exceed the expenses allowable had he remained at his TDY station, even though

what is now FTR para. 1-7.5c makes no reference to a return to headquarters on workdays while on TDY, as there is no reason why the rule applicable to nonworkdays may not be extended to voluntary returns on weekdays after the close of business, if not specifically prohibited. 50 Comp. Gen. 44 (1970).

An employee permanently stationed in Arlington, Virginia, was detailed to Baltimore, Maryland. Although no official transfer orders were prepared, the employee was apparently advised by the agency that she would be authorized reimbursement for a PCS or reimbursement for TDY in Baltimore, if, based upon a cost comparison, the latter was more advantageous to the government. The employee requested reimbursement for her daily mileage for commuting between her residence in Oakton, Virginia, and Baltimore. An employee who is performing TDY may voluntarily return to her PDY station or place of abode on nonworkdays or after the close of business on workdays, and may be reimbursed for the round-trip travel expenses not to exceed what would have been allowed for per diem or the actual expense allowance had the employee remained at the TDY station. 2 JTR para. C4662. An earlier version of this regulation was construed as permitting daily commuting to the TDY station. 50 Comp. Gen. 44 (1970). Here, it appeared that a TDY assignment where the agency authorizes the use of the employee's automobile for travel to and from the TDY station, would be less costly to the agency than a PCS. Under these circumstances, we did not object to the agency's approval of the payment of mileage incident to the employee's temporary assignment to Baltimore. B-192838, March 16, 1979.

An employee on a long-term TDY assignment may be paid lodging expenses at other TDY worksites that he occasionally visited. However, the employee may not be paid lodging expenses for occasional return trips to his permanent duty station. Mark J. Worst, B-223026, November 3, 1987.

2. Interruption due to illness or injury of employee

An employee who returns to his headquarters for medical treatment may be reimbursed the cost of his travel not to exceed the amount of per diem that would have accrued had he not left his TDY station. 31 Comp. Gen. 440 (1952).

An employee who became ill while on TDY, and returned to his official station at government expense for medical treatment, could be reimbursed for the cost of returning to complete his TDY assignment. 42 Comp. Gen. 163 (1962).

An employee was informed that another employee on TDY was in the hospital due to an automobile accident. The employee called her supervisor who told her to drive the injured employee back to her residence 90 miles away. The employee was entitled to a mileage allowance, since we held that travel which is authorized or approved in order to return an injured employee on TDY to his or her home should be treated as necessary to carry out the agency's duty, and, therefore, such travel is on official business. B-204099, April 27, 1982; overruling B-176128, August 30, 1972.

3. For clinical medical treatment

An employee who prior to completion of a TDY assignment returns to his official duty station for clinical medical treatment, is not entitled to the payment of the travel expenses involved. However, per diem in lieu of subsistence which is less than the government would have been required to pay had he remained at his TDY post or returned to his official station for the nonworkdays involved may be allowed for such travel. 31 Comp. Gen. 440 (1952).

An employee on an extended TDY assignment in Washington, D.C., returned home voluntarily during a nonworkday break, but did not return to his TDY due to medical reasons. The employee could be reimbursed his travel and subsistence expenses up to the point of abandonment, since he, in essence, abandoned his TDY assignment when he was advised of his need for surgery. However, as the travel was a part of voluntary weekend travel under FTR para. 1-8.4f, the employee could be reimbursed only to the extent the travel does not exceed the allowable travel and subsistence expenses he would have incurred had he remained at his TDY station. The employee also sought reimbursement of the return travel expenses incurred by his return to his TDY station to pick up his automobile and personal effects and travel back to his PDY station. The claim could not be allowed, since the travel was not ordered or approved by appropriate agency officials, and, therefore, had to be considered personal. B-190525, April 7, 1978.

4. Interruption due to illness, emergency or death in family

See 5 U.S.C. § 5702(b)(1)(B) and FTR chapter 1, part 12 (supp. 20, May 30, 1986) which authorizes emergency return travel under certain conditions.

5. Interruption of TDY assignment due to weather conditions

Under orders authorizing travel either by common carrier or POV, with reimbursement limited to the common carrier cost, including per diem, a Naval Research Laboratory employee's claim for round-trip travel by POV between Washington, D.C., and Union, Connecticut, incident to contemplated TDY at Bedford, Massachusetts, which he never reached, because of a blizzard, could be allowed, not exceeding the common carrier cost and related per diem pursuant to what are now 2 JTR paras. C2152, C4300, C4660 and C4661, notwithstanding the nonperformance of TDY. The reimbursement was unobjectionable under the circumstances, since the official business contemplated at Bedford was later completed at no additional cost to the government, and the agency believed the employee exercised mature judgment in returning to Washington. B-161315, June 13, 1967.

I. Early Departure, Leave and Abandonment of Duty

1. Effect of early departure on entitlement

An employee permanently stationed in Houston, Texas, was authorized Monday as a travel day to attend a training session in Bethesda, Maryland. He departed on the prior Saturday for his own convenience. On Monday, the employee was notified of the death of a member of his immediate family and was authorized emergency leave to attend the funeral. Inasmuch as the employee was required to be in Bethesda on Monday in order to perform TDY the following day, his premature departure did not affect his entitlement to the reimbursement of travel expenses to Bethesda, the point of abandonment of official duty. However, his return travel to Houston was personal travel, and had to, therefore, be at his own expense. B-188702, May 18, 1978.

2. Effect of early arrival on entitlement

An employee claimed reimbursement for lodging expenses incurred on the evening prior to the day he began TDY. He is entitled to reimbursement, even though he did not perform official duty on that day. He had been issued a general travel authorization permitting him to travel without specific prior authorization. He took annual leave on Friday for personal travel and traveled to his TDY site on Sunday, rather than returning to his official duty station and proceeding to his TDY site on Monday. Since he began work Monday morning, the lodging expenses on Sunday were incident to official duty under the circumstances of the travel. Walter Wait, B-208727, January 20, 1983.

A handicapped employee claimed reimbursement for additional subsistence expenses he incurred when he arrived at his TDY site several days early, and then delayed returning to his official duty station, in order to avoid driving in inclement weather. We held that the employee could be reimbursed for the additional subsistence expenses. Furthermore, reimbursement was justified as a "reasonable accommodation" to the employee under the Rehabilitation Act of 1973. Steve Stone, 64 Comp. Gen. 310 (1985).

3. Interruption of approved leave by TDY assignment

The general rule is that when an employee proceeds to a point away from his official duty station on annual leave, he assumes the obligation of returning at his own expense. B-182499, January 19, 1976. Also, if during such leave, or at the expiration thereof, the employee is required to perform duty either at his leave point or some other point prior to his returning to his headquarters, the government is chargeable only with the difference between the cost attributable to the TDY and what it would have cost the employee to return to his headquarters directly from the place where he was on leave. B-185070, April 13, 1976. Two employees authorized leaves of absence away from their stations were temporarily ordered to perform TDY at other locations, and returned to the locations where they were on leave. They were entitled to the reimbursement of their travel expenses attributable to the TDY, but are not entitled to the cost of returning to their headquarters from their leave points. B-189265, September 21, 1977; affirmed in B-189265, December 12, 1978. See also, B-193440, September 24, 1979.

4. Premature departure from training

An employee who departed prematurely from his TDY for training could be reimbursed his allowable travel expenses, and was not liable for his return transportation to his PDY station. Although the employee was one day late for the training course, and, therefore, was required to immediately return to his headquarters, the late arrival resulted primarily from a communications break-down concerning the commencement of classes, and was excusable under the circumstances. B-197954, August 19, 1980.

5. Cancellation of approved leave by TDY assignment

An employee who was stationed in the Washington, D.C., area traveled to Orsay, France, on a TDY assignment. On September 13, 1977, the following day, upon completion of his official business, he traveled by a rental automobile with his wife, on annual leave, from Paris, France, to Les Eyzies, France. Later the same day, due to an unexpected development at agency headquarters in Washington, D.C., the agency cancelled the employee's leave. He was ordered to return to Washington, as quickly as possible. The employee and his wife drove by the rented car from Les Eyzies to the Bordeaux Airport, and flew to Paris. The following day they departed Paris for Washington, D.C. As a result of their early departure, the employee and his wife were no longer eligible to fly at the special-excursion rate, and had to pay an additional amount for regular-fare tickets. Here, the circumstances of the employee's recall to duty fall within the criteria suggested in 39 Comp. Gen. 611 (1960); that is, authorization of 5 or more days of leave and recall to duty within 24 hours of arrival at the leave point. Therefore, the agency could reimburse the expenses of travel from the leave point, Les Eyzies, to his TDY point, Paris, notwithstanding the absence of an applicable agency regulation. B-190755, June 15, 1978.

The claims of an employee for the reimbursement of his wife's travel expenses and the forfeiture of his hotel deposit incident to the cancellation of his approved leave were not payable, as such expenses are personal in nature, and no authority exists upon which payment could be predicated. B-190755, June 15, 1978. See also, B-176721, November 9, 1972.

6. Abandonment for personal reasons prior to reporting for duty

An employee abandoned his TDY travel prior to reporting to his station, because living accommodations for himself and his family could not be obtained at a reasonable rate. Single lodging accommodations were available in the area of the TDY post at a rate within the per diem allowance. Volume 2 of the JTR para. C4463 authorizes the payment of travel expenses to the point of the abandonment of travel, only when the abandonment is for personal reasons of the employee, such as illness in the family and similar reasons. Further, in the absence of a determination by the agency that the reason for the abandonment is acceptable, any expenses incurred by the employee in traveling to his TDY assignment were not reimbursable. Here, since the mission requirements of the TDY were not completed, the travel expenses for the return trip home were not payable. B-192718, March 14, 1979.

7. Travel expenses to leave destination upon recall to official station

An employee, who was recalled to duty soon after departing on annual leave, may not be reimbursed the travel expenses to his leave destination. Airfare to the employee's vacation destination was in the nature of a personal expense which does not become a government obligation following cancellation of annual leave. Alvin N. Kirsch, B-231458, September 9, 1988.

Travel at TDY Station

See also, CPLM Title III, Chapter 4, generally.

1. Lodging to TDY station—mode of travel

"Transportation by bus or streetcar between places of business at an official station or a temporary duty station and between places of lodging and place of business at a temporary duty station is allowed as a transportation expense." FTR para. 1-2.3a.

A government employee who chose to lodge approximately thirty miles from his TDY station, New York City, was entitled to reimbursement of the additional expense of $53 incurred in traveling by more than one mode of transportation to reach his TDY station, since he acted in a prudent manner as required by what is now FTR para. 1-2.3. He effected a net savings to the government of $32,

($85 reduction in per diem, less $53 commuter's tickets and parking fees), in total travel expenses by his choice of his lodging location. B-178558, June 20, 1973.

2. Use of rental automobiles and special conveyances—approval requirement

"The hire of boat, automobile, taxicab (other than for use under 1-2.3c, d, or e), aircraft, livery, or other conveyance will be allowed if authorized or approved as advantageous to the government whenever the employee is engaged in official business within or outside his designated post of duty." FTR para. 1-3.2a.

An employee was authorized a rental car under FTR para. 1-3.2, in connection with his attendance at a conference sponsored by various non-government societies. Since the record shows that the car was used on conference business, and the employee stayed at the hotel where the conference was held, reimbursement could not be made, except to the extent that the proper agency official determined that the vehicle was used for official government business. B-186820, February 23, 1978.

3. Use of regular and air ambulance services

An employee, while on TDY, lost consciousness during a high blood pressure seizure. The ambulance expense for his transportation to the hospital at his TDY post was not reimbursable under the FTR. 55 Comp. Gen. 1080 (1976). See also, B-160272, November 14, 1966.

Employee on temporary duty travel may be reimbursed costs of medically necessitated air ambulance transportation services for herself and infant son prematurely born during employee's temporary duty assignment. The government may absorb these costs under 5 U.S.C. § 5702(b) and para. 1-2.4 of the Federal Travel Regulations, which provide that an employee, incapacitated by illness or injury not due to his own misconduct while on official travel away from his duty station, is entitled to per diem and "appropriate transportation expenses" to his designated post of duty. We construe the term "appropriate transportation expenses" to be broad enough to authorize payment of the air ambulance transportation expenses essential for the safe return of the newborn child to the duty station. Lucy B. Cusick, B-223872, November 25, 1986.

4. To attend a funeral

In the absence of a statute expressly authorizing payment, the costs of travel incurred by an employee in attending the funeral of a deceased officer or employee as the official representative of the agency are not reimbursable, not having been incurred while traveling on official business. B-166141, February 27, 1969.

Court Proceedings

See, CPLM Title III, Chapter 2 and Subchapter II of Chapter 13.

Hearings

1. To attend CSC hearing

An employee traveled from Washington, D.C., to San Francisco and returned to attend a CSC hearing regarding his appeal of the decision to separate him from his position on Saipan, Trust Territory of the Pacific Islands. The employee's travel records were stolen. The employee's attendance was in the interest of the government, and his travel constituted official business. He could be reimbursed the constructive cost of travel to attend the hearing, not to exceed the constructive cost of a round-trip from Woodbridge, Virginia, to San Francisco. B-156482, June 14, 1977. See also, 33 Comp. Gen. 582 (1954); B-183506, September 8, 1975; B-156482, June 23, 1975; and B-180469, February 28, 1974.

2. To attend a security hearing

The travel of an employee, suspended without pay in the interest of national security, in attending an administrative hearing of his case under the right conferred by 5 U.S.C. § 7532 before the termination of his employment, is considered official business, and, therefore, the employee could be paid his transportation expenses incurred incident to such travel and a per diem subsistence allowance. 33 Comp. Gen. 582 (1954).

3. To attend Merit Systems Protection Board hearing

An individual who was separated through a reduction-in-force prior to the expiration of her term appointment in March 1982, appealed the separation in hearings before the Merit Systems Protection Board in May 1982. The appellant prevailed, was awarded backpay for the unexpired period of her appointment, and now

claims travel expenses for her attendance at the hearings. The appellant may not be allowed travel expenses authorized for a government employee under 5 U.S.C. §§ 5702 and 5704, since she traveled to the hearings after the expiration of her term appointment. Furthermore, she is not eligible for travel expenses payable to nonemployee witnesses under 5 U.S.C. § 5703, since she was a party to the proceeding. Gracie Mittelsted, B-212292, October 12, 1984.

A wrongfully separated employee who is later ordered reinstated by the Merit Systems Protection Board (MSPB) is not entitled to reimbursement of expenses for travel to consult with his attorney in connection with the MSPB appeal. However, the employee may be reimbursed for travel to attend the MSPB hearing. Mark J. Worst, B-223026, November 3, 1987.

4. To attend award ceremonies

See also, CPLM Title III, Chapter 2, Subchapter I.

Travel and miscellaneous expenses incurred by officers and employees for the purpose of participating in ceremonies held at a department convocation in honorary recognition of exceptional or meritorious service under the incentive awards program authorized by what now is essentially 5 U.S.C. §§ 4501-4506 may be considered a direct and essential expense of the award, and is within the scope and meaning of the phrase "to incur necessary expenses," as used in the statute. 32 Comp. Gen. 134 (1952).

Meetings and Conventions

See, CPLM Title III, Chapter 5C.

1. General authorization

"Appropriations available to an agency for travel expenses are available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of the functions or activities." 5 U.S.C. § 4110. See also, 38 Comp. Gen. 800 (1959).

2. International congress or convention

An international congress or conference which is not composed of members of any society or association, but is attended wholly by representatives of various governments, is not considered to be a meeting or convention within the prohibitory provisions of the 1912 statute, (now 5 U.S.C. § 5946). 5 Comp. Gen. 834 (1926).

3. Nonmembers

It has been held that the prohibition contained in what is now 5 U.S.C. § 5946 against the use of appropriated funds for the payment of expenses of attendance at meetings or conventions does not apply, unless the meeting or convention is of members of a society or association; 17 Comp. Gen. 838 (1938) and 5 Comp. Gen. 834 (1926); and what is now Money and Finance, codified at 31 U.S.C. § 1345, specifically exempts from its terms "paying the expenses of an officer or employee of the Government carrying out an official duty." See, generally, 16 Comp. Gen. 839 (1937), 16 Comp. Gen. 850 (1937), and 26 Comp. Gen. 53, 55 (1946).

To Attend Preemployment Interview or to Take Examination

See, CPLM Title III, Chapter 2, Subchapter I.

TDY Near Permanent Station

1. General rule

The established rule is that an employee must bear the cost of his transportation between his residence and his place of duty at his official station. 55 Comp. Gen. 1323 (1976); 46 Comp. Gen. 718 (1967); 36 Comp. Gen. 450 (1956); 27 Comp. Gen. 1 (1947); 16 Comp. Gen. 64 (1936); 11 Comp. Gen. 417 (1932); B-131810, January 3, 1978; and B-171969.42, January 9, 1976.

When an employee is assigned to a nearby TDY post, it is within administrative discretion to permit such employee, authorized to use a POV on official business, an allowance for mileage from whatever point he begins his journey, without a deduction for the distance he would normally travel between his home and headquarters, and irrespective of whether he performs duty at his headquarters on that day. Administrative officials may refuse to

authorize reimbursement for such expenses, if no additional travel costs are incurred, or may limit reimbursement to the cost of the travel between the employee's headquarters and his temporary post of duty. Where appropriate, such officials should exercise their discretion to restrict the amount of reimbursement by way of a reduced rate or distance when the employee performs work at a TDY post within a reasonable commuting area. An agency policy to regard such expenses as normal commuting expenses, and the application thereof, must be reasonable. Administrative officials are to give due consideration to the interests of both the government and the employee. 36 Comp. Gen. 795 (1957); 32 Comp. Gen. 235 (1952); B-189061, March 15, 1978; B-188862, November 23, 1977; and B-175608, December 28, 1973.

2. Use of a carpool

An employee who ordinarily traveled to his headquarters in a carpool was assigned to TDY near his headquarters. The employee claimed mileage for the total distance driven on TDY, less the mileage he would have driven as a carpool member. The agency regulation permits full mileage allowances generally, but where the employee reports to his headquarters, requires a deduction for the round-trip distance between his residence and headquarters. Since the regulation makes no provision for carpools, the employee was entitled only to the reimbursement permitted by the regulation. B-188862, November 23, 1977.

J. Travel at Headquarters

See also, CPLM Title III, Chapter 4.

Daily Travel to and From Residence

1. General rule

The well-established rule is that employees must place themselves at their regular places of work and return to their residences at their own expense, absent statutory or regulatory authority to the contrary. Although such transportation expenses may be increased by the performance of overtime duty or other emergency conditions, this does not change the basic rule that the employee must bear the expense of travel between his residence and official duty station. B-190071, May 1, 1978 and B-185974, March 21, 1977.

2. Overtime work

With respect to the performance of overtime work, whether on a voluntary or involuntary basis, there is no authority to reimburse an employee his mileage costs incurred for travel by a POV between his residence and official duty station. B-189061, March 15, 1978 and B-185974, March 21, 1977.

3. Use of taxicab for travel to residence from regular night shift

An employee who was assigned to duty at her permanent station on the 11:30 a.m. to 8 p.m. shift was not entitled under FTR para. 1-2.3e, or any other regulation or statute, to the reimbursement of her taxi fares for travel to her home from the regular night shift, notwithstanding administrative approval of such an expense as advantageous to the government, since her travel followed her regular work tour at her permanent station and was not "incident to officially ordered work outside of regular working hours." B-182986, February 19, 1975.

4. Home to work transportation during public transportation strike

Although the hiring of vehicles for home to work transportation for government employees is generally prohibited by 31 U.S.C. §§ 1343 and 1344, the prohibition does not preclude such action where, as a temporary emergency measure, it was in the government interest to transport certain SSA employees to work during a public transportation strike. 54 Comp. Gen. 1066 (1975).

An employee of HHS was not eligible for the reimbursement of the excess cost of commuting by a taxicab, private car, or other alternate means of transportation over normal public transit fares, despite the complete public transit shutdown during the April 1980 strike. The cost of transportation to the place of duty is the personal responsibility of the employee, absent statutory or regulatory authority to the contrary. B-200022, August 3, 1981. See also, 60 Comp. Gen. 420 (1981).

5. Travel advantageous to government

Employees who are authorized to use POVs for official business within or outside of their designated posts of duty may be paid

mileage from whatever point the journey begins, without a deduction for the distance normally traveled between their homes and headquarters and irrespective of whether the duty is performed within or outside of the corporate limits of the headquarters city or at the headquarters office. 36 Comp. Gen. 795 (1957).

A NASA employee could be reimbursed for the cost of a taxicab fare from his headquarters to his place of residence to pack a suitcase and proceed to the airport in time to make a flight to Denver. What is now FTR para. 1-3.2a provides that the hire of a taxicab may be allowed, if authorized or approved as advantageous to the government, whenever the employee is engaged in official business within or outside his designated post of duty. The record disclosed the use of a taxicab was ordered informally by a proper official and that use thereof was in the best interests of the U.S., and under such circumstances, an exception was warranted to the general rule that the employee must bear the cost of his transportation between his residence and place of PDY. B-160586, February 1, 1967. See also, B-158931, May 26, 1966.

6. Streetcar and bus transportation

Where the authorized travel of an employee on official business is confined to a bus or street car, reimbursement for the transportation costs may be made upon an actual-expense basis, irrespective of whether the travel is within the corporate limits of the city in which the headquarters is located or outside of such limits. 22 Comp. Gen. 62 (1942).

7. Ferry fares and bridge tolls

Ferry fares incurred in performing daily travel between an employee's residence and place of duty are not reimbursable, since the cost of travel between an employee's residence and place of duty is the obligation of the individual. B-137070, October 25, 1957. The same rule is applicable to bridge tolls. B-97166, July 5, 1962.

K. Routing of Travel

Direct or Usually Traveled Route Must Be Used

An AID employee objected to a reported indebtedness of $133.40 for the excess cost of his transportation by an indirect route for himself and his dependents between Paris, France, and Entebbe, Uganda, under a travel order authorizing travel from Washington, D.C., to Kampala, Uganda. He objected on the basis that his travel via Beirut was necessary to enroll his daughter in school and that the travel via Beirut was a usually traveled route. He was indebted as certified, since AID regulations speak of the usually traveled route as one or more routes which are essentially the same in cost to the government, and travel by the direct route, (which must be considered a usually traveled route), would have cost $133.40 less than the actual travel by the indirect route. B-139636, August 23, 1966.

Two GSA employees traveled to Washington, D.C., from Peking, China, via Paris, France, rather than via Tokyo, Japan, the usually traveled route. The employees had received erroneous advice that the travel through Paris would be at no extra cost, and the Administrator of GSA authorized the routing based on that understanding. The government could not pay $896.90 per traveler for the extra cost incurred for the indirect routing. The FTR requires a finding of official necessity for traveling via an indirect route, and there was no basis, other than personal reasons, for the travel through Paris B-205055, June 25, 1982.

When Indirect Route Permissible

1. Overall cost to agency not increased

An overseas employee traveled by a circuitous route by means of a privately-owned automobile and boat from Bucharest, Romania, to Algeciras, Spain, and then sailed to the U.S., although he could have sailed earlier from Genoa, Italy. The employee's claim for the additional vessel fares charged could be allowed, since his delay in traveling was not primarily for personal convenience and the fares paid were for the lowest cost accommodations available at that time, regardless of the port from which he sailed. B-174640, January 21, 1972.

An employee traveling on an actual expenses basis finished his TDY at 6:15 p.m. on Thursday, but did not depart the TDY station until 12:55 a.m. Friday when he traveled to another city on personal business. Since the employee incurred no expense for lodging on Thursday, he could not be reimbursed the hypothetical cost of lodgings for that night. However, because the employee's constructive cost reimbursement should be based on his direct return travel schedule the following morning, lodging costs for that night may be included in determining his constructive expense limitation. B-200305, April 23, 1981.

2. Return via direct route not possible due to strike

An employee, upon completion of his TDY was unable to use his return ticket due to a strike, so he purchased a ticket on a later flight on the same day via an indirect route. The excess cost of $40 could be allowed, even though it is contended that if the employee had remained overnight, he could have returned via a direct route with the excess cost reduced to $23.50, since there was doubt as to whether the later direct flight would have been in service due to the strike. Further, it might have been impractical for the employee to use the lower cost 1:15 p.m. flight after his completion of TDY at noon; therefore, he exercised the same care a prudent person would use on personal business as required by what is now FTR para. 1-1.3a. B-171708, February 18, 1971.

3. Reimbursement for indirect travel interrupted by forces beyond employee's control

a. TDY cancelled

The rule is that an employee assigned to TDY who departs prematurely for an alternate destination on authorized annual leave, which he would not have taken but for the TDY, should not be penalized by reason of a subsequent cancellation of the TDY assignment. The employee is entitled to his travel expenses, limited to the expenses that would have been incurred had he traveled from his headquarters to the TDY station and returned by the usually traveled route. Therefore, an employee whose TDY assignment at points in Louisiana was cancelled while he was on annual leave in St. Louis was entitled to reimbursement for the full cost of the travel performed, notwithstanding his circuitous route travel via St. Louis, since the employee's expenditures did not exceed the amount

the government would have paid for his direct travel to the TDY station and his return to his headquarters in Arlington, Virginia. 52 Comp. Gen. 84 (1973).

Travel expenses incurred when an employee who was ordered to travel from Seattle to the District of Columbia for a meeting, and left early for personal reasons, with routing to Atlanta and then to the District of Columbia, was advised in Atlanta to return to Seattle, as he was not required at the meeting, could be paid. The employee should not be penalized by reason of the subsequent cancellation of his TDY assignment, when it is shown that except for the assignment he would not have undertaken his personal trip, and his leave has been properly authorized. B-171804, March 2, 1971.

b. Employee returning to permanent station by circuitous route notified to return to TDY

An employee authorized to return from a TDY assignment via a circuitous route for the purpose of taking annual leave, who while on leave is notified to return to the TDY point for additional duty before returning to his official station, is entitled to reimbursement for his travel expenses and per diem relating to the circuitous return travel completed prior to the notification of the additional duty. However, his travel expenses should be reduced by the excess costs that would have been incurred incident to the proposed circuitous return. Furthermore, other costs such as mileage and parking fees related to the indirect travel for leave purposes are for disallowance. 53 Comp. Gen. 556 (1974).

c. Bad weather

The government was liable for the reimbursable expenses of an employee traveling on leave via an indirect route to an official meeting, which he was unable to attend due to the cancellation of all flights to the city where the meeting is being held, so long as the expenses did not exceed the direct travel costs, and since the employee would not have traveled at all, except for the official meeting. A charge to annual leave for the time spent returning to his headquarters from the annual leave point after his TDY has been cancelled was a matter for agency discretion. B-122739, February 10, 1977.

4. Amount reimbursable when travel by circuitous route results in net savings to government

a. Constructive cost of direct transportation by common carrier

An employee stationed in California appeals the settlement which denied certain per diem and transportation expenses incident to his temporary duty travel to Florida, where travel was by an indirect route and reimbursement was based on constructive travel by a direct route. Denial of the employee's claim for additional meal and lodging expenses is sustained, since there is no authority to pay subsistence expenses where travel by an indirect route increases traveltime or where the employee is in an annual leave status when the expenses are incurred. Although the employee may not be reimbursed for a rental car on days when no official business is performed, he may be reimbursed for allowable transportation not to exceed the cost of the rental car. Vincent L. DiMare, B-212087, February 7, 1984.

An NSA employee was assigned to TDY in Los Angeles, and traveled from Fort Meade via an indirect route by way of San Francisco. He could be allowed the full $220 claimed for his commercial airfare from San Francisco to Los Angeles and Los Angeles to Fort Meade, based on a comparison with the constructive cost of $384 for a direct round-trip between Fort Meade and Los Angeles, notwithstanding the fact that the employee obtained transportation from Fort Meade to San Francisco at no cost. B-188689, February 7, 1978.

An employee who traveled by a POV on TDY for his personal convenience, requested that his constructive travel entitlements be increased by the amount of per diem he would have received, if he had traveled by a common carrier. The employee's constructive travel was properly computed by using the actual expense method for the time that he would have spent traveling by an airplane. His travel orders provided for his actual expenses, and his agency computed his constructive travel properly, since it is unlikely that the employee would have incurred any additional expenses while traveling by airplane. B-195908, January 22, 1981.

b. Government not required to claim pro rata share of savings

An employee was issued an excursion ticket for his travel, Washington-Atlanta-New Orleans-Washington, for TDY in Atlanta, Georgia, the circuitous route being for his personal convenience. He could be reimbursed for the difference between the cost of the authorized class fare by direct route to Atlanta and the excursion fare by direct route, since, when an employee travels by a circuitous route; he is entitled to a reimbursement in an amount not to exceed the cost by a direct route, and not to exceed the total actual cost, whichever is lower. The government did not need to claim a pro rata share of his savings in transportation costs resulting solely from some personal travel performed in addition to the official travel required. B-167183, December 19, 1969.

The collection of $182.50 attributable to indirect travel, and included in a voucher paid by the government, was not required under what is now FTR para. 1-2.5b, since an employee traveling on official business by an indirect route is entitled to a reimbursement in an amount not to exceed the cost of travel by a direct route, or the total actual cost, whichever is lower, and here, the excursion fare of $639.20 was less than the usual direct route fare of $827.40. Furthermore, GAO takes the position that the government should not claim a pro rata share of any cost savings resulting solely because of personal travel. B-178535, June 21, 1973.

5. Rest stops

See also, CPLM Title III, Chapter 4, Subchapter I.

a. When traveler is entitled to rest stop

Concerning a proposed regulation authorizing a rest period after travel between multiple time zones, GAO has no objection to its issuance, since what is now the FTR does not require an adjustment in per diem where an employee departs from his official station early, or delays reporting at the place of TDY, in order to adjust physically to a new time zone. In addition, OMB indicated in its comments on the proposal that consideration would be given to including a general statement in a revision of what is now the FTR to the effect that an employee may be allowed time for a rest period after his travel between duty points separated by several time zones, without a reduction in per diem. B-171543, February 8, 1971.

b. Exception—training in continental U.S.

The deduction of $37.50 from an employee's claim for travel costs incurred due to an overnight stop en route via air from Port Angeles, Washington, to Grand Canyon, Arizona, was correct. There is no provision in the FTR for rest stops, regardless of the length of the travel, when travel is within the continental U.S., and this Office has never approved rest stops, unless travel during normal periods of rest is involved. 54 Comp. Gen. 1059 (1975).

c. No rest stops permitted while traveling on indirect route

An overseas employee on change of official station travel from Beirut, Lebanon, to Atlantic City, New Jersey, went with his four dependents by an indirect route. In computing his claim for reimbursement on a constructive basis, he included a constructive rest stop at London with $7.80 for bus and taxi fares. However, 6 FAM § 132.4 provides that rest stops are not authorized when travel is performed by an indirect route, and, therefore, the recomputation of the per diem properly omitted a stop at London, including any bus and taxi fares; moreover, a family-plan airfare had to be used in the computation of the constructive cost between New York and Atlantic City. B-171969, April 14, 1972. See also, 39 Comp. Gen. 676 (1960).

L. Temporary Evacuation Travel

1. Dependents

The employees of Padre Island National Seashore and their families were ordered to leave the island and travel to a place of safety due to the threat of a hurricane. If the agency determined that an evacuation, in fact, occurred under its regulations, the employees would be entitled to mileage for their dependents' transportation by POVs incident to the evacuation. 58 Comp. Gen. 134 (1978).

M. Fitness for Duty Examination

An employee who is required to undergo a fitness-for-duty examination as a condition of continued employment may choose to be examined either by a U.S. medical officer or by a private physician of his choice. The employee is entitled to reasonable travel expenses in connection with such an examination, whether he is traveling to a federal medical facility or to a private physician. The agency may use its discretion to establish reasonable limitations on

the distance traveled for which an employee may be reimbursed. Travel Expenses Arising from Employee's Fitness for Duty Examination, B-208855, April 5, 1983.

Chapter 4

Transportation

Subchapter I—Transportation Allowable

A. Authorized Modes of Travel

1. Generally

". . . railroads, airlines, helicopter service, ships, buses, streetcars, subways, and taxicabs; government-furnished and contract rental automobiles and airplanes; and any other necessary means of conveyance." FTR para. 1-2.2.

2. Use of U.S. flag vessels or trains

Since the purpose of the Fly America Act, 49 U.S.C. § 1517, is to bring about a distribution of revenues in the international air transportation market more favorable to the U.S. air carriers, the availability of U.S. air carrier service does not preclude the traveler's use of another mode of transportation. Thus, when vessel transportation is authorized, and where a U.S. flag vessel cannot provide the needed transportation services, a vessel of foreign registry can be used, although U.S. air carrier transportation is available. B-190575, May 1, 1978. A traveler may use a train, instead of a U.S. air carrier, without risking a penalty for violating the Fly America Act. 58 Comp. Gen. 649 (1979).

The Foreign Service Travel Regulations impose "personal financial responsibility" on employees for using a foreign flag vessel under certain conditions. Since those regulations do not specify the amount of financial responsibility, they may be interpreted as precluding reimbursement of any part of the cost of such travel only if an American-flag vessel is also available. If American-flag vessels are not available, then the regulations are viewed as imposing financial responsibility for such use to the extent that the cost of the foreign flag vessel exceeds the constructive cost of less than first-class airfare. Foreign Flag Vessels, 64 Comp. Gen. 314 (1985).

3. Use of U.S. air carriers—The Fly America Act

a. Legislative history and purpose

The Fly America Act, 49 U.S.C. § 1517, provides that all government-financed foreign air travel must be by U.S. air carriers certificated under 49 U.S.C. § 1371, to the extent that service by such carriers is available. Enacted in 1974 by section 5 of Pub. L. No. 93-623, 88 Stat. 2104, the act's purpose was to counterbalance the dominance that foreign carriers enjoyed with respect to business and government air traffic originating abroad, (H.R. REP. NO. 1475, 93d Cong., 2d Sess. 7 (1974)), while rectifying an imbalance in the international air transportation market favorable to foreign air carriers, many of which are subsidized or otherwise assisted by their respective countries, and, therefore, able to offer reduced fares or more attractive routings, (S. REP. NO. 1257, 93d Cong., 2d Sess. 4 (1974)).

Since the Act requires the Comptroller General to disallow expenditures from appropriated funds for travel by foreign air carriers in violation of the act, this Office issued guidelines in 1975 defining U.S. air carrier availability. Consistent with the legislative history indicating that the relative cost of airfare was not to be a consideration in the selection of international air transportation service, those guidelines clearly provided that U.S. air carriers were available—to the exclusion of foreign air carriers—even though foreign air carrier transportation costs less. In addition, we have specifically held that the relatively lower cost of service involving the use of foreign air carriers did not provide a basis for determining that through service by U.S. air carriers was unavailable. B-138942, November 6, 1978. However, our guidelines did provide time constraints beyond which traveltime would not be extended for the sake of finding U.S. air carriers available.

b. Statutory amendment

Section 21 of the International Air Transportation Competition Act of 1979, Public Law 96-192, February 15, 1980, 94 Stat. 43, amended the Fly America Act insofar as it applies to international air transportation between two places, both of which are outside the U.S., and mandated the use of U.S. air carriers, only if they were "reasonably" available. The Senate Report accompanying S. 1300, the bill ultimately enacted as Public Law 96-192, explained that the term "reasonably available" was meant to allow the use of foreign

air carriers to avoid undue delay. S. REP. NO. 329, 96th Cong., lst Sess. 12 (1979). In addition, the requirement to travel by U.S. air carriers does not apply when transportation is provided for under the terms of a bilateral or multilateral air transport agreement that is consistent with the international aviation policies of the Federal Aviation Act as set forth at 49 U.S.C. § 1502(b).

c. Implementing regulations

To meet the purpose of the 1980 amendment to the act, our Office issued revised guidelines for the implementation of the Fly America Act in B-138942, March 31, 1981. The revised guidelines significantly changed the delay factors that justify travel by a foreign air carrier. Although they are not worded specifically to allow the use of a foreign air carrier when traveltime is a half or more greater than by otherwise available U.S. air carrier, the new guidelines would accomplish much the same result in many cases based on a comparison of the relative time in a travel status. The Fly America Act, 49 U.S.C. § 1517, directs the Comptroller General to disallow any expenditure in violation of the Act in the absence of proof that the use of a foreign air carrier was necessary. 49 U.S.C. § 1517(d). Criteria for determining when U.S. air carrier transportation is unavailable, and standards for determining when travel by foreign air carriers is otherwise necessary are found in the Revised Guidelines for Implementation of the "Fly America Act" issued by the Comptroller General in B-138942, March 31, 1981. These have been incorporated into the FTR at para. 1-3.6. This regulation provides that:

". . . Use of foreign air carrier service may be deemed necessary if a U.S. flag air carrier otherwise available cannot provide the foreign air transportation needed, or use of U.S. flag air carrier service will not accomplish the agency's mission." FTR para. 1-3.6b(3).

And in B-207637, November 10, 1982, we held that although 2 JTR may not be changed to authorize travel by foreign air carriers, rather than U.S. air carriers, on the basis of cost, the regulations should be changed to reflect the March 31, 1981 revised guidelines for the implementation of the Fly America Act.

The Comptroller General's Revised Guidelines for the Implementation of the "Fly America Act" were issued as B-138942, March 31, 1981, and supersede the guidelines issued on March 12, 1976. The

primary reason for the Revised Guidelines is to implement the statutory amendments referenced above. Those amendments relax the standards under which U.S. air carrier service may be considered unavailable for travel between two places, both of which are outside the U.S. A new standard of reasonable availability, as opposed to strict availability, is to be applied to this category of travel. In addition, the amendments permit the use of foreign air carrier service without regard to the availability of the U.S air carrier service under the reciprocal terms of an appropriate bilateral or multilateral agreement.

The basic concepts in the guidelines as revised have not changed. Thus, most existing decisions will continue to be applicable. One exception is the 2-day per diem concept discussed in 56 Comp. Gen. 216 (1977), which is no longer to be followed in view of the new availability criteria in the revised guidelines. For the purpose of these guidelines, a U.S. air carrier is one holding a certificate under the Federal Aviation Act of 1958, 49 U.S.C. § 1371. Agencies and others concerned were advised to modify their travel regulations to reflect these guidelines, which supersede the guidelines issued March 12, 1976.

d. Fly America Act applicability

Under 48 U.S.C. App. § 1518 employees of the Department of State and three specified foreign affairs agencies are exempt from the requirement of 49 U.S.C. § 1517 to use U.S. air carrier service available between two points, both of which are outside the U.S. Even though they held Foreign Service positions and performed functions transferred from the Department of State subsequent to the enactment of section 1518, employees of the Department of Commerce are not within the scope of its exemption. Department of Commerce - Applicability of Exemption from Fly America Act, B-217483, August 2, 1985.

Although our Fly America Act Guidelines refer to transportation secured with appropriated funds, the provisions of the Fly America Act for use of available certificated air carrier service apply to transportation secured with funds "appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States." In implementing

the Fly America Act provisions with respect to transportation procured with other than appropriated funds, we have held that agencies should apply the standards set forth in our Fly America Act Guidelines. 57 Comp. Gen. 546, 548 (1978). Thus, where international air transportation is secured with trust funds under the control of the U.S. government, agencies should apply our Fly America Act Guidelines. The fact that the majority of the cost was paid from trust funds controlled by the government is sufficient to invoke the Fly America Act. B-200279, November 16, 1981.

A Peace Corps volunteer who traded in a ticket on a U.S. air carrier for one on SwissAir for travel from India to New York could not be relieved of liability for the $1,115 loss to U.S. air carriers under section 15a of the Peace Corps Act, 22 U.S.C. § 2514. The authority of section 15a made Peace Corps funds available for certain expenditures outside the U.S. without regard to otherwise applicable laws and regulations, but is special authority granted the Peace Corps to assist in coping with ordinary situations arising from the unusual nature of its functions in out-of-the-way places. It is not intended to ameliorate the traveler's burden of personal liability for improper travel by foreign air carrier—a hardship that is imposed governmentwide. B-188968, October 17, 1978, affirming B-188968, August 8, 1977.

A physician who contracted with Indonesia to perform health-related services, and who was paid by funds granted to Indonesia by the United States Agency for International Development, arranged with a freight forwarder to move his personal effects from the United States to Indonesia. The physician's contract provided that he would not be reimbursed for using foreign air carriers if U.S. air carriers were available, but the forwarder did not use available U.S. air carriers. Since the contract provision was based on the requirements of the Fly America Act, which precludes payment of U.S. funds for international air transportation on foreign air carriers where U.S. air carriers are available, the physician may not be reimbursed for the use of the foreign air carrier. Further, there is no authority to permit waiver of the act in this case. Dr. Edward Margulies, B-224687, March 9, 1987.

e. Transportation purchased with other than appropriated funds

The Fly America Act, 49 U.S.C. § 1517, applies not only to transportation secured with appropriated funds, but to transportation

secured with funds "appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the U.S." Where international air transportation is secured with other than appropriated funds, agencies should apply the Fly America Act Guidelines. 57 Comp. Gen. 546 (1978).

f. Transportation paid by foreign government

The Fly America Act, 49 U.S.C. § 1517, does not apply to foreign air transportation paid for directly and in full by a foreign government, international agency or other organization, or when the expense for travel is paid out of funds which are later reimbursed by a foreign government, international agency or other organization. Where transportation costs are initially paid by the U.S., the requirement to use U.S. air carriers does not apply only when there is a specific provision for reimbursement to the U.S. for the cost of the transportation involved. 57 Comp. Gen. 546 (1978).

g. Scheduling and routing travel

(1) Nearest/farther practicable interchange point—In determining the availability of a U.S. air carrier, the following scheduling principles should be followed, unless their application results in the last or first leg of travel to or from the U.S. being performed by foreign air carrier:

- U.S. air carrier service available at point of origin should be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route;
- where an origin or interchange point is not served by a U.S. air carrier, foreign air carrier service should be used only to the nearest interchange point on a usually traveled route to connect with U.S. air carrier service;
- where a U.S. air carrier involuntarily reroutes the traveler via a foreign carrier, the foreign air carrier may be used notwithstanding the availability of any alternative U.S. air carrier service.

For decisions under the Comptroller General's Guidelines of March 12, 1976, see: 56 Comp. Gen. 629 (1977); 55 Comp. Gen. 52 (1975); and B-187506, May 5, 1977.

h. Delay en route

Paras. 4 and 5 of the Comptroller General's Guidelines state that for travel between a gateway airport in the U.S., (the last U.S. airport from which the traveler's flight departs or the first U.S. airport at which the traveler's flight arrives), and a gateway airport abroad, (that airport from which the traveler last embarks en route to the U.S. or at which he first debarks incident to travel from the U.S.), passenger service by U.S. air carrier will not be considered available:

- where the gateway airport abroad is the traveler's origin or destination airport, if the use of U.S. air carrier service would extend the time in a travel status, including delay at the origin and accelerated arrival at the destination, by at least 24 hours more than travel by a foreign air carrier;
- where the gateway airport abroad is an interchange point, if the use of U.S. air carrier service would require the traveler to wait 6 hours or more to make connections at that point, or if delayed departure from, or accelerated arrival at, the gateway airport in the U.S. would extend his time in a travel status by at least 6 hours more than travel by a foreign air carrier.

For travel between two points outside the U.S., passenger service by U.S. air carrier will not be considered to be reasonably available:

- if travel by a foreign air carrier would eliminate two or more aircraft changes en route;
- where one of the two points abroad is the gateway airport, (as defined above), en route to or from the U.S., if the use of a U.S. air carrier would extend the time in a travel status by at least 6 hours more than travel by foreign air carrier, including an accelerated arrival at the overseas destination or a delayed departure from the overseas origin, as well as any delay at the gateway airport or other interchange point abroad;
- where the travel is not part of a trip to or from the U.S., if the use of a U.S. air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign air carrier, including a delay at the origin, a delay en route, and an accelerated arrival at the destination.

i. Travel during nonduty hours

The Fly America Act, 49 U.S.C. § 1517, modifies the directive of 5 U.S.C. § 6101(b)(2) that, where practicable, travel should be scheduled during the employee's nonduty hours. Thus, although as a general rule, employees should not be scheduled to travel during hours normally allocated to sleep, an employee may be required to travel by U.S. air carrier during nonduty hours, although he could travel during regular duty hours aboard a foreign air carrier. An employee who travels during nonduty hours in order to comply with the Fly America Act is entitled to compensatory time off, only insofar as his travel meets the conditions of 5 U.S.C. § 5542(b)(2) for the payment of overtime compensation. 56 Comp. Gen. 219 (1977).

j. Indirect travel

The purpose of the Fly America Act, 49 U.S.C. § 1517, is to counterbalance financial advantages enjoyed by foreign air carriers. 55 Comp. Gen. 1230, 1232 (1976). In meeting his responsibilities under the Fly America Act, the Comptroller General has looked at the financial consequences to U.S. air carriers of indirect travel, rather than only considerations of distance. In B-188648, November 18, 1977, we said that where an employee takes a side trip or otherwise indirectly routes his travel, and where such indirect travel is wholly or in part subsidized by the fare payable by the government in connection with the employee's official itinerary, the employee is responsible not only for any additional cost attributable to his personal travel, but for any diversion of revenues from certificated U.S. air carriers.

En route home from TDY overseas, an employee indirectly routed his travel to take annual leave in Dublin and scheduled his return flight from Shannon to the U.S. on a U.S. air carrier. Upon arrival in Shannon, the employee was informed that his scheduled flight had been discontinued, and the carrier scheduled the employee's transoceanic travel on a foreign air carrier. Since there were no alternative schedules at that point under which the employee could have traveled on U.S. air carriers for the transoceanic portion of his travel, no penalty was necessary for the use of foreign air carrier. Fly America Act Penalty for Involuntary Re-routing, 62 Comp. Gen. 496 (1983).

k. Acclimatization rest

An employee who travels by U.S. air carrier requiring boarding or deplaning between, or travel spanning, the hours of midnight and 6 a.m. may be granted a brief period of administrative leave and additional per diem, if appropriate, for "acclimatization rest" at his destination. 56 Comp. Gen. 629 (1977).

l. Selecting a rest stop

In general, a rest stop should be taken along a routing selected under the Fly America Act Guidelines and the nearest/further practicable interchange point concept. When the agency determines that a particular city along a routing selected in accordance with those principles is not an appropriate rest stop location, the employee's rest stop should be designated at an appropriate location along the alternate routing that most nearly complies with the route selection principles. Ideally, a rest stop should be taken near to the midpoint of the journey. Where, by reason of the Fly America Act requirements, a rest stop can only be scheduled so near to the origin or destination of a trip as to defeat this purpose, a rest stop may be eliminated altogether, and the employee may, instead, be permitted an appropriate period of rest at his destination. 57 Comp. Gen. 76 (1977) and B-192548, April 18, 1979.

Where it appears that the designation of a specific location as an alternate R&R point is made for the purpose of avoiding the use of U.S. air carrier service, and where the employee's travel to that location does not meet the purpose of R&R, the traveler's liability for excessive use of foreign air carrier service will be determined on the basis of his travel to the location where he spends a significant amount of time for R&R. 56 Comp. Gen. 209 (1977).

m. Timing of travel

The timing of travel is a matter primarily for determination by the agency based on its needs and its determination as to when the traveler is available for travel. It would be inconsistent with the Fly America Act. 49 U.S.C. § 1517, to permit an employee to defeat its purpose and avoid liability by scheduling travel on the basis of his own determination as to when he is available and should begin travel. To permit scheduling on this basis would be a license to

accommodate the employee's preferences and conveniences, considerations that do not justify the use of foreign air carriers. B-192522, January 30, 1979; affirmed on April 22, 1981.

n. Considerations not justifying use of foreign air carrier service

(1) General—Although the use of foreign air carrier service may be deemed necessary if a U.S. air carrier otherwise available cannot provide the foreign air transportation needed, or if the use of such services will not accomplish the agency's mission, the Comptroller's Guidelines provide that U.S. air carrier service is considered available even though:

- comparable or a different kind of service can be provided at less cost by a foreign carrier;
- foreign air carrier service is preferred by or is more convenient for the agency or traveler; or
- service by a foreign air carrier can be paid for in excess foreign currency, unless U.S. air carriers decline to accept excess or near excess foreign currencies for transportation payable only out of such moneys.

(2) Excess foreign currency—An employee may not use foreign air carrier service for TDY travel in order to use excess foreign currency where American air carrier service is available, even though the amount expended on the foreign carrier is only a fraction of the amount that could have been expended in excess foreign currency for the entire trip. B-184136, March 10, 1976.

(3) Avoiding congested airports—Where U.S. air carrier service originating in Vienna requires connections in New York en route to Washington, D.C., the traveler could not disregard the requirement to use a U.S. air carrier available at the origin to the farthest practicable interchange point, and take a foreign air carrier from Vienna to Paris or London to connect with a direct flight to Washington for the purpose of avoiding the congestion of the JFK International Airport. The inconvenience posed by the congestion at JFK International Airport is an inconvenience shared by nearly 40 percent of all U.S. citizens traveling abroad, and does not justify a deviation from the Fly America Act scheduling principles. 57 Comp. Gen. 519 (1978) and B-192522, January 30, 1979.

(4) Misunderstanding of the law—Because the requirement for the use of U.S. air carriers is imposed directly by statute, all persons are charged with knowledge of its provisions. A Peace Corps volunteer who could have traveled by U.S. air carrier between Delhi and New York was liable for the cost of her air travel by a foreign air carrier between those points, notwithstanding that the volunteer traded-in her ticket aboard a U.S. air carrier for a ticket aboard SwissAir on the basis that she preferred to travel by SwissAir, the cost was the same, and notwithstanding the assertion that she was not counseled about the requirement to travel by U.S. air carriers. B-188968, August 8, 1977.

Employees whose international travel was routed by a transportation official of the agency on non-certificated carriers in violation of the Fly America Act were liable for the expenses incurred by such travel, even though agency regulations required transportation officers to make travel arrangements. Transportation expenses incurred in violation of the Fly America Act may not be paid from appropriated funds, and transportation officers acting in their official capacity are not subject to the imposition of liability for errors of judgment. General William Coleman USAF, et al., B-206723, October 21, 1982.

An employee who traveled aboard a foreign air carrier between Frankfurt and London when U.S. air carrier service was available could not be reimbursed the cost of such foreign travel based on his claim that he used the foreign air carrier because he construed the phrase "certificated air carriers, (those holding certificates under section 401 of the Federal Aviation Act of 1958, 49 U.S.C. § 1371 (1970))" as permitting the use of certificated air carriers, regardless of nationality. The phrase "certificated air carriers . . ." excludes foreign carriers. Notwithstanding the employee's misconstruction of the phrase, the prohibition against the use of noncertificated foreign air carriers is statutory. Its provisions are mandatory and may not be waived. B-186007, November 15, 1976.

Employees who travel overseas on a foreign air carrier when service by U.S. air carriers is available in violation of the Fly America Act, 49 U.S.C. § 1517, are personally liable for the cost, even though they may have been ignorant of the act and relied upon arrangements made by a government contractor. However, if the contract

contains a provision by which the contractor may be held accountable for such scheduling errors, the employee's liability may be shifted to the contractor. B-202599, September 29, 1981.

(5) First leg of travel by foreign carrier justified—Although the use of a foreign carrier was justified for the trip to a TDY location on the grounds of necessity as certified by the agency, the record contains no satisfactory proof of the necessity for the use of a foreign air carrier for the return travel. Thus, an employee incurred a penalty for his return trip, which had to be computed under the formula in 56 Comp. Gen. 209 (1977). B-199957, August 17, 1981.

(6) Relative cost—"Availability" of U.S. air carrier service cannot be defined in terms of relative cost. Thus, the proposed definition of regularly scheduled U.S. service for the entire trip as unavailable because of its relatively higher cost in contrast to an alternative combined U.S./Foreign Flag service is disapproved, because it necessarily requires the diminished use of U.S. air carriers. B-138942, November 6, 1978; B-207637, November 10, 1982.

(7) Invitee's lack of notice—The fact that the American member of the International Atomic Energy Agency in Austria, invited to confer in Washington, D.C., with the NRC, was not made aware of the requirement of travel by a U.S. air carrier did not relieve him of liability for the improper use of foreign air carriers. The law, which applies to all government-financed air travel, does not differentiate between government employees and invitees. B-193805, June 15, 1979.

(8) Wife accompanying employee on TDY—Where an employee's wife could have traveled by U.S. air carrier directly from Boston to Paris from home leave, but instead accompanied him on a TDY assignment to London en route, the employee was liable for the Fly America Act penalty based on his wife's use of foreign air carrier service between London and Paris. The employee's decision to have his wife accompany him on TDY was a matter of his personal preference and did not justify her travel by a foreign air carrier. B-192548, November 23, 1979.

o. Considerations justifying use of foreign air carrier service

(1) Generally—Under the Comptroller General's Guidelines and decisions, the determination that a U.S. air carrier can neither serve

the agency's transportation needs, nor accomplish its mission, is to be made by the agency and will not be questioned by our Office, unless it is arbitrary or capricious. Since the agency made such a determination here, the teacher could be reimbursed for the flight on a foreign flag carrier. See, for example, B-202413, November 16, 1981.

Under guidelines issued by the Comptroller General, reasons for the use of foreign air carrier must be properly certified. Comptroller General decisions contain guidelines regarding the adequacy of reasons for utilizing a foreign carrier. The Joint Travel Regulations require a determination of unavailability by the transportation or other appropriate officer, and the requirements contained therein are in keeping with the Comptroller General's guidelines, and reimbursement is not authorized absent compliance with them. John King, Jr., 62 Comp. Gen. 278 (1983).

(2) Religious belief—In the case of an employee of the Jewish faith, where the agency finds that the individual's determination not to travel on his Sabbath is not a matter of his preference or convenience, but the dictate of his religious convictions, the agency may properly determine that U.S. air carrier service to the furthest practicable interchange point, requiring departure before dark on Saturday, cannot provide the transportation needed, and, thus, is unavailable under the Fly America Act, 49 U.S.C. § 1517, and the implementing guidelines. 59 Comp. Gen. 66 (1979).

(3) Rerouted by certificated U.S. air carrier—An employee was scheduled to travel on a certificated U.S. air carrier, and, upon arrival at the airport, he was informed by the carrier that it could not accommodate him. The carrier rerouted him on a foreign air carrier. U.S. air carrier service was considered unavailable, and the traveler was not subject to a penalty for the use of the noncertificated carrier. 59 Comp. Gen. 223 (1980).

(4) Diplomatic considerations—An employee assessed a Fly America Act penalty for foreign air carrier travel to and from China as a member of a delegation offered the explanation that foreign air carrier travel enabled the delegation to arrive as a group, and that individual arrivals would have interfered with diplomatic process. If his agency determined that diplomatic considerations would warrant finding that the use of a U.S. air carrier would not accomplish the agency's mission, his liability could be excused on

the basis that travel by a foreign air carrier was a matter of official necessity. Daniel Bienstock, B-205206, April 15, 1983.

(5) Military Airlift Command service—An employee of the Navy en route from TDY overseas selected a particular schedule for the purpose of taking leave along a usually traveled route. He used a foreign air carrier for one leg of his travel, even though he could have used MAC chartered air service for travel from his place of origin to the U.S. Since MAC full plane charter services need not be considered as available U.S. air carrier service under the Fly America Act, his use of a foreign air carrier could be justified in the usual manner using only available commercial flights. However, under his travel order and the applicable regulation, reimbursement for his return travel was limited to the constructive MAC cost. Nelson P. Fordham, 62 Comp. Gen. 512 (1983).

(6) Medical necessity—Although airline schedules indicated that the traveler might have made connections in London with a U.S. air carrier departing at 10:40 a.m. to Washington, D.C., the BOAC flight from Rangoon scheduled to arrive at 9:30 a.m. occasionally arrived as late as 10:30 a.m. Because the next U.S. air carrier flight to Washington departed at 3:15 p.m. and might have jeopardized the traveler's health, the individual, who was traveling under medical evacuation orders for hospitalization in Washington, was properly scheduled to travel by a foreign air carrier from London to Washington as a matter of medical necessity. In view of the medical considerations involved, it was also proper to schedule her travel direct from London to Washington, rather than by way of New York, to avoid additional connections and delays. B-193290, February 15, 1979.

The principal of the DOD Dependents School in Hemer, Germany, after consulting with a physician and others, determined that a teacher should leave for the U.S. as soon as possible, for medical reasons. He thus scheduled her to return to Boston, Massachusetts, on the following day aboard a foreign flag air carrier. U.S. air carriers, however, were available, but would have involved changing airlines and making connecting flights in either London or New York. Subsequently, DOD certified the principal's action as necessary and in the best interest of the government: Under these circumstances, the use of the foreign air carrier could be considered as a necessity of a medical nature. B-202413, November 16, 1981.

(7) Bilateral agreements—Nothing in the Comptroller's Guidelines preclude the use of a foreign air carrier which provides transportation under an air transport agreement between the U.S. and a foreign government, the terms of which are consistent with the international aviation policy goals set forth at 49 U.S.C. § 1502(b), and provide reciprocal rights and benefits.

(8) Panama Canal Commission—Where the refusal of the Panama Canal Commission to pay the official travel expenses of the Panamanian members of its Supervisory Board who use a Panamanian airline would be detrimental to its overall objectives, the Commission may determine that the use of the available service by U.S. air carriers would not accomplish the agency's mission, making the use of the foreign air carrier necessary. The Comptroller General would not question the agency's determination of necessity in these circumstances, and would allow payment of the travel expenses. B-206329, April 9, 1982.

(9) Only first-class accommodations available—With the limited exceptions defined at FTR para. 1-3.3, government travelers are required to use less-than-first-class accommodations for air travel. In view of this policy, a U.S. air carrier able to furnish only first-class accommodations to government travelers, where less-than-first-class accommodations are available on a foreign air carrier, will be considered "unavailable," since it cannot provide the "air transportation needed by the agency" within the meaning of para. 2 of the Comptroller General's Guidelines implementing the Fly America Act, 49 U.S.C. § 1517. 60 Comp. Gen. 34 (1980).

(10) Repatriation cases—The Fly America Act, 49 U.S.C. § 1517, does not require the use of U.S. air carriers in repatriation cases where the individuals are loaned funds by State Department for their subsistence and repatriation. Transportation procured by the individual with funds borrowed from an executive department is not government-financed transportation to which the "Fly America Act" applies. 60 Comp. Gen. 716 (1981).

(11) Liability for improper travel aboard foreign air carriers—The concept of a diversion of revenues is important, because the through-fare paid for travel over two or more route segments is less than the sum of the segment fares. The distribution of revenue between the involved air carriers is determined by private agreements between the carriers. Since such agreements are not readily

available, there is no source from which it can be determined how two or more carriers share in the fare revenues received.

The Comptroller General's Guidelines provide that expenditures for commercial foreign air transportation on foreign air carriers will be disallowed, unless there is attached to the appropriate voucher a certificate or memorandum adequately explaining why service by U.S. air carriers is not available, or why it was necessary to use a foreign air carrier. Where the travel is by indirect route, or the traveler otherwise fails to use available U.S. air carrier service, the amount to be disallowed against the traveler is based on the loss of revenues suffered by U.S. air carriers as determined under the following formula set forth, and more fully explained, in 56 Comp. Gen. 209 (1977):

$$\frac{\text{Sum of certificated carrier segment mileage authorized}}{\text{Sum of all segment fares authorized}} \times \text{Mileage payable by government}$$

Minus

$$\frac{\text{Sum of certificated carrier segment mileage traveled}}{\text{Sum of all segment fares traveled}} \times \text{Through-fare paid}$$

In B-200279, November 16, 1981, an employee on authorized official travel from Islamabad to London and return, undertook indirect travel by a foreign air carrier to Madrid, Geneva, and other cities, as a matter of personal convenience. We held that in accordance with the penalty formula set forth at 56 Comp. Gen. 209 (1977), the employee was liable for $195.47, the amount by which his personal travel diverted revenues from U.S. air carriers to foreign carriers, notwithstanding that the miles traveled on U.S. air carriers were not reduced. See also, B-192548, April 18, 1975. In so holding, we stated that the opportunity that government travel may afford an employee to augment his personal travel plans is purely fortuitous and is sanctioned only insofar as it does not result in additional cost to the government or contravene otherwise applicable laws and regulations. To the extent such personal travel results in a reduction in the receipt of government revenues by U.S. air carriers

over revenues they would have earned had the employees performed only authorized travel, that personal travel does involve a violation of the requirement for the use of certificated U.S. air carrier service imposed by the Fly America Act, 49 U.S.C. § 1517. For other cases demonstrating actual calculations, see, 57 Comp. Gen. 76 (1977) and B-188648, November 18, 1977.

(12) Employee is personally liable—We have specifically recognized that an employee may not be relieved of liability for improper travel by a foreign air carrier, merely because he relied on the erroneous advice or assistance of others. In 60 Comp. Gen. 718 (1981), we stated that, because the requirement for the use of U.S. air carriers is imposed directly by statute, all persons are charged with knowledge of it. B-188968, August 8, 1977. For this reason, and because government funds may not be used to pay for unnecessary travel by a foreign air carrier, we have held that the traveler is personally liable for any costs incurred because of his failure to comply with this requirement. He is not relieved of this responsibility, merely because he relied upon the advice or assistance of others in arranging his travel. See B-189711, January 27, 1978 and B-192522, January 30, 1979. See also, B-205206, June 28, 1982.

And, even though these decisions do not specifically discuss the equitable considerations for the payment of a traveler who has been misled by a government official, such considerations have not been overlooked. However, the statutory restriction placed upon spending the government's funds must take precedence over such equitable considerations. B-202691, December 23, 1981.

A traveler authorized to travel from Vancouver, British Columbia, to Portland, Maine, traveled by rail at a cost of $46.84 from Vancouver to Calgary for personal reasons. From Calgary, he took a foreign air carrier to Chicago and made connections with U.S. air carriers on to Portland. Because he could have taken U.S. air carriers for the entire distance from Vancouver to Portland, the traveler was liable for the revenues shifted from U.S. air carriers as a result of his personal decision to travel by way of Calgary. However, there was no penalty for that portion of U.S. air carrier revenues diverted to the rail carrier. To determine the amount of the penalty, the formula set forth at 56 Comp. Gen. 209 (1977) is first applied to determine the revenues diverted from U.S. air carriers. The rail fare of $46.44 was subtracted from the amount of revenues lost by

U.S. air carriers to determine the amount of U.S. air carrier revenues diverted to foreign air carriers. That amount represented the traveler's liability. 58 Comp. Gen. 649 (1979).

4. Use of other conveyance reimbursable

a. Limousine

Where travel orders do not restrict an employee's use of taxi or limousine service between the carrier's terminal and the employee's residence based on the availability of suitable government or common carrier transportation facilities, the employee may be reimbursed under FTR para. 1-2.3c for his use of limousine service for travel to his home from the carrier's terminal. B-186081, July 22, 1976.

Employee on temporary duty took a limousine from the airport to her hotel although a hotel courtesy limousine was available. Federal Travel Regulations para. 1-2.3c permits agencies to limit or restrict transportation claims where courtesy transportation is available. However, where the employee was unaware of the availability of the courtesy transportation, her claim for the limousine service she used may be paid. Pat Young, B-213765, March 6, 1984.

b. Tractor

An employee who became snowbound while waiting to leave the airport from his PDY station to attend a testing course and was forced to remain at the airport motel for 3 days, could be allowed his claim, if administratively approved, for $10.50 for his transportation from the motel back to his residence via tractor, as being in the nature of the hire of a special conveyance provided for by what is now FTR para. 1-2.2c(4) and what is now 2 JTR para. C2101-2. His claim for 50 cents for travel by a POV from his residence to the airport was allowed under what is now FTR para. 1-2.3c. B-173224, August 30, 1971.

c. Trailer rental

The rental of a trailer to haul government equipment by a POV is the hire of a special conveyance, and the expense may be allowed, if administratively approved as advantageous to the government. 36 Comp. Gen. 297 (1956) and B-171780, March 17, 1971.

d. Air ambulance

An employee who charters an air ambulance to transport his son, who was hospitalized, from an old duty station to a new duty station could be reimbursed the cost of the charter, since FTR para. 1-2.2c(4) permits the use of special conveyances when it is determined that other methods of transportation would not be more advantageous to the government, and since the chartered air ambulance was administratively approved as required by FTR para. 1-3.2a. B-184813, June 24, 1976.

e. Ambulance service

In 40 Comp. Gen. 167 (1960), we considered the situation where an employee became ill and was hospitalized while in a travel status away from his official duty station, and it was necessary for him to return to his home by ambulance. We held there that the expense of the properly approved ambulance service to return the employee to his designated post of duty is an allowable transportation expense. However, in a case where an employee became ill at his TDY station, and was taken to a hospital there by ambulance, we indicated there were no regulations authorizing payment by the government for the ambulance service. 55 Comp. Gen. 1080 (1976). The apparent difference between the cases is that in 40 Comp. Gen. 167, the ambulance expense was incurred to return the employee home, while in 55 Comp. Gen. 1080, it was incurred to take the employee to the hospital. See also, B-203355, February 23, 1982.

f. Rented vehicle towing and repairs

An Army employee was authorized to rent a car for use with other employees while on temporary duty in Germany. A tire on the rental car was damaged while being driven to the duty assignment and the gas cap was stolen from the car while parked. Under the rental agreement, the employee was required to reimburse the rental company for any tire damage and any other damage not caused by accidents. Since the damages occurred while the vehicle was being used for official business, he may be reimbursed for the expenses. Louis G. Fiorelli, 65 Comp. Gen. 799 (1986).

An employee on official travel may be reimbursed for towing and repair charges to a rental vehicle when unusual circumstances prevent his receiving prior approval from the rental company to have

towing and repair services performed at the company's expense. The expenses incurred were essential to the transaction of official business. See, Louis G. Fiorelli, 65 Comp. Gen. 799 (1986). Michael J. Spratt, B-225838, August 20, 1987.

5. Use of other conveyance not reimbursable

a. Privately-owned bicycle

A mileage allowance may not be paid to an employee for the use of his privately-owned bicycle on official travel, since the mileage regulations specifically pertain only to the use of motor-driven vehicles. B-184641, September 11, 1975.

b. Privately-owned boat

The expenses of renting a boat and equipment from a government employee for the purpose of performing acoustical measurements are not reimbursable as travel expenses. The equipment should have been obtained by procurement means with due regard to section 1-1.302-3 of the Federal Procurement Regulations and the public policy prohibiting the government from contracting with its employees, except for the most cogent of reasons, such as where the government's needs cannot otherwise reasonably be met. Payment may, however, be made on a quantum meruit basis insofar as the receipt of the goods and services has been ratified by an authorized official. 55 Comp. Gen. 681 (1976).

6. Mode of transportation to be used is the one most advantageous to the government

See also, Subchapter IV of this Chapter.

a. Determination of most advantageous method at discretion of agency

An Army civilian employee, authorized renewal agreement travel by military or commercial air only, was entitled to travel expense reimbursement for his travel by a foreign surface vessel only on the basis of the constructive cost of the air travel. The Army's failure to authorize surface travel for medical reasons was not improper when a military medical authority did not find air travel "medically contra-indicated." The choice of the mode of travel, and the

determination of the mode most advantageous to the government, is at the discretion of the agency. B-183310, December 3, 1976.

7. Use of other than authorized mode

a. Fear of flying

A claim for the difference between the constructive cost of round-trip air travel between Leghorn, Italy, and Washington, D.C., and the cost of travel by commercial vessel and railroad, on grounds that the directive authorizing only aircraft travel for certain civilian employees was unreasonable in that it placed the claimant in an "impossible position," as he "does not willingly fly," was denied. The restriction limits the amount the employee can be reimbursed on travel expenses, and does not prevent the use of other means of travel; and employees are not required to fly, if flying is medically contra-indicated. B-153231, July 17, 1969.

b. Motion sickness

A claimant, who submitted medical evidence that he was subject to motion sickness, was refused permission to fly directly to Harrisburg from Detroit. Nevertheless, he exchanged his tickets and flew to Harrisburg, rather than fly to Washington with his inspection team and then drive by car to Harrisburg as his travel orders directed. His claim for the difference in tickets, ($5.25), was disallowed, since he chose to fly to Harrisburg for personal reasons by a different route and mode of travel than that approved and authorized. Selection of an employee's mode of TDY travel is for administrative determination and that determination cannot be disturbed by this Office, absent a showing that it was arbitrary, capricious, or contrary to law and regulation. B-175312, April 25, 1972. See also, 21 Comp. Gen. 116 (1941).

c. Limited to constructive cost

Under travel orders authorizing travel by a common carrier, an employee performed a portion of his renewal agreement travel by a rent-a-car. The employee could be reimbursed his expenses for the unauthorized mode of travel, limited to the constructive cost of his travel by a common carrier. Since his travel was not performed by a POV, his reimbursement for the rental car expenses was not limited to the lower cost of mileage for travel by a POV, even though a

DOD regulation provided that, where less costly than a common carrier, renewal agreement travel by a POV will be considered advantageous to the government. 60 Comp. Gen. 38 (1980).

An employee claimed reimbursement on the basis of constructive cost where he and his family performed PCS travel from Frankfurt, Federal Republic of Germany, to Denver, Colorado, by a mode of transportation other than that authorized, and by an indirect (i.e., circuitous or not usually traveled) route. Instead of flying, they took the Queen Elizabeth II, a foreign flag ocean vessel, to New York and drove by POV from New York to Denver. The employee's constructive cost comparison should be based only on the portion of his trip from Frankfurt to New York, since the FTR specifies that POV use for the portion of travel from New York to Denver is deemed to be advantageous to the government. Paul S. Begnaud, B-214610, February 19, 1985.

Where an agency's internal travel policy limited PCS air travel by employees and their families to the "coach class" fare, the "coach class" fare is the proper measure for constructive cost reimbursement. Paul S. Begnaud, B-214610, February 19, 1985.

B. Other Expenses Incident to Transportation

1. Regulation

Transportation expenses "include fares, rental fees, mileage payments, and any other expenses incident to transportation. . . ." FTR para. 1-2.1.

2. Transportation request issued for wrong destination

Through administrative error in temporary duty travel arrangements, an employee was issued an airline ticket for travel to the wrong destination. He discovered the error en route, and spent $284 in personal funds to secure a ticket for the proper destination. The employee may be reimbursed for the full cost of the airline ticket, notwithstanding the $100 cash limitation stated in the Federal Travel Regulations, since the cash purchase resulted from administrative error, related to circumstances which were not within the employee's control, and documentation of the cost of the transportation has been submitted. Patrick G. Orbin, B-215550, October 23, 1984.

3. Duplicated tickets

An employee of State Department claims to have returned to the American Embassy in Paris the unused tourist-class ticket for the travel of his pregnant wife from Paris to Washington, D.C., incident to his home leave, when his wife's accommodations were increased to first-class. State had no record of the surrender of the ticket, or the serial number thereof, and the air carrier refused to make a refund. The employee was liable for the lost ticket, as under agency regulations, he was responsible for recording the numbers of returned unused tickets; and without the number, it is not feasible to determine that no unauthorized use of the ticket has been made. B-187879, July 11, 1977. See also, B-149026, July 10, 1972.

Through a boarding error, an employee used his airline ticket to travel to the wrong destination. After he discovered the error, the employee spent $119 in personal funds to secure a ticket for the proper destination. The employee could be reimbursed for the cost of the airline ticket, notwithstanding the $100 cash limitation stated in the FTR, because the cash purchase was justified by the circumstances and the employee submitted documentation of the cost of the transportation. John T. Davis, B-216633, March 27, 1985.

4. Failure to use transportation request

An employee who, through negligence, failed to use an issued transportation request, and was required to purchase a substitute airline ticket with his personal funds incident to a TDY assignment, could be reimbursed for the cost of the substitute ticket purchased, when the transportation request was not available, less the applicable federal transportation tax. B-168260, November 14, 1969. See also, 34 Comp. Gen. 639 (1955).

Employee of the Army claims she should have been reimbursed a higher amount for travel on temporary duty, alleging that the Army improperly determined rates to reimburse her travel. Army officials state that employee was properly paid the amount that it would have cost the government if a transportation request had been used, pursuant to 2 JTR para. C4704(c). It appears the Army used appropriate method of determining reimbursement rate, and

the claimant has not provided evidence to the contrary. Accordingly, the claim is denied. Linda J. Oliver, B-226705, August 3, 1987.

5. Baggage and baggage handling

A claimant drove a deceased employee's automobile to the deceased employee's last duty station. The claim for towing and storage charges was denied, since an automobile is not "baggage" within meaning of FTR para. 3-2.7. B-189826, April 7, 1978.

6. Sales taxes

An employee who rented an automobile in her own name while on a house-hunting trip in Colorado was entitled to be reimbursed 6-1/2 percent state and local sales tax paid in connection with the rental. The incidence of the tax is on the employee as lessee, and the fact that the government is obligated to reimburse the employee for her car rental expenses, and, thereby, assumes the economic burden of the total costs, including the tax, does not thereby make it a tax upon the U.S. The government is not the "purchaser," and may not assert its immunity from any state and local sales tax levied upon the rental of cars. B-203151, September 8, 1981.

7. Repair of POV

An employee on TDY incurred additional travel expenses when his automobile broke down upon return to his official duty station. His claim for travel to his residence and return travel to pick up his automobile could be allowed. The additional expenses were incurred incident to official travel, because the use of the automobile was advantageous to the government, the employee's actions were reasonable and in accord with agency instructions, and an overall saving to the government was effected. B-186829, January 27, 1977.

8. Automobile license fees

Under a state statute exempting a nonresident vehicle owner from the requirement to register his automobile and obtain state license plates, unless the vehicle would be operated for the gain or profit of the owner or others, an employee who in the performance of TDY is required to obtain the certificate of registration and license plates

for his POV could be reimbursed for the expenses he incurred in complying with the state statute. The employee's use of his vehicle during the TDY assignment was advantageous to the government in the transaction of official business within the meaning of what is now FTR para. 1-9.1d. 47 Comp. Gen. 332 (1967).

9. Insurance premiums

a. Rental car insurance (foreign countries)

GAO is not required to object to reimbursement of government employees for the costs of "trip insurance" purchased while operating government-owned vehicles or POVs in foreign countries as a miscellaneous expense covered by FTR para. 1-9.1d. However, we believe a change in the FTR specifically providing for such reimbursement would be desirable, because present applicable FTR sections do not provide for the payment for any kind of insurance on vehicles operated in foreign countries. 55 Comp. Gen. 1343 (1976); amplified by 55 Comp. Gen. 1397 (1976).

A government employee may be partially reimbursed for the costs of insurance purchased on a vehicle commercially leased on a long-term basis to the extent that it is necessary for the hire and operation of motor vehicles on German roads. Excess coverage not required by a statute, regulation, or industrial custom to enable the commercial hire of a vehicle and operation of the vehicle on German roads is considered personal to an employee, and may not be certified for payment. 55 Comp. Gen. 1397 (1976).

b. Liability for damages

Employees may be reimbursed for damages to rental vehicles subject to the collision insurance deductible on insurance included in the rental payment, although the employee has elected not to pay an extra fee for the coverage of the deductible by a collision damage waiver or collision damage insurance. 47 Comp. Gen. 145 (1967).

A Navy employee on TDY who was authorized commercial car rental declined the extra collision insurance necessary to provide full coverage, and became obligated to pay any loss through collision damage to a maximum of $500. While on a trip outside the primary duty area, and going to a restaurant with a friend and his wife, he

allowed the friend to drive the rental car, and the vehicle was damaged in an accident. The Navy determined that the automobile was being used on other than official business. That determination was not questioned, and reimbursement for the personal funds that the employee paid for the damages was not authorized. Timothy J. Doyle, B-209951, June 7, 1983.

c. Flight insurance paid by private source

An officer of State who attended the American Bar Association's National Institute on Marine Resources was not allowed a $7.50 air insurance fee. 47 Comp. Gen. 319 (1967).

d. Liability insurance

Where insurance purchased for a commercially-leased truck was not for a collision, but represents a payment for liability insurance, it could be payable, if required as a condition to the issuance of a permit to operate the truck inside the Puerto Rico International Airport. B-189770, September 12, 1978.

A contracting officer of the Equal Employment Opportunity Commission authorized the rental of an automobile, including the payment of the collision damage waiver and personal accident insurance. The rental agency could not be paid for that part of the invoice pertaining to these insurance items, since FTR para. 1-3.2c(1) prohibits payment for collision damage insurance, and the same rule applies to personal accident insurance. Avis Rent a Car-Insurance-Collision Damage Waiver, B-208630, March 22, 1983.

10. Attendant for handicapped traveler

Where a handicapped member of the former National Advisory Committee on an Accessible Environment required an additional attendant to attend periodic official meetings, the government could pay the cost of attendants above that ordinarily incurred by the member at his place of residence. Such expenses were essential to accomplish the unique purpose of the Advisory Committee under its statutory authority, as it was then set forth in 29 U.S.C. § 792, which required that a majority of its members be handicapped. B-189010, August 15, 1977. The Rehabilitation Comprehensive Services, and Developmental Disabilities Amendment of 1978, among other changes, substituted for that provision a provision permitting

the President to appoint eleven members of the Architectural and Transportation Barriers Compliance Board from the general public of whom five are to be handicapped. Pub. L. No. 95-602, § 118, 92 Stat. 2955, 2979 (1978).

11. Telephone calls to arrange ground or other transportation

See, CPLM Title III, Chapter 5, B.

12. Airport departure and arrival fees

Airport fees that military and civilian personnel are required to pay when departing from airports incident to official travel are reimbursable, if the charges are reasonable. The Supreme Court held that a user fee imposed on departing passengers does not involve an unconstitutional burden on interstate commerce, and that if funds received by local authorities do not exceed airport costs, it is immaterial whether they are expressly earmarked for airport use. However, as fees imposed on arriving passengers are held to be unreasonable interference with interstate commerce, they may not be reimbursed, but if found valid upon appeal, reimbursement is authorized on same the same basis as departure fees. 52 Comp. Gen. 612 (1972).

13. First-class ticket

See, CPLM Title III, Chapter 4, Subchapter III.

14. Special package fares

See, CPLM Title III, Chapter 4, Subchapter III.

15. Parking fees

The provisions of FTR para. 1-4.2c(3) limit the reimbursement for parking fees at a common carrier terminal to the estimated cost for the use of a taxicab to and from the terminal. The FTR does not authorize additional reimbursement, even though official business forced the employee to leave his POV at the airport for a longer period than he had anticipated. B-207038, May 26, 1982.

16. Special equipment

Although an employee, due to a non job-related injury, can only use an automobile of a specified size and with specified equipment, the cost of providing such special equipment is of a personal nature, not essential to the transaction of official business, and is not payable from appropriated funds. B-187246, June 15, 1977.

The fact that an employee with back problems needs a multiple adjustable driver's seat does not render a regularly equipped government-furnished vehicle unavailable. The cost of special equipment of this nature is a personal expense. Thus, an employee who requests to use his own specially equipped vehicle instead of a regularly equipped government-furnished vehicle is limited to reimbursement at the 9.5 cent mileage rate applicable when a government-furnished vehicle is authorized and available and the employee elects to use his own vehicle. Leslie L. Martinez, B-219812, March 25, 1986.

17. Auto Train

An employee, assigned to TDY at Naples, Florida, from April 12 to 14, 1972, traveled with his wife via Auto Train, ($380 covering the transportation of the automobile and from one to four people), from Lorton, Virginia, to Sanford, Florida, and then by a POV between Sanford and Naples, returning the same way. The employee's claim for $180 could be allowed, since his claim represented the round-trip air coach from Washington National Airport to Miami, thence by air taxi to Naples and return by that same mode, plus per diem for 3-3/4 days. There is no requirement here, for comparative cost purposes, that there be a prorationing of cost. Had the employee traveled alone by Auto Train, the costs would have been the same. B-176612, October 25, 1972.

18. POV shipment distinguished from use of Auto Train

In light of 5 U.S.C. § 5727(a) and the lack of a specific statute authorizing the shipment of a POV, an employee who was transferred from San Diego, California, to Denver, Colorado, and who was authorized the use of two POVs, could not be reimbursed the cost of shipping one of the POVs by common carrier because his wife, who was to have driven the POV, traveled by airplane, instead. 58 Comp. Gen. 249 (1979). A similar result was reached in B-186115, February 4, 1977.

Our holdings were made although the cost of such travel and transportation was less than the constructive cost by the mode authorized. In those decisions, however, the shipment of the automobile was unconnected with the travel by airplane of the employees or their families; that is, the individuals' transportation and the shipment of their automobiles were separately arranged and purchased. We distinguished 58 Comp. Gen. 249 (1979) and B-186115, February 4, 1977, in our decision B-194267, September 6, 1979, regarding the reimbursement of the cost of shipping a POV by Auto Train. An employee was transferred from Florida to Connecticut and was authorized the use of his automobile. He drove from Miami to Sanford, Florida, took Auto Train to Lorton, Virginia, and drove from there to Danbury. Since the cost of the travel as performed by the employee and his dependents was less than if they had driven the entire distance, and since they could not have used Auto Train without the automobile, he was properly reimbursed the total cost of the Auto Train.

19. Denied boarding compensation—penalty paid to government

When an air carrier becomes liable for liquidated damages for the failure to provide a confirmed reservation to a government employee traveling on official business, although the employee was personally inconvenienced, the damages are paid to the government as the purchaser which the carrier failed to service, because the reimbursement is not made for expenses incident to the employee's performance of official duties and a government employee may not be reimbursed from private sources for travel expenses incurred in an official capacity. B-148879, August 28, 1970.

20. Recovery of reservation penalties—employee liability

The "no show" penalty charges imposed by airlines when government personnel fail to use or cancel reservations, and which are paid by the government, may not be recovered by involuntary collections under the provisions of 5 U.S.C. § 5514. 42 Comp. Gen. 619 (1963). See also, 59 Comp. Gen. 95 (1979).

21. Babysitter

A claim by an Agriculture employee for the reimbursement of miscellaneous expenses incurred at home due to his travel status,

because the employee's wife who worked at night had to pay someone $5 to stay overnight with their children, was disallowed. The law and regulations authorizing the reimbursement of a traveler's expenses while on TDY away from his domicile do not relate to the expenses incurred by his family at his domicile, and the fact that the employee or his family would not have incurred the personal expense at his PDY station, except for his performance of official travel, is not a sufficient basis for shifting such an expense to the government. B-162466, September 27, 1967.

22. Money order

The cost to an employee of a telegraphic money order wiring him money to pay a bill for a rental car used incident to a TDY assignment was not reimbursable under what is now FTR para. 1-6.4b, nor 2 JTR para. C4707-3, even if the employee is given a discount for paying cash, thus saving the government money, since the bill relates to the payment of an expense voucher, and this is a personal expense. B-176543, August 30, 1972.

Subchapter II—Government Transportation

A. Personal Use Versus Official Business

1. Generally

Without specific legislative authority, no appropriated funds of any department may be used for maintenance, operation, or repair of any government-owned passenger vehicle or aircraft not exclusively used for "official purposes." Official purposes do not include transportation to and from home and the place of employment, except for medical officers who provide outpatient services and, when necessary and approved by the head of a department, for employees who perform field work. These limitations are inapplicable to motor vehicles and aircraft for the official use of the President, the heads of executive departments listed in 5 U.S.C. § 101, and certain principal diplomatic officials. Money and Finance, 31 U.S.C. § 1344.

2. Outside regular duty hours

Under 31 U.S.C. § 1344, government vehicles may not be used for other than official purposes, and we would not consider it appropriate for an agency to authorize employees to use a government vehicle in other than emergencies for purposes of personal transportation between a residence and place of business, even in connection with the performance of additional work outside of regular duty hours. B-190071, May 1, 1978.

3. To residence

a. Generally

In certain circumstances, and when approved by designated officials, specific statutory provisions permit government-owned vehicles to be used for transporting agency officials and employees of some agencies between their residences and places of employment. 10 U.S.C. § 2632 (military departments); 38 U.S.C. § 233(b) (Veterans Administration); 22 U.S.C. §§ 2678 and 2700 (State Department); and 50 U.S.C. § 403 (Central Intelligence Agency).

b. In the government's interest

Because the general prohibition codified at 31 U.S.C. § 1344, against transporting employees between their residence and place of employment in government-owned vehicles is for the purpose of preventing such use merely for the personal convenience of the employees, this provision does not prohibit home-to-work transportation by government vehicle, when it is in the government's interest to provide it. 25 Comp. Gen. 844 (1946).

c. Protection from terrorism

The general prohibition against the use of a government vehicle for home-to-work transportation is inapplicable when home-to-work transportation is for the protection of overseas employees from acts of terrorism. Such use transcends personal convenience, and may be regarded as in the government's interest. However, specific legislative authority should be sought to use government vehicles for this purpose, and in the interim, such use should be limited to cases where government transportation will protect against a clear

and present danger from terrorist activities. 54 Comp. Gen. 855 (1975).

d. Authorization of State

The authority of designated officials of State Department under 22 U.S.C. § 2678 and what is now 22 U.S.C. § 2700 to permit the use of government vehicles for home-to-work transportation of government employees overseas applies only to vehicles owned or leased by State. 54 Comp. Gen. 855 (1975).

4. Dependents riding in government vehicles

A union proposal to allow federal employees on TDY for more than a specified period of time to transport their dependents in government vehicles was negotiable with agency management, and would not violate 31 U.S.C. § 1344. Agencies have discretion to determine on a case-by-case basis that it is in the government interest, such as for morale purposes, to permit dependents to accompany employees in government vehicles otherwise used for official business. 57 Comp. Gen. 226 (1978).

5. Leave travel

a. Indirect travel

Government vehicles may not be used for indirect travel, (deviation from the shortest and most direct route), between duty points, where such indirect travel is performed solely for the purpose of taking leave. B-91377, June 21, 1950.

6. Return to headquarters on nonworkdays

a. Authorized return

A department may establish a standard rate per mile for the guidance of travelers and administrative officials approving travel in determining whether it is advantageous to the government that an employee using a government-owned automobile return to his headquarters on nonworkdays. B-105938, December 14, 1951.

b. Voluntary return

If an employee is not required to return to his headquarters on nonworkdays, because the expense of the return travel would be greater than remaining at his TDY station, the employee may not be reimbursed for the expense of his voluntary return on weekends by a government-owned vehicle, since such personal use of the vehicle violates 31 U.S.C. § 1344. B-105938, December 14, 1951.

Employees may be authorized periodic return travel at government expense from extended TDY to their official station on weekends, if a cost analysis shows that the cost of the return travel is outweighed by savings in terms of increased efficiency and productivity, as well as reduced costs of employee recruitment and retention. 55 Comp. Gen. 1291 (1976).

B. Choice of Government-Furnished Versus Commercial Conveyance

1. Government-furnished conveyance must be used if available

An Army employee on renewal agreement travel used a taxi between his residence in Seoul, Korea, and Osan Air Force Base, Korea. The Army denied the claim for the taxi fares, because a government bus service was available, and an 8th Army regulation did not allow reimbursement for commercial transportation when government transportation was available. The employee claimed there was no reliable bus service. Where there is an irreconcilable dispute of fact between an agency and an employee, the claim is denied. B-190070, December 16, 1977.

A civilian Air Force employee who became ill on TDY claimed overtime compensation incident to a delay caused by the unavailability of military aircraft, necessitating his return by commercial aircraft. Although, generally, civilian employees are not required to utilize government aircraft without their consent, an exception is provided in what is now 2 JTR para. C2001-4d, where required aircraft travel is part of the conditions of an employee's assignment to a position, as was the case in respect to the claimant's employment. Accordingly, the employee was properly required to use military aircraft, and his claim for additional travel costs was properly denied. B-175096, February 28, 1972.

An employee who performed temporary duty travel used his privately owned vehicle (POV) for that purpose as a matter of personal

preference and claims reimbursement at 20.5 cents a mile on the basis that his travel authorization specified POV reimbursement to be in lieu of common carrier travel. Travel order specified 9.5 cents a mile, but agency admits that a clerical error was made in that the 9.5 cent rate was typed in the wrong space. Employee was committed to the use of a government-furnished vehicle for temporary duty travel, if available, and he was informed before travel was performed that such a vehicle was available. Under the Federal Travel Regulations reimbursement for POV use in lieu thereof was properly limited to 9.5 cents a mile. Although errors on travel orders may be corrected after travel is performed under certain circumstances, the travel order here specified the correct mileage rate and the use of the wrong space was harmless error. Wayne G. Kirkegaard, B-223537, May 21, 1987.

2. Commercial air authorized when employee did not receive port call in time

A civilian employee could be reimbursed for the cost of commercial air transportation from New York to Paris incident to her return to her duty station following reemployment leave in the U.S. The record indicated that the employee failed to receive a port call issued August 15, 1965, through no fault of her own, and government air transportation offered for August 29, 1965, did not meet the requirements of the employee's position, and also the employee did not refuse available transportation offered for personal reasons. Accordingly, she was not precluded by what is now 2 JTR para. C5100-2 from being reimbursed for the travel performed. Moreover, nothing in the employee's travel order, nor in the applicable regulation, directs the exclusive use of government-furnished transportation, or prohibits the use of commercial transportation for the travel in question. B-160478, December 22, 1966.

C. Reimbursement

1. Generally

The expenses of travel by government-owned vehicles are reimburseable on an actual-expense basis. 5 Comp. Gen. 1009 (1926).

2. Vehicle insurance overseas

See, CPLM Title III, Chapter 4, Subchapter I.

3. Parking lot and storage charges

See also, "Parking meters," this Subchapter.

a. Protection of government property

Parking fees incurred incident to the transaction of official business for daytime parking of a government-owned automobile on a privately-owned parking lot in order to adequately protect valuable government property stored in the automobile may be considered a proper travel expense item reimbursable to the employee. 30 Comp. Gen. 173 (1950).

b. Other parking not reasonably available

An employee who drives a government-owned vehicle on official business may be reimbursed for the costs incurred in parking the vehicle on a privately-operated parking lot, if it is administratively determined that street, (including meter), parking, or other free parking, is not available within a reasonable distance from the place where the duty was to be performed. 41 Comp. Gen. 328 (1961).

c. Storage while on leave

The general rule is that charges incident to the storage of a government automobile for the purpose of an employee taking leave while in a travel status is a personal expense, and is not reimbursable from government funds. B-64309, April 9, 1947. However, where employees are in a continuous travel status moving from one worksite to another, and where a return to their PDY station for the purpose of taking leave would be impracticable, they are entitled to reimbursement for administratively required storage of government vehicles while leave is taken at their TDY station between assignments or taken during travel from one place of assignment to another. Storage in these circumstances is in the public interest. B-91377, June 21, 1950.

4. State taxes, fees, and fines

a. Parking taxes

When the tax is imposed on the vendee, neither the federal government, nor its employees, may be required to pay a state or local government parking occupancy tax on rent paid for parking a government-owned vehicle used for official business. However, despite

this tax immunity, a parking tax of a small amount was allowed to be certified for payment, since, under 7 GAO § 26.2, the use of a tax exemption certificate for an amount below the specified minimum is prohibited as administratively burdensome. 51 Comp. Gen. 367 (1971); modified by 52 Comp. Gen. 83 (1972).

b. License fees

The requirement of a state that a federal motor vehicle operated within the state shall have a license tag for which the government is required to pay a fee amounts to a tax on an instrumentality of the U.S., and is unauthorized. 1 Comp. Gen. 150 (1921) and 4 Comp. Gen. 412 (1924).

c. Inspection fees

Fees for inspections obtained as a voluntary compliance with state law, which law is not applicable to vehicles owned by the federal government, do not appear to be proper charges against the U.S. A-96223, September 23, 1938.

d. Parking meters

If the payment of a meter fee for the parking on a public street of a government-owned vehicle used on official business imposes no impermissible burden on the performance of a federal function, appropriated funds may be used to pay or reimburse employees for parking meter fees, unless the parking fee has been determined by a court to be a tax or a revenue raising measure. 46 Comp. Gen. 624 (1967).

e. Fines

Fines imposed on government employees for traffic violations while operating government-owned vehicles used on official business, as well as attorney fees for defending against them, are personal to the employee, and not payable by the government. 31 Comp. Gen. 246 (1952) and 57 Comp. Gen. 270 (1978). Compare our decision B-190790, May 18, 1978, where a Forest Service employee paid a fine to a Virginia state court, because the government truck that he was driving exceeded the maximum weight limitation. He could be reimbursed by the government, since the fine was imposed upon

him as an agent of the government, and was not the result of any personal wrongdoing on his part.

Subchapter III—Rules Associated With Use of Commercial Transportation

A. Common Carrier Transportation Preferred

"[T]ravel by common carrier . . . shall be used whenever it is reasonably available. Other methods of transportation may be authorized as advantageous only when the use of common carrier transportation would seriously interfere with the performance of official business or impose an undue hardship upon the traveler, or when the total cost by common carrier would exceed the cost by some other method of transportation." FTR para. 1-2.2(c).

B. Taxicabs

1. Generally

Authority for the use of taxicabs in certain situations is set out in FTR para. 1-3.1a, which incorporates the local travel provisions of FTR para. 1-2.3. Tips of 15 percent, when the fare is over $1.00, and 15 cents, when the fare is $1.00 or less, in addition to reimbursement of the fare, are allowed under FTR para. 1-3.1b.

2. Between worksites

When administratively recommended, and public bus service is inadequate, reimbursement may be allowed for taxicab fares for travel between worksites. B-169490, June 15, 1970.

3. Between residence and PDY station

FTR para. 1-2.3e was not intended to authorize the payment of taxicab fares where the use of public transportation is merely inconvenient. Commuting on other than the employee's regular schedule involves a degree of additional inconvenience, and for an

employee who regularly uses public transportation, the most common form of inconvenience is a variation in bus or train schedules. The FTR para. 1-2.3e requirement of infrequently scheduled public transportation is not satisfied by a mere showing that public transportation is not as easily available as at the height of rush hour. B-191989, December 29, 1978.

There is no authority to administratively approve taxicab travel between the office at a PDY station and the employee's residence after an 8 p.m. shift, unless all the requirements are met under FTR para. 1-2.3e, which permits such travel in limited cases when employees depend on public transportation. Consequently, a taxicab fare was denied where there was a failure to satisfy the requirement that the travel be incident to officially ordered work outside of regular working hours. B-182986, February 19, 1975.

A Deputy Under Secretary of Interior, who usually worked at the Department headquarters between 7 a.m. and 7 p.m. and traveled by public transportation between his home and office, was injured in an air crash while on official business in the Trust Territories. Although he had to travel to work at headquarters by taxicab for a month, because of his injury, he was not entitled to reimbursement of taxicab fares and tips for such travel, as the travel did not fall under the exception in FTR para. 1-2.3e to the rule that an official must commute to work at his own expense. B-193937, March 14, 1979.

4. To visit counselor in another agency

An agency may allow reimbursement of local taxicab expenses for visits to the agency's Employee Assistance Program Counselor located at another agency where a determination is made that the travel is advantageous to the government. While there is no provision regarding travel expenses in the statutes or regulations authorizing the Program, under the Federal Travel Regulations the Federal Communications Commission may allow reimbursement based upon its determination that payment would be in the government's interest. The approval of the employee's reimbursement voucher by the appropriate official in accordance with the agency's regulations is sufficient to constitute an agency determination that the travel was advantageous to the government. Employee Assistance Program, B-226569, November 30, 1987.

5. Between lodging and place of TDY

Where not authorized or approved as advantageous to the government, a claim for a taxicab fare for travel between a lodging and the place of TDY is disallowed. B-161558, July 21, 1967.

6. To and from common carrier and other terminals

a. Suitable government or common carrier transportation available

When government transportation between a residence or office and an airport terminal is available, and, therefore, agencies prohibit the use of taxicabs, employees may not be reimbursed for taxicab fares. 48 Comp. Gen. 447 (1968) and B-190070, December 6, 1977.

However, a taxicab or limousine fare is payable where travel orders do not restrict in advance such transportation because of available government or common carrier transportation. B-179823, July 14, 1975 and B-186081, July 22, 1976.

b. Between terminals

Under what is now 2 JTR para. 4701, employees may be reimbursed for taxicab fares between common carrier terminals while en route, when required by a transfer from one carrier to another. B-184618, April 16, 1976.

An employee may be reimbursed both for limousine service between an airport and a downtown terminal, and for taxicab fare from that point to his office or residence. 31 Comp. Gen. 442 (1952).

c. Flight delay—return home and travel back to terminal

If an employee is determined to have acted prudently in making a round-trip taxicab trip between his residence and the airport, because a flight was cancelled, and then returning to the airport for a later flight, taxicab fares for all of the trips are allowable. B-166082, March 27, 1969.

7. Between lodging and food facility

Where employees failed to contact any lodging listed by their agency as within walking distance of food facilities, they were not

entitled to taxicab fare to obtain food under FTR para. 1-2.3b, which limits taxicab fare to obtain meals at TDY stations to cases of necessity when food cannot be obtained because of the nature and location of the work. B-190657, May 19, 1978. See also, B-195226, August 10, 1979.

An employee on TDY in Houston, Texas, claimed cab fares to obtain meals while in Miami, Florida, during a holiday weekend. Cab fares may not be paid under FTR para. 1-2.3b where, for reasons of personal preference and not due to the nature of the TDY assignment, the employee obtains meals in distant locations. Jeffrey Israel, B-209763, March 21, 1983.

An employee on TDY claimed taxicab fares to travel to restaurants away from the general area of her lodgings. The employee's claim was denied, since the record supported the agency's determination that the employee traveled to the restaurants for reasons of personal preference and not because adequate facilities were unavailable in the area of her lodgings. Mary V. Embry, B-218984, December 18, 1985.

8. Between lodging and laundry

If an employee who is provided meals and lodging is granted per diem for miscellaneous expenses, he is not allowed taxicab fare to obtain laundry services or other items, since the per diem is for the purpose of covering such items as the taxicab fare. B-187976, April 11, 1977.

9. Added taxicab fare because of suburban lodging

An employee who obtains lodging in the suburbs, rather than downtown, at no savings in per diem, and who travels by taxicab from the airport to his lodging, because there is no limousine service to the lodging, was properly disallowed the full taxicab fare, because it is an added expense imprudently incurred by choosing the suburban lodging. However, since the employee's travel orders authorize a rental car, taxicab fare not to exceed the constructive cost of a car rental between the airport and downtown was reimbursable. B-187344, February 23, 1977.

C. Rental Automobiles and Special Conveyances

For types of special conveyances, see Subchapter I of this Chapter.

1. Generally

The hire of a boat, automobile, taxicab (other than for local travel under FTR paras. 1-2.3c, d, or e), aircraft, livery or other conveyances will be allowed, if authorized or approved as advantageous to the government, when the employee is engaged in official business within or outside his designated post of duty. FTR para. 1-3.2a. A "special conveyance" is defined as any method of transportation other than a common carrier, government-furnished or privately-owned, which requires specific authorization or approval, and generally includes conveyances obtained through commercial rentals for less than thirty days. FTR para. 1-1.3c(5).

An official at DOE, who headed the U.S. delegation to an international conference, could be reimbursed for a tip to the driver of a car hired with driver by the American Embassy in Vienna, Austria, for his use during the conference. DOE has determined that the tip was appropriate and customary in these circumstances, and applicable regulations authorize reimbursement of local transportation expenses, including tips for official business when an employee is on a TDY assignment. W. Kenneth Davis, B-211227, September 28, 1983.

2. Authorized or approved

Although the use of a rental vehicle was not administratively authorized before the rental, the expense could be allowed, if prior authorization would not have been unreasonable, and the rental was subsequently approved by a properly designated official. B-187926, June 8, 1977. The cost of an automobile rental for a 21-day period for an employee awaiting authorized overseas shipment of a POV was reimbursable only on a pro rata basis for the days the automobile was actually used for official business, where the agency authorized such use as advantageous to the government. The pro rata amount for insurance could also be reimbursed to the extent it is not personal to the employee and in excess of the amount required for the operation of a motor vehicle on German roads. B-199122, February 18, 1981.

An employee claimed reimbursement for costs incurred incident to his use of a rental car while attending a conference. The agency,

contending that use of a rental car was not authorized as advantageous to the government, determined that the employee should have used an alternative, less expensive mode of transportation. Accordingly, the employee's reimbursement for this item was reduced by the agency, the amount being calculated by comparison to expenses incurred by other agency travelers attending the same conference. Although the duly authorized official approved the employee's voucher, he did so without making a determination of advantage to the government, and given the factors involved, no such determination could have been made. The method used by the agency to reduce the claimed reimbursement for this item was not arbitrary or capricious, and so was permissible. Robert P. Trent, B-211688, October 13, 1983. See FTR paras. 1-2.2b and 1-2.2c(1)(a).

3. Official business

a. Use at hotel conference

Although the use of a rental car was authorized in an employee's travel orders, in a situation in which it was doubtful that the car was used for official business, the cost of the rental was disallowed, absent a determination by a proper agency official that the car was, in fact, used for official business. B-186820, February 23, 1978.

b. Use while awaiting employee's auto

Reimbursement for the rental of an automobile for an employee's use while awaiting shipment of the employee's car, (the shipment was not payable by the government, because it was incident to a PCS between duty stations in the U.S.), was properly disallowed, since the rental was not specifically authorized and was not for official business. B-186115, February 4, 1977.

c. Use while convalescing from illness

A civilian employee of the Military Sealift Command on TDY while convalescing from a heart attack rented an automobile on the recommendation of his attending physician. Since the hired automobile was not used for official business, but was a necessary medical expense, the claims for the reimbursement for the rental and related expenses were not allowed as a travel or TDY expense. Further, no authority was found for the government to pay for a car

rental as a medical expense, even though seamen such as the claimant were entitled to medical benefits from the PHS. B-200640, July 7, 1981.

d. Rental because of need for special meals

An employee who rents an automobile to travel to and from a TDY site in order to carry food that meets dietary restrictions of his religion may not be reimbursed the rental car expense, since the rental of an automobile was not authorized or approved. In determining the constructive cost reimbursement for the travel by an other-than-authorized mode, taxicab fares the employee otherwise would have incurred for his travel to kosher restaurants may not be considered. FTR para. 1-2.3b does not authorize the payment of local transportation costs occasioned by an employee's need for special meals. B-202411, December 1, 1981.

An employee was reimbursed for the costs of renting an automobile to transport his personal effects from his PDY station to his TDY site, and for local transportation at his TDY station. The employee could not retain full reimbursement for the automobile rental charges, since the rental was not approved based on a determination of advantage to the government, and there is no authority to reimburse rental costs for periods in which no official business is performed. However, the employee could retain reimbursement attributable to his use of the rental car for official travel, limited to the constructive cost of transportation by a more advantageous mode. Bertram C. Drouin, 64 Comp. Gen. 205 (1985).

4. Rental on days of annual leave

An employee who rents an automobile to intermittently perform official duties while on vacation is properly denied reimbursement for the days he is on annual leave and is not performing official business, even though on leave days he is required to be at the location for official business and cannot return the vehicle. B-190698, April 6, 1978.

5. From airport to duty station

a. Actual or constructive cost for taxicab

An employee, in the company of his wife, drove a rental car from the airport to his new PDY station. He could be reimbursed for either the constructive cost of a taxicab or limousine service from the airport, to which the employee was entitled under FTR para. 1-2.3c, or, if taxicab or limousine service was unavailable, the actual rental car cost of the travel, prorated for the trip from the airport. B-186115, February 4, 1975.

6. From suburban lodging to TDY station

Where there is no showing that adequate lodging was unavailable within the immediate vicinity of a TDY station, or at least within an area where public transportation was available, an employee could not be reimbursed for the cost of a car rental for commuting from his lodging to his TDY office. In the absence of a showing that an area of TDY is a high-cost area, and that lodging in the area the employee chose would provide an overall savings in travel expenses by obtaining lower-cost lodging in a suburban area, the employee could not be reimbursed for the cost of a rental automobile used for commuting. B-192112, October 11, 1972.

7. Rental while awaiting reduced airfare

A civilian employee delayed his departure one day in order to qualify for a reduced vacation airfare, and retained a GSA rental car for that day. There is no authority to permit the reimbursement for the cost of a car rental for a period in which no official business is performed, but the employee could be reimbursed for the constructive cost of allowable local transportation, not to exceed the cost of the car rental for one day. B-192364, February 15, 1979.

8. Rental for voluntary return to headquarters

An employee who voluntarily returned home from TDY travel on a weekend was not entitled to the constructive cost of the expense of a rental car for that period. A rental car is a special conveyance, and, as such, its use must be authorized or approved as advantageous to the government whenever the employee is engaged in official business within or outside his designated post of duty. FTR

para. 1-3.2a. A rental car can only be used when it is determined by appropriate agency officials that the use of other methods of transportation will not be more advantageous to the government. FTR para. 1-2.2c(4). Here, the employee was off-duty and was not engaged in official business over the weekend; therefore, there was no official requirement for the use of a rental car during the weekend. Further, there was no evidence that it would have been impractical to return the car over the weekend, and, also, the car was driven to the airport and returned incident to the employee's trip home. B-194166, June 4, 1979.

9. Long-term lease

GAO will not object to the reimbursement of a government employee for the costs of a vehicle leased by the employee on a long-term basis for a period of TDY in Germany, in light of apparent official determinations that a long-term use of vehicles was necessary due to the extensive travel required, and that the long-term lease of vehicles was more advantageous to the government than a rental arrangement, cost and other factors considered. 55 Comp. Gen. 1397 (1976).

10. Insurance and damages

See, Subchapter I of this Chapter.

D. Class of Service Authorized

1. Generally

Under 5 U.S.C. § 5731, the expenses for transportation may not exceed the lowest first-class rate, except as provided by a regulation authorized by that section. FTR para. 1-3.3a provides that less than first-class accommodations shall be used in air travel and on other methods of transportation. The classes of accommodations authorized for travel by train, steamer, and air are set forth in FTR paras. 1-3.3b, c, and d.

2. Airplane accommodations

Although an employee may not have known that a fare lower than first-class is available for a particular flight, and he was not involved in making reservations, there is no legal basis for charging the government with the excess costs resulting from the failure to

take advantage of the tourist-class fare required by administrative regulations. In accordance with what is now FTR para. 1-3.3d, the employee had to reimburse the government for the excess costs. B-152558, October 31, 1963.

An employee who cancelled a coach air reservation May 1, 1978, because he had not finished his official business, was unable to secure a coach reservation on the next day when he finished his official business, and he flew first-class, instead. The agency deduction of the difference between the coach and first-class fares from the travel voucher was not improper. The employee did not try to obtain a new reservation when he canceled the first reservation, and he was not entitled to reimbursement for first-class airfare under the provisions of FTR para. 1-3.3d. B-192347, May 29, 1979.

With the limited exceptions defined in FTR para. 1-3.3, government travelers are required to use less-than-first-class accommodations for air travel. In view of this policy, a U.S. air carrier able to furnish only first-class accommodations to government travelers, where less than first-class accommodations are available on a foreign air carrier, will be considered "unavailable," since it cannot provide the "air transportation needed by the agency" within the meaning of para. 2 of the Comptroller General's Guidelines implementing the Fly America Act, 49 U.S.C. § 1517. 60 Comp. Gen. 34 (1980).

An employee on temporary duty was forced to miss his scheduled flight so that he could board his young son on a delayed flight. The unforeseen delay in his son's flight resulted in an additional $411 cost because only business class space was available on the later flight the employee took. The additional expense for the employee's flight may not be allowed under the Federal Travel Regulations. When an employee changes travel plans for personal or family reasons, he must bear any additional cost incurred. John F. Clarke, B-209764.2, September 26, 1988.

An employee secured his agency's approval for the use of first-class air accommodations for his travel on official business, because of medically confirmed claustrophobia. Since the approval was granted in accordance with the applicable regulations, the employee was entitled to the reimbursement for the additional cost of first-class airfare. In such a case, the Comptroller General will

not substitute his judgment for the agency's, absent clear and convincing evidence that the determination was arbitrary and capricious. B-207002, July 13, 1982.

3. Train accommodations

The minimum traveltime required to justify an employee obtaining a parlor car for his personal comfort under FTR para. 1-3.3b(2), here, was the scheduled time for the trip. Consequently, the employee is entitled to parlor car accommodations, if the scheduled time is more than the required minimum traveltime, even though the actual traveltime for a particular trip is less. 24 Comp. Gen. 355 (1944).

E. Special Fares

1. Generally

Extra-fare planes and trains may be authorized or approved, whenever their use is administratively determined to be more advantageous to the government or are needed for reasons of security. Fares at reduced rates shall be obtained, whenever it can be determined prior to the start of a trip that the service provided is practical and economical. FTR para. 1-3.4.

2. Round-trip ticket by same mode

In the absence of an official justification for taking different modes of transportation to and from the destination, a round-trip ticket by the same mode of transportation should be purchased, and an employee is liable for the extra fare because of failure to obtain a round-trip ticket. 26 Comp. Gen. 787 (1947) and B-150421, December 26, 1962.

3. Round-trip by same carrier

An employee could not be reimbursed the added fare charged by an airline because he failed to take the same carrier to and from his destination, as required by the airline for a reduced round-trip fare. B-179696, March 18, 1974.

4. Reduced fare obtained by purchasing ground accommodations

When an employee combines personal travel with official travel, thereby qualifying for a special fare, he is entitled to reimbursement of the lesser of the actual cost of the special fare or the regular fare by direct route, notwithstanding the fact that the special fare may require the purchase of accommodations or other items normally classified as subsistence or included in per diem, which are not reimbursable while the employee is on leave, if such items are included as part of a travel package. 54 Comp. Gen. 268 (1974).

However, an employee traveling on official business may not be reimbursed for the difference between the cost of an excursion fare and the lesser fare actually purchased, which is obtained by also buying a ground accommodations package, when the employee's receipt of both per diem and government reimbursement of the ground accommodations would result in double reimbursement for lodging. 55 Comp. Gen. 1241 (1976).

5. Government reimbursement prohibited by tariff

Although the cost to the government would be cheaper than the ordinary fare, employees may not be reimbursed under the "Discount 50 Plan" for renewal agreement travel under 5 U.S.C. § 5728(a), where the official tariff provides that this special fare may be used only when payment is at the employee's own expense. 51 Comp. Gen. 828 (1972).

6. Canceled leave eliminates lower fare

An employee on approved annual leave in France, upon completion of official business there, claimed reimbursement for the cost of the conversion of a special excursion-fare ticket to a regular-fare ticket upon the cancellation of his leave due to the receipt of orders to return to Washington, D.C. Payment could be allowed where the entitlement to the excursion fare was nullified due to the early departure on official business. B-190755, June 15, 1978.

7. Reimbursement for expenses necessary to obtain reduced airfare

An employee who traveled on a nonworkday, in order to take advantage of a reduced airfare, may be considered in a travel status and authorized and paid an extra day's actual subsistence,

where the cost of his subsistence is more than offset by the savings to the government through the use of the reduced fare. An agency's bulletin, to the extent that it is inconsistent with the FTR, need not be followed. 60 Comp. Gen. 295 (1981).

8. Constructive cost comparison includes discounts

An employee authorized to use a common carrier for TDY travel to El Paso elected to travel by automobile. FTR para. 1-3.4b(1) states that special fares should be used for official travel when it can be determined in advance that such service is practical and economical. Since the agency had advised all its employees to use economy fare rates for air travel to El Paso, the agency properly restricted constructive cost reimbursement for travel under FTR para. 1-4.3a(1) to the cost of accommodations at economy fare rates, rather than the higher rate for coach accommodations. B-191586, February 25, 1981.

An employee, in Pittsburgh, who had annual leave scheduled in Los Angeles, was assigned to attend a training seminar in San Diego immediately prior to his scheduled annual leave. The employee stayed in California after his training and claimed reimbursement for his travel from Pittsburgh to San Diego, San Diego to Los Angeles, and Los Angeles to Pittsburgh. If the employee had returned to Pittsburgh after his training was completed, he would have been eligible for an airline half-fare discount coupon. The agency correctly limited his reimbursement to that cost, since the regulations provide that reimbursement is based on such charges as would have been incurred by a usually traveled route when a person for his own convenience travels by an indirect route, or interrupts his travel. Also, the regulations require an agency to use a half-fare coupon, if its use will achieve a savings to the government. B-200027, August 24, 1981.

An employee of the Department of the Interior contended that a certifying officer's computation of his comparative cost reimbursement for TDY travel and our decision Floyd L. Klavetter, B-215285, December 13, 1984, which sustained the computation, were based on erroneous facts. Both were based on a one-way coach airfare of $143 published in the Official Airline Guide and schedules satisfying the employee's duty requirements while minimizing per diem. Where upon reconsideration it was found that carriers' passenger tariffs restricted the fare to night-coach travel, the employee was

entitled to additional reimbursement based on the lowest one-way fare ($204) available to meet the employee's travel requirements without increasing per diem. Floyd L. Klavetter, B-215285, May 10, 1985.

9. Official business cancels employee's reduced fare

An Interior employee scheduled leave for a personal trip and purchased a "super-saver" airline ticket. When official business changed his travel plans, he lost the discount for his air travel for his personal business. The employee was not entitled to reimbursement for his additional air travel expenses. 60 Comp. Gen. 629 (1981).

Employee may be reimbursed for a $200 penalty fee assessed by an airline when she cancelled her super-saver ticket, in spite of the fact that the ticket was originally purchased for personal reasons. An initial determination was made by the agency that utilization of a super-saver fare would result in economies to the government, and the charge was caused by the agency and not the employee when it cancelled the employee's temporary duty training assignment and rescheduled it for a later date. Nancy Getchel, 67 Comp. Gen. 347 (1988).

F. Unused Tickets or Accommodations

1. Generally

The charges for cancelling reservations, and the parties liable therefore, are set forth in FTR para. 1-3.5.

2. Carrier charges for canceled reservations

An employee is liable for fees charged by airlines when travel accommodations reserved for him are cancelled, if the cancellation is attributable to his fault, but he may be reimbursed for the fees, if the cancellation is beyond his control. 41 Comp. Gen. 806 (1962) and B-148879, August 28, 1970.

3. Cancellation penalty due from carrier

a. Generally

If a carrier is required to pay a penalty, (liquidated damages), when it cancels confirmed reserve space for a government employee, the government, rather than the employee, is entitled to the penalty. 41 Comp. Gen. 806 (1962). Thus, where an FCC Commissioner traveled abroad on official business, and, after a delay for personal reasons, he was delayed when the return flight was oversold, the penalty payment by the airline had to be paid to the government, and not to the traveler. Furthermore, employees may not be reimbursed from private sources for expenses incurred incident to official travel. B-192841, February 5, 1979.

An employee is not entitled to retain liquidated damages (denied boarding compensation) paid to him by a commercial airline for the inconvenience and delay resulting from denial of a reserved seat for official travel. Such compensation belongs to the government. Omar J. Norris, B-224590, November 10, 1986.

b. Voluntarily vacating seat

An employee, while traveling on official business, received $150 from the airline for voluntarily vacating his seat on an overbooked flight, and taking the next scheduled flight. Airline payments to volunteers are distinguishable from denied boarding compensation, which is due the government. The employee could retain the payment received as a volunteer, reduced by any additional expense incurred by the government. 59 Comp. Gen. 203 (1980). See also, B-196145, January 14, 1980 and B-199417, October 10, 1980. Note that these decisions allowing an employee to keep payments for voluntarily vacating a seat on an overbooked air flight are not retroactive; they do not apply to travel performed before September 3, 1978, the effective date of CAB regulations encouraging such payments. 60 Comp. Gen. 9 (1980).

On official airline travel the employee's return flight was overbooked, he voluntarily vacated his seat, and he took the next scheduled flight. Airline company issued a Miscellaneous Charge Order (MCO) to the employee to be used on a standby basis within 1 year. Claimant was later authorized official travel from Rockville to San Francisco, California. He used the MCO (determined by GAO to

belong to employee) to purchase an airline ticket for a personal side trip from San Francisco to Ft. Lauderdale, Florida. His return trip to Baltimore was included in the segment paid by the MCO. Employee may not be reimbursed for the cost of the unused portion of the official airline ticket since the government has no obligation for the cost of the return travel as no travel expenses were incurred. Joel R. Zaientz, B-218994, January 2, 1986.

G. Gifts or Prizes Acquired in Course of Official Travel

1. Generally

It is a fundamental rule of law that a federal employee is obligated to account for any gift, gratuity, or benefit received from private sources, incident to the performance of official duty. Therefore an employee may not retain any "half-fare coupon," "bonus point," or similar item of value received from a commercial air carrier on the basis of the purchase of an airline ticket to be used for official travel. However, if an employee, while traveling on official business, happens to enter a contest sponsored by an air carrier which is open to the entire general public, rather than to just ticket-holding passengers, then the transaction may properly be regarded as the employee's own personal affair, and, in that particular situation, he would not have a duty to account for any prizes won. B-199656, July 15, 1981.

2. Discount coupons and other benefits received in the course of official travel

The general rule is that a federal employee is obligated to account for any gift, gratuity or benefit received from private sources incident to the performance of official duty. This rule applies to situations where an employee enters a promotional program sponsored by an airline, and, while traveling on official business, receives a discount as a result of entering that promotional program.

A bonus ticket received by an employee as a result of trips paid by both appropriated funds while on official travel and personal funds, is the property of the government and must be turned into the appropriate official of the government. If employee wishes to participate in the bonus program and retain the benefits from the program, he should make certain that all trips included in the bonus program are paid from personal funds.

An employee who enters a promotional program sponsored by airlines which includes free upgrade of service to first class, membership in clubs, and check-cashing privileges, does not have to turn in such benefits to the government. The government is unable to use such benefits, and there is no reason for employee not to use such benefits. Discount Coupons and Other Benefits Received in the Course of Official Travel, 63 Comp. Gen. 229 (1984).

An employee who used airline bonus credits earned as a result of official travel to purchase an airline ticket for her husband was indebted to the government for the cost of that travel. That indebtedness, arising out of the misuse of travel benefits belonging to the government, could not be waived or otherwise excused, even though the employee may have been erroneously advised by agency travel officials that there were no instructions regarding the personal use of such benefits. Henriette D. Avram, B-216822, March 18, 1985.

An employee asked whether he could make personal use of nontransferable bonus lodging points earned as a result of a combination of government-funded and personal travel. Any travel promotional materials received as a result of the expenditure of federal funds are the property of the government, and must be relinquished to an appropriate agency official. Since the bonus lodging points here were earned in part by government-funded travel, the employee could not make personal use of them. Johnny Clark, B-215826, January 23, 1985.

3. Promotional gifts received as a result of official travel

An employee received and used a bonus ticket and a free hotel room for personal travel as a result of trips paid by both personal funds and government funds. Such promotional gifts which were received because of travel paid by government funds belong to the government. The employee must pay the full value of the tickets and benefits received to the government. Since this employee used these gifts prior to the issuance of guidance on the use of such materials, he may deduct his liability for repayment based on the percentage of travel paid by personal funds. Any future use of promotional gifts will result in liability for the full value of the bonus or gift. John D. McLaurin, 63 Comp. Gen. 233 (1984).

Five AID employees traveling on official business participated in airline frequent flyer programs and earned free tickets which they used for personal travel. AID found the employees liable for the value of the tickets used and the employees appealed. Decisions of the Comptroller General have consistently applied the rule that airline promotional mileage credits earned on official travel may only be used for official travel and may not be used by employees for personal travel. Thus, the employees are liable for the full value of the tickets. Erroneous advice of agency officials cannot defeat application of the rule. Michael Farbman, et al., 67 Comp. Gen. 79 (1987).

The rule requiring an employee to account for airline promotional material earned on official travel applies to benefits such as accommodation upgrades to business class or first class when they are obtained in exchange for mileage credits. Therefore, an employee may not exchange mileage credits for accommodation upgrades absent authorization or approval by the appropriate agency official. 63 Comp. Gen. 229 (1984) clarified. The restrictions on the use of first-class travel contained in FTR para. 1-3.3d now apply to upgrades obtained in exchange for mileage credits, but could be revised in order to maximize the integration of airline incentive programs into agency travel plans. Collection of the value of the unauthorized or unapproved upgrades used prior to this decision is not required. Michael Farbman, et al., 67 Comp. Gen. 79 (1987).

An employee combined official travel with a personal trip and used a prize won by his wife to cover most of the cost of the travel, the rest of which he paid himself ($79). He seeks reimbursement for the cost of a round-trip government fare ($278) representing the official travel. The government has no obligation to reimburse the employee for the constructive cost of travel where no actual travel expenses are incurred. Since the official travel was combined with a personal trip, the employee may only be reimbursed to the extent that his actual expenses do not exceed the cost which would otherwise have been incurred had only official travel been performed. Accordingly, the employee may be reimbursed the $79 he paid. John A. Park, B-227468, March 11, 1988.

An employee, who traveled on official business, claims reimbursement for $50 discount coupon he used in purchasing airline ticket. The discount coupon was earned by the employee in connection with his personal, long-distance telephone calls. We hold that the

employee may be reimbursed only for the actual and necessarily incurred travel expenses and not for any gratuitous payments made in the course of official travel. Personally obtained coupons should be used for personal purposes only and not for official travel. Therefore, employee may not be reimbursed for the discount coupon. Philip E. Trickett, B-224054, March 17, 1987.

Subchapter IV—Reimbursement for Use of Privately-Owned Conveyances

A. Mileage Payments

1. Generally

Payment to employees for the use of their privately owned vehicles or airplanes in the conduct of official business is on a mileage basis, unless payment on an actual expense basis is expressly authorized by law. Reimbursement for mileage must be administratively authorized or approved as advantageous to the government. 5 U.S.C. § 5706 and FTR para. 1-4.1a. In B-204040, April 6, 1982, we held that since the employee incurred costs associated with its use, he is entitled to reimbursement of mileage and parking fees for operating a POV borrowed from his father and used at his TDY station to commute between his residence and the TDY site. There is no requirement that an employee hold title to a private automobile used to perform official travel as a condition to the payment of mileage under 5 U.S.C. § 5704.

The travel orders of a Navy civilian employee limited reimbursement for first duty station travel by POV to the constructive cost of commercial air travel. Both FTR para. 2-2.3a and 2 JTR para. C2151(3), however, state that use of a POV for such travel is advantageous to the government. Where the applicable regulations prescribe payment, the claim must be allowed—regardless of the wording of the travel orders. Dominic D. D'Abate, 63 Comp. Gen. 2 (1983).

2. Bicycles

See, Subchapter I of this Chapter.

3. Privately-owned airplane

An FAA employee who was authorized TDY travel in a privately-owned airplane sought reimbursement on an actual expense basis by computing fixed costs per hour, plus operating costs. What is now FTR para. 1-4.6 provides for reimbursement on an actual expense basis only when authorized by law. General authority for the reimbursement of travel is 5 U.S.C. § 5704, under which an employee is entitled to not in excess of a certain amount per mile for the use of a privately-owned automobile or airplane, instead of actual expenses. Therefore, without proper authorization, a claimant may receive only that designated maximum amount per mile. A prior law authorizing reimbursement for airplane expenses on an actual cost basis has been superseded by 5 U.S.C. § 5704. B-178069, April 9, 1973.

An employee of the Forest Service who traveled by a privately-owned airplane in lieu of a common carrier as an exercise of his personal preference was not entitled to reimbursement on a constructive cost basis. Reimbursement was denied by his agency based on a regional regulation prohibiting the authorization of travel by private aircraft for safety reasons. The regulation is proper under FTR para. 1-2.2d, and is not arbitrary or capricious. B-199621, September 11, 1981.

4. Boat travel

Although an employee who travels by a privately-owned boat incident to a change of station is not authorized mileage payments by 5 U.S.C. § 5704 and what is now FTR para. 2-2.3, he is entitled to actual expenses under 5 U.S.C. § 5706, but limited to common carrier costs as provided by what is now FTR para. 1-4.6. 47 Comp. Gen. 325 (1967). See also, B-123222, May 18, 1955.

5. Official business travel—POV

a. Indirect travel for leave

An employee is not entitled to such costs as mileage and parking fees for POV use related to the interruption of TDY and indirect travel for leave purposes. 53 Comp. Gen. 556 (1974).

b. Residence to place of duty at official station

With limited exceptions, such as the reimbursement allowed for travel between the residence and carrier terminals and from the residence to the office on the day of travel under FTR para. 1-4.2c, an employee is not allowed the costs for his transportation by a POV to and from his home and the location where he regularly performs work at his PDY station. 36 Comp. Gen. 450 (1956) and 55 Comp. Gen. 1323 (1976). In applying this rule, and within the meaning of the FTR, the employee's rental of a motel room on a daily basis at the employee's official station is not considered a "residence" when the employee spends a majority of his time in a travel status. 57 Comp. Gen. 32 (1977). The general rule against home-to-work mileage applies when agencies call back employees from their homes for overtime work. B-190071, May 1, 1978. See also: 36 Comp. Gen. 450 (1956); B-185974, March 21, 1977; and B-189061, March 15, 1978.

In B-190292, March 28, 1978, we ruled on a union-proposed bargaining agreement provision agreement provision that requires Agriculture to authorize portal-to-portal mileage allowances for meat grader employees who use their private vehicles in connection with their work. We held that the proposed provision was contrary to the general requirement that an employee must bear the expense of travel between his residence and his official headquarters, absent special authority, and, therefore, could not be properly included in an agreement.

A Navy employee claims mileage for travel from home to work. As part of his assigned duties as a handler of a Drug Detection Dog, he transports it in his privately-owned automobile between his residence and permanent duty station. He claims mileage on the basis that his commuting expenses increased by the requirement to transport the dog because he was deprived of cost advantages of public transportation or carpooling. Disallowance of the claim is sustained, because employees must bear the cost of transportation between their residence and duty station absent statutory or regulatory authority to the contrary. Richard H. Foster, B-202370, April 2, 1984.

c. To and from common carrier terminals and office

(1) One-day trip—An employee may not be reimbursed for his mileage in lieu of a taxi between his residence and his office on the day

of travel when a trip commences and ends on the same day, and does not require at least one night's lodging. 55 Comp. Gen. 1323 (1976) and B-172094, April 12, 1972.

(2) One-way without employee—Where a POV is used to drive an employee to an airport terminal, but it returns without him, the mileage is allowed for the return trip, since what is now FTR para. 1-4.2c provides that a round-trip is allowed to both transport the employee to a common carrier terminal and return him to his residence or office, as long as the mileage does not exceed the taxi cost. B-130430, March 1, 1957 and B-146088, June 27, 1961.

(3) Driven to airport by a friend—An employee on TDY was driven by a friend in the latter's automobile to the airport for his return flight to his official duty station. The employee's claim for mileage and a parking fee could be paid to the extent it does not exceed the cost of the taxicab fare and a tip. Decisions limiting reimbursement for travel with a private party to the actual expenses paid to the private party apply only to regular travel on TDY, not to travel to and from common carrier terminals. 60 Comp. Gen. 339 (1981).

(4) Day before and after TDY travel—An employee who travels from his residence to his office and returns on days immediately preceding and following periods of TDY travel may not be allowed mileage, since, under FTR paras. 1-4.2c(2) and 1-2.3d, mileage between the residence and the office is restricted to the day of departure from the office on travel and between the office and the residence on the day of return to the office. B-189114, February 14, 1978.

d. To and from common carrier terminals and home

An employee who moved his family 300 miles away from his PDY station prior to TDY overseas, and who obtained bachelor quarters at his PDY station upon return to his regular duty assignment, could not be reimbursed mileage for round-trip travel between his family's new residence and the airport. Under FTR para. 1-4.2c, the employee could be paid mileage for his round-trip travel between the bachelor quarters—the residence from which he regularly commutes to work—and the common carrier terminal. B-197360, July 15, 1980.

An employee is not entitled to a mileage allowance for the round-trip travel by the employee's relative in a POV with the intention of transporting the employee between the air terminal and his residence after an official trip, when, because the return flight is delayed, the employee, instead, travels to his residence by taxi, and is reimbursed for the fare. B-179823, July 14, 1975.

e. Court appearance

An employee who is charged in an accident with a traffic violation while traveling in a POV on official business could be paid mileage for a court appearance concerning accident damages, since the U.S. under the Federal Tort Claims Act, 28 U.S.C. Chapter 171, could be ultimately liable for the damages, and, consequently, the employee's attendance at court to give testimony could be regarded as official business under 5 U.S.C. § 6322(b)(2). 53 Comp. Gen. 214 (1973).

6. Discretionary authority or approval—POV

a. Generally

Authorizing an employee mileage for the use of his automobile as advantageous to the government is discretionary with his employing agency. 52 Comp. Gen. 446 (1973) and 55 Comp. Gen. 1323 (1976).

b. Travel in the vicinity of headquarters

An agency has the discretion to limit allowable mileage between an employee's residence and places of TDY in the vicinity of his headquarters. 36 Comp. Gen. 795 (1957); B-173103, November 16, 1971; B-175608, December 28, 1973; B-187928, November 15, 1977; B-188862, November 23, 1977; and B-131810, January 3, 1978.

Certain employees drive daily to a TDY site. Although mileage may be allowed for POV travel from a residence to a nearby TDY site, the employees here were not entitled to any payment, since the agency did not authorize them mileage. Authorization in such situations is within the agency's discretion. Mileage erroneously paid to another employee similarly situated provides no basis for paying these claims. B-184175, June 8, 1979.

Certain Customs Service inspectors claimed mileage and per diem under agency regulations for travel to a Customs station 11 to 40 miles from their assigned POE. Our decisions give agencies discretionary authority to restrict mileage and per diem where employees perform travel in the vicinity of their official duty station. Therefore, since inspectors perform travel to a Customs station 11 to 40 miles from their POE on a regular basis, and the Customs regulations stated that travel on a predetermined rotational schedule to local places is deemed travel within an employee's headquarters, and is nonreimbursable, the inspectors' claims were denied. B-191104, May 9, 1979.

An IRS employee who drove daily to a TDY site near her headquarters, claimed mileage for her travel between her residence and her TDY station. An agency regulation required a reduction in mileage beginning the sixth day of an assignment to a TDY station. A limitation on mileage reimbursement in such situations is within the agency's discretion. B-199197, July 20, 1981.

An IRS employee performed TDY at various locations around Los Angeles, California. Claims for mileage could be paid from the employee's second residence in West Los Angeles from which he normally commuted to TDY locations. Claims for mileage from Desert Hot Springs, where his family resided and where the employee resided on weekends, could not be paid. B-201361, December 30, 1981.

An employee of the Bureau of Reclamation who used his car for local travel was not entitled to reimbursement for commuting from his residence to his work station, except, and subject to the agency's discretion, on those days when travel which required overnight lodging was performed. However, again in the agency's discretion, the employee was entitled to reimbursement for the use of his car for travel between his two regular places of duty. B-203978, March 11, 1982.

Two employees were assigned to perform duty 30 miles from their duty station for a 2-week period. The employees claimed actual subsistence expenses and mileage as prescribed in their travel orders. The agency denied subsistence reimbursement since the agency considered the assignment to be local travel. We hold that payment may be allowed where subsistence expenses and mileage were properly authorized and were not specifically precluded by

agency regulations defining the local travel area. Jack Mohl and Jerry W. Elliott, B-213816, May 22, 1984.

An Army employee whose use of his POV was determined to be advantageous to the government was entitled to mileage for travel on a daily basis between his place of abode and his alternate duty point under 2 JTR. Under paragraph C2153, DOD components do not have discretion to limit the payment of mileage to the mileage amount by which an employee's travel to the alternate duty site exceeded his commute between his residence and his PDY station. Talmadge M. Gailey, 65 Comp. Gen. 127 (1985).

c. Travel in the vicinity of TDY station

An employee was not entitled to mileage from his place of lodging to his TDY station, since his agency did not authorize it, and such authorization was within the agency's discretion upon consideration of the best interests of the employee and the government. B-190711, August 14, 1978. See also, B-190006, May 24, 1978.

A DOE employee claimed mileage at his TDY station in order to obtain meals. The FTR allows reimbursement of such travel only when the TDY assignment is such that suitable meals cannot be obtained. Based on information before us, we concurred with the agency determination to deny such expenses. Gene Daly, B-197386, June 15, 1983.

Agencies have discretion over the authorization of mileage reimbursement for an employee's local travel within a TDY area. In the exercise of this discretion an agency may properly limit TDY local area mileage to travel between the employee's lodgings and worksite. Mark J. Worst, B-223026, November 3, 1987.

An employee was authorized actual subsistence expenses to perform TDY in Washington, D.C. He incurred transportation expenses to obtain meals on various days and at distances ranging from 2 to 112 miles, round-trip. The FTR allows expenses of travel to obtain meals as part of actual subsistence expenses, but such expenses must be necessarily and prudently incurred, and reasonable in nature. Where the expenses claimed appear largely unnecessary and unreasonable, and the employee failed to provide additional justification, the agency acted properly in denying the employee's claim. Eugene J. Maruschak, 65 Comp. Gen. 10 (1985).

d. Use of POVs in commuting to remote worksites

An agency provided transportation by a small chartered aircraft to remote TDY worksites located approximately 175 to 300 miles from the employees' official duty station. Employees who, because of the hazard involved, fear of flying, and the unavailability of government-owned vehicles, elected to drive their POVs to and from the worksites, with the agency's approval, were entitled to reimbursement of mileage at the rate specified in FTR para. 1-4.2a. B-197336, January 28, 1981.

e. Agency discretion limited by its own policy

An agency may prospectively allow mileage for travel by a POV between an employee's residence and only one temporary worksite each day, but not until it changes its existing policy of paying mileage only when travel is to at least the two worksites per day. B-131810, January 3, 1978.

7. Distance measurements

a. Automobile and motorcycle

(1) Generally—For entitlement to mileage, distances between points traveled by privately-owned automobiles or motorcycles must be as shown in standard highway mileage guides or by odometer readings. Substantial deviations from distances shown in standard highway mileage guides must be explained. FTR para. 1-4.1b(1) and 48 Comp. Gen. 276 (1968).

(2) Deviations requiring explanation—Substantial deviations from highway mileage guides requiring an explanation are decided on a case-by-case basis. The GAO has no fixed rule. B-139509, June 16, 1959. Bad weather conditions on a shorter route justify mileage payments for a longer route. 28 Comp. Gen. 708 (1949). Mileage may be paid for a longer, but safer, interstate highway route, upon administrative approval and determination that it is a usually traveled route. B-162506, October 20, 1967.

Where an employee transferred from San Francisco to Minneapolis avoided automobile travel via the most usually traveled route on the advice of the American Automobile Association, he could be

paid a mileage allowance for travel of an additional 513 miles distance by a more southerly, but still usually traveled route. He could not be paid additional mileage for a deviation from that usually traveled route. Timothy F. McCormack, B-208988, March 28, 1983.

(3) Additional mileage for repairs—Additional mileage and travel expenses, (other than the cost of the repair itself), may be reimbursed for the repair of a POV which breaks down during TDY travel, but not unless justified by the administrative record. B-187248, March 1, 1977. See also, B-186829, January 29, 1977, allowing extra mileage and travel expenses to repair a POV.

(4) Proof of mileage distance—An employee who performs the same round-trip a number of times in a short period of time is required to furnish odometer readings on the first trip only. 33 Comp. Gen. 278 (1953). Where the odometer on the vehicle used is defective, and the distances traveled are too short for coverage in a mileage guide, payment may be made for a reasonable mileage, if approved by the employee's superior who has knowledge of the particular facts establishing the distance. 30 Comp. Gen. 151 (1950).

(5) Comparison with carpool usage—An employee who frequently performs TDY near his headquarters claimed mileage for his travel between his residence and his TDY station. His agency's regulations require the deduction of the normal commuting expenses from such mileage claims, but the regulations do not provide guidance on computing the expenses incurred in the use of a carpool. In the absence of agency regulations, the employee's normal commuting expenses had to be determined on a weekly basis and be divided by five to determine his daily expense. 59 Comp. Gen. 605 (1980).

8. Airplane

a. Generally

Air mileage, as determined from airways charts issued by the National Oceanic and Atmospheric Administration, must be reported on the reimbursement voucher and used in computing the payment for the use of a privately-owned airplane. Necessary detours on flights must be reported on the voucher and explained. FTR para. 1-4.1b(2).

b. Statute miles

The mileage for privately-owned aircraft is to be in statute, rather than nautical, miles. B-177735, March 21, 1973.

c. Limited to direct route

The mileage allowed is limited to the direct distance between travel points where the employee and his family fly a privately-owned aircraft by an indirect route. B-156719, October 31, 1967.

B. Other Allowable Costs

1. Generally

In addition to the mileage allowance authorized for the use of a privately owned vehicle or airplane, employees shall be reimbursed:

- Automobile parking fees;
- Ferry fares;
- Bridge, road, and tunnel tolls; and
- Airplane landing and tie-down fees, unless the travel order or other administrative determination restricts their allowance. 5 U.S.C. § 5704 and FTR para. 1-4.1c.

2. Exclusion of costs other than mileage

When employees are authorized payment on a mileage basis for the use of their privately-owned motor vehicles or aircraft, ordinarily the additional costs allowed under 5 U.S.C. § 5704 are exclusive, and those not expressly authorized in that provision are generally disallowed. 34 Comp. Gen. 139 (1954) and B-185513, March 24, 1976. However, FTR para. 1-9.1d provides that miscellaneous expenses not enumerated are reimbursable, if necessarily incurred by the traveler for official business.

3. Trip insurance overseas

See, Subchapter I of this Chapter.

4. Repair costs—POV

The costs to repair a damaged privately-owned automobile are not reimbursable under 5 U.S.C. § 5704 in addition to mileage, but the

employing agency, under 31 U.S.C. § 3721 may pay a claim to an employee for the repair of his automobile damaged while traveling on official business. B-185513, March 24, 1976. Compare: an employee's claim for the reimbursement of his expenses incurred incident to an accident which occurred while the employee was driving to a TDY site in a POV was denied by his agency under 31 U.S.C. § 3721. That provision is an exclusive remedy for any personal property damage claims, and a settlement thereunder is final and conclusive. B-204324, April 27, 1982.

5. Medical expense claims

The authority for the payment of medical expenses of an employee injured while in the performance of duty is found at 5 U.S.C. § 8103. The Secretary of Labor, under the provisions of 5 U.S.C. § 8149, is authorized to prescribe the rules and regulations for the administration and enforcement of Subchapter I of Chapter 81, concerning compensation for work injuries. Such rules and regulations provide for an Employee's Compensation Appeals Board of three individuals designated or appointed by the Secretary. The Board has the authority to hear and, subject to the applicable law and the rules and regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to the claims of employees. Thus, by law, there is no basis under which GAO would have jurisdiction over a medical expense claim. B-204324, April 27, 1982.

6. Air ferry

Charges may be considered ferry fees, and are reimbursable, where the transport of privately-owned automobiles by aircraft or surface vessels across the English Channel is for the purpose of connecting the roadways of England and France. 39 Comp. Gen. 116 (1959).

7. Garage rent—POV

a. Parking on "in-and-out" basis

Charges for parking a POV in a garage on an "in-and-out" basis, (as opposed to a clear case of storage), because of the limited parking on the public streets, are reimbursable in addition to mileage. 42 Comp. Gen. 181 (1962).

b. Parking and entitlement to per diem

An employee attended a conference at his PDY station and claimed lodging and parking expenses at a hotel for 2 days. Since the employee was not authorized to use his POV on official business in connection with the conference, he could not be reimbursed his parking fees. B-198471, March 18, 1981.

c. Storage

Garage rent for the storage of a POV is not reimbursable in addition to mileage, where the equipment stored in the automobile can be safeguarded as conveniently, and at less cost, elsewhere. 26 Comp. Gen. 286 (1946).

d. Storage after order to proceed by common carrier

An employee's mileage status is considered suspended, and the storage expense for a POV is reimbursable as an extraordinary expense, if it is necessarily incurred because the employee is ordered to discontinue his travel by a POV and to proceed by a commercial carrier. 29 Comp. Gen. 440 (1950).

e. POV use at employee election

An employee on extended TDY traveled by a POV and was restricted to reimbursement of the constructive cost of the travel by a common carrier. She could not be reimbursed separate parking fees charged at a rented apartment complex. The additional costs for parking resulted from the employee's election to travel by an automobile. B-191415, January 12, 1979.

8. Valet service

An employee could be reimbursed a valet service fee which he incurred in order to obtain the lowest cost parking at an air terminal incident to his official travel, as the valet service fee was considered an integral part of the parking fee cost reimbursable by the government in accordance with FTR para. 1-4.2c(3). B-191939, October 25, 1978.

9. Towing charge

An employee of the FAA assigned to depart on a familiarization flight, drove to the airport and was given permission to park his car behind the tower. Because of construction work in that area, his car was towed away by a local towing company. The employee could not be reimbursed the towing charges on the basis that he was using his vehicle for official business. The employee used his automobile for personal transportation to the airport, and, under these circumstances, the risk involved with parking the car had to fall upon the employee. B-197634, September 3, 1980.

C. Privately-Owned Conveyance Advantageous to the Government

1. Generally

An agency determination that travel by a POV would be advantageous to the government must be based on determinations that the travel by this method is more suitable than a common carrier or a government-owned vehicle on the basis of direct cost, efficiency, or work requirements, as required by FTR paras. 1-2.2b, 1-2.2c(1), and 1-2.2c(3). 56 Comp. Gen. 131 (1976).

2. Determination of advantage required

A delay beyond the time period established by an agency regulation for determining whether an employee's use of a POV is advantageous to the government does not justify an arbitrator's award of the mileage expense, since the FTR allows a mileage payment only after an agency determination that the POV use is advantageous to the government, considering costs, efficiency, or work requirements. 56 Comp. Gen. 131 (1976).

An employee traveling under a General Travel Authorization, drove his POV to a 6-week training course. Because of weather conditions, he missed the first 23 hours of the course. Upon his return, he was told that the use of his POV was not advantageous to government, even though the situation met the conditions of a regulation permitting the finding of an advantage to the government. The agency action in using the constructive travel by a common carrier as a basis for the reimbursement, and charging 15 hours of annual leave for his traveltime, was sustained, since there was no specific finding of the use of the POV as advantageous to government. B-195331, July 22, 1980.

3. Determination negotiable under union agreement

The applicable regulations and Comptroller General decisions do not preclude labor-management negotiations on whether the use of a POV would be advantageous to the government in certain situations. B-192258, September 25, 1978.

4. Distinction between employees covered and those not covered by union agreement

An employee, not covered by a labor-management agreement, who traveled to the FAA Academy could have his travel order amended to show that travel by a POV was advantageous to the government, if the FAA determined that the travel would be advantageous under the criteria in the labor-management agreement. The agreement reflects the determination that the travel to the FAA Academy under the conditions stated therein is advantageous under the FTR. Unless there are valid reasons to find otherwise in a particular case, it would be arbitrary and capricious for the FAA to treat employees not covered by such an agreement differently than those covered. B-194372, January 8, 1980.

The FAA entered into an agreement with a union which authorized travel by a POV for union members attending training at the FAA Academy. In B-194372, January 8, 1980, GAO held that employees in identical situations must be authorized the use of a POV as advantageous to the government, notwithstanding that they are not covered by a collective bargaining agreement. Air traffic control trainees sought the same benefit under that decision. However, the situation of air traffic control trainees is not identical to that of union members, since the former do not perform training on a recurring basis. Accordingly, we would not disturb an FAA determination that such travel by air traffic control trainees is not advantageous to the government. B-201542, September 18, 1981.

5. Distinction between classes of employees

The FAA issued a notice stating that under certain conditions employees who travel to the FAA Academy for training may have their travel by a POV authorized as advantageous to the government. One condition requires that the class must be attended by trainees who are Airway Facilities Technicians subject to frequent assignment to recurring training. Whether a training session is

attended by a certain class of employees has no bearing on whether travel by a POV is advantageous to the government. Accordingly, that condition had to be stricken from the notice. B-201542, September 18, 1981.

6. GAO review of determination

An agency's determination that an employee's use of a POV for travel is or is not advantageous to the government will not generally be questioned by GAO. 26 Comp. Gen. 463 (1947) and 56 Comp. Gen. 865 (1977).

7. Factors considered in determination of most advantageous mode

a. Lost worktime—charged to annual leave

Where the FAA has authorized travel by a common carrier to a training course based on the FAA's determination that travel by a POV is not advantageous to the government, it is not an appropriate exercise of administrative discretion to excuse employees from duty without charge to leave for the excess traveltime occasioned by the employees' election, as a matter of personal preference, to travel by a POV. 56 Comp. Gen. 865 (1977). See also, Kelly G. Nobles, 65 Comp. Gen. 763 (1986).

8. When authorized to use taxi

Where an employee is authorized to use a taxi at his TDY station, it appears that the use of a POV could be determined to be advantageous to the government. 55 Comp. Gen. 192 (1975).

9. TDY performed en route

An employee, accompanied by members of his immediate family, traveling between the old and new PDY stations, but stopping en route for the employee's training, could initially be paid only at the mileage rate authorized an employee on TDY traveling alone to the training location. However, upon completion of the training and continued travel from the training location to the new PDY station, the payment is at the rate and mileage for PCS travel, (the employee and the members of his immediate family), over the direct route between his old and new duty stations, plus the TDY mileage at the training location, less the amount initially paid. 52 Comp. Gen. 834

(1973). See also, B-160040, October 3, 1966 and B-160180, October 31, 1966.

10. POV return on death of employee on TDY

When an employee dies while on temporary duty in the United States, an agency head, in conjunction with authorizing payment for the preparation and transportation of the employee's remains back to his duty station, may authorize payment of the expenses of the return of the employee's privately owned vehicle if the employee was authorized to use the vehicle on his temporary duty assignment as being advantageous to the government. 52 Comp. Gen. 493 (1973); B-189826, April 7, 1978, overruled. Floyd W. Davis, 66 Comp. Gen. 677 (1987).

D. Privately-Owned Conveyance in Lieu of Common Carrier

1. Generally

If reimbursement is administratively authorized and approved as compatible with the performance of official business, an employee who prefers to use a privately-owned conveyance in lieu of a common carrier may be reimbursed for its use, although not determined to be advantageous to the government. The payment is limited to the actual travel, plus per diem, with the total not to exceed the constructive cost of the appropriate common carrier transportation, including the constructive per diem by that method of transportation. The mileage payment for the use of motor vehicles is further restricted to that allowed under FTR para. 1-4.1 at the rates specified in FTR para. 1-4.2. FTR paras. 1-2.2d and 1-4.3. See also, Ronald Metevier, 66 Comp. Gen. 449 (1987).

2. Computation of constructive cost

a. Common carrier available

An employee was driven to, and picked up at, an airport 200 miles from his residence. Since a common carrier (a bus) was reasonably available, and since the employee used a POV primarily for his personal convenience, his reimbursement had to be limited to the constructive cost by the common carrier. B-201281, July 7, 1981.

Because of a medical condition affecting an employee's eardrums, he was unable to travel by air to a TDY station. Instead of traveling

by train, he chose to travel by POV, with reimbursement limited to the constructive cost of travel by common carrier. Since travel by air was not available to the employee, the "appropriate" common carrier transportation under FTR para. 1-4.3 was rail transportation, and the constructive cost of rail, rather than air, transportation was thus applicable. Timothy W. Joseph, 62 Comp. Gen. 393 (1983).

b. Family fare available

An employee and his family, under a travel order authorizing commercial air, as well as POV travel at a mileage rate not to exceed the cost by the common carrier, were administratively allowed mileage representing the constructive cost of the air travel based upon the family plan airline rates for a return trip. The reclaim voucher representing the difference in the constructive travel costs between the tourist and family plan fares could be certified for payment, if the employee and his family started the return trip before noon, when the tourist rate was in effect, as opposed to after noon, when the family plan rates were in effect. B-166552, June 27, 1969.

c. Two terminals serve same area

Although his travel orders reflected a higher estimated cost based on common carrier transportation using a terminal at Melbourne, Florida, an employee who traveled by a POV to and from Patrick Air Force Base, Florida, as a matter of personal preference, was entitled to mileage reimbursement limited to a lower cost airfare based on travel by way of the airport at Orlando, Florida. Where two terminals serve the same origin or destination, the constructive cost reimbursement should be based on a routing by way of terminal giving the government the benefit of any lower transportation costs. Leland G. Jackson, B-207496, November 9, 1982.

d. Local travel at TDY station not includable for computation purposes

An employee, in computing his constructive travel claim, claims parking fees at the TDY location. Paragraph 1-4.3 of the FTR provides a limit on reimbursement based on the constructive cost of traveling to and from the TDY area. Thus, local travel costs at the TDY area are separate from constructive travel costs to and from the TDY area. The employee should be reimbursed for only those

local travel costs actually incurred without limitation by constructive cost. Thomas L. Wingard-Phillips, 64 Comp. Gen. 443 (1985).

e. Government vehicle not a common carrier for computation purposes

An employee and his agency disagreed over the proper computation of the cost of a government vehicle in determining the employee's constructive travel claim between his headquarters and TDY station. However, for the purposes of the constructive cost of common carrier transportation, the cost of a government vehicle may not be used, since it is defined in the FTR as a special conveyance and not a common carrier. Thomas L. Wingard-Phillips, 64 Comp. Gen. 443 (1985).

f. Constructive cost of transportation to the airport

An employee, in computing constructive travel by common carrier, claimed mileage and parking as if his spouse drove the employee to and from the airport. However, for computing constructive travel costs, only the usual taxicab or airport limousine fares, plus tip, should be used for comparison purposes. Thomas L. Wingard-Phillips, 64 Comp. Gen. 443 (1985).

g. Taxicab not a common carrier for computation purposes

Since rental cars and taxicabs are considered "special conveyances" under the FTR, the constructive cost of local travel by such modes may not be included as the constructive cost of common carrier transportation under FTR para. 1-4.3 for the purpose of determining the maximum reimbursement when for personal reasons a POV is used in lieu of common carrier transportation. However, to the extent such local travel is authorized, the constructive cost of common carrier transportation (a bus or streetcar) for such travel may be included, or the use of a POV be approved as being advantageous to the government, and reimbursement determined on this basis. 55 Comp. Gen. 192 (1975).

h. Exception when overall costs of taxi would have been greater

An employee authorized transportation by a POV, the cost thereof not to exceed the cost of a common carrier, and whose use of taxicabs at the TDY station has been approved as advantageous to the

government, could be allowed $4.44 representing the difference between the mileage allowed for a POV and the constructive taxicab fares at the TDY station, because after allowing taxi fares that would have been incurred had the travel been performed by a common carrier, the cost of the travel by a POV on a mileage basis was less than the constructive travel by a common carrier. B-163079, February 9, 1968.

i. Rental car not a common carrier for computation purposes

When an employee uses a POV for official travel as a matter of personal preference in lieu of common carrier transportation, the payment is limited to the total constructive cost of the common carrier transportation, including constructive per diem by that method of transportation. FTR para. 1-4.3. Despite the unavailability of common carrier transportation for local travel, the constructive cost of a rental car for the local travel at the TDY location may not be included in the total constructive cost of the common carrier transportation. B-205694, September 27, 1982.

j. Two employees traveling in the same vehicle

Where an employee utilizes a POV as a matter of personal preference, when such use is not determined to be advantageous to the government, the employee's total reimbursement for the travel is limited to the total constructive cost of the appropriate common carrier transportation. In the computation of the constructive costs, the employee is not entitled to include the cost by common carrier of transporting other government employees who accompany the employee on the trip to determine maximum reimbursement, when there is no order or administrative approval of any additional payment. 58 Comp. Gen. 305 (1979).

k. Employee sharing automobile expenses

An employee traveled as a passenger in a POV, and shared expenses, instead of traveling by a common carrier or any other mode of travel specified in his travel authorization. He was entitled to reimbursement of the amount claimed, not to exceed the constructive cost of his travel by the least expensive mode authorized, but not if he received mileage. B-191282, September 29, 1978.

l. Determination of constructive costs should include per diem, if appropriate

Although, on the basis of our decisions, an agency's travel regulation required that the actual versus constructive costs for transportation and per diem be compared separately in determining the employee's reimbursement, when, for personal reasons, a privately-owned conveyance was used in lieu of common carrier transportation, our decisions were based on our interpretation of regulations which have been superseded. We interpreted the current regulation, FTR para. 1-4.3, as requiring the agency to determine the employee's reimbursement for such travel by comparing total actual costs to total constructive costs. 55 Comp. Gen. 192 (1975).

m. Mileage less than constructive cost

Reimbursement is properly based upon mileage by a POV, rather than the higher constructive cost of the commercial travel, since the constructive cost represents an upper limit on the government's liability, and is to be reduced, if the actual travel cost on a mileage basis is less. B-181573, February 27, 1975. See also, B-181046, November 12, 1974.

n. Authority to rent a car

An employee who is authorized to rent a car, and could have done so, but who actually uses a POV, is limited to a mileage payment, and is not entitled to the constructive cost of a rental car. B-160452, January 26, 1967; B-168637, July 15, 1970; and B-181046, November 12, 1974.

o. Dividing travel between mileage payment and constructive travel cost

Travel by a POV may be divided so that an employee's payment is limited to his mileage in the vicinity of a locality and the constructive transportation cost between his headquarters and the locality. 55 Comp. Gen. 192 (1975) and B-181046, November 12, 1974. However, the division must be administratively determined, such as by authorizing the use of a POV, taxicab, or rental car in the locality as advantageous to the government. 55 Comp. Gen. 192 (1975) and B-132872, October 3, 1957.

p. No common carrier cost saved

When the cost of a special fare, such as a round-the-world air ticket, is not reduced for the value of the last-leg portion of the ticket, and the employee travels the last leg by a POV for personal reasons, no amount may be allowed for the constructive cost of the last leg. However, constructive costs may be allowed for any excess baggage, and for the travel to and from the air terminals that would have occurred had the flight been completed. 46 Comp. Gen. 221 (1966).

q. No tolls or parking fees added

When a POV is used in lieu of a common carrier, tolls and parking fees cannot be added to the payments based on the constructive cost of the air travel, since they would not have accrued had travel been by air. B-130712, April 11, 1968.

But see Ross R. Kittleman, B-216118, June 20, 1985, in which it was held that an employee authorized to drive his POV to his TDY station as a matter of personal preference may be reimbursed parking fees for keeping his vehicle at that location until his return trip, provided the total costs by that means of travel, including the parking, were less than the constructive cost of travel by commercial air. In addition to mileage, reimbursement of reasonable parking fees for official travel is authorized under FTR para. 1-4.1c, unless travel orders or other administrative provisions restrict their allowance. Similar authorization in 2 JTR paras. C2152 and C4654 conforms to the FTR. Under the circumstances, the inconsistent prohibition in 2 JTR para. C4661-26, denying parking reimbursement for a POV used as a matter of personal preference, is disregarded.

r. Actual mileage from residence or headquarters

Where the mileage between the residence and the TDY station differs from the distance between the headquarters and the TDY station, the mileage is paid for the actual mileage traveled, rather than the constructive mileage from either point. 23 Comp. Gen. 549 (1944); 27 Comp. Gen. 32 (1947); and B-181141, December 4, 1974.

s. Least cost by government vehicle

An employee traveling by a POV is limited to the mileage payments at the rate specified for the use of a government-owned automobile, where that method, taking into consideration per diem costs, is less costly than the constructive common carrier costs, and where the employee is authorized to travel by a POV in lieu of a government vehicle, not to exceed the common carrier travel costs. B-168857, March 24, 1977. See, "E. Privately-Owned Conveyance in Lieu of Government Vehicle," below.

t. Use of free limousine service required when available

An employee at his headquarters having limousine service available to and from the airport terminal who, assigned to TDY and authorized travel by plane or a POV not to exceed the common carrier cost, departed during office hours traveling by POV, properly was disallowed a taxi fare for the day of departure in the computation under what are now FTR paras. 1-4.3 and 1-2.3c of the constructive cost of travel by a common carrier. Had the employee traveled by a plane, the availability of the office limousine would have restricted the use of a taxicab to the airport. However, if applicable, a constructive taxi fare authorized by what is now FTR para. 1-2.3d from his home to his office on the day of departure could be allowed. 48 Comp. Gen. 447 (1968).

E. Privately-Owned Conveyance in Lieu of Government Vehicle

1. Not committed to use a government-owned automobile

Employees who are authorized for their convenience to use POVs in lieu of government-owned automobiles, and whose travel satisfies a condition in an agency manual that an employee is not considered "committed" to use a government-owned automobile, if travel requires an absence from his official station of 15 or more consecutive days, are entitled to a mileage rate higher than the maximum rate allowed employees "committed" to use a government-owned automobile. B-183886, July 30, 1975.

An employee, who was a member of an agency review team and authorized to perform TDY travel in a group by government-owned van, received permission to travel by POV as an exercise of personal preference. Since the agency did approve his POV use, and since the regulations do not authorize proration of reimbursement where a

government vehicle is used anyway, the employee could be reimbursed mileage at the rate authorized by FTR para. 1-4.4c. Don L. Sapp, 62 Comp. Gen. 321 (1983).

2. Mileage payment required by regulation

Although the local office of an agency determines that for certain travel a government-owned vehicle is advantageous to the government and no mileage should be paid for the use of a privately-owned conveyance, an employee is entitled to his mileage payments, where an agency manual provision having the force and effect of a regulation states that the mileage at limited rates "shall" be paid. B-166271, March 20, 1969.

3. Least cost by government-owned vehicle

An employee used a POV in lieu of a government-owned automobile for travel to his TDY station. His travel reimbursement was limited to the cost of his travel by a common carrier. The employee was entitled to his mileage only as provided in FTR para. 1-4.4b, since his use of the POV was not determined to be advantageous to the government. B-168857, March 24, 1977.

F. More Than One Person in Conveyance

1. Generally

Mileage is payable to one employee only, even though two or more are traveling in the same conveyance. No deduction of mileage is made when other employees defray operating expenses. FTR para. 1-4.5.

2. Mileage for defraying car expenses

An employee who shares expenses for riding in the POV of a fellow employee who is reimbursed by the government is not entitled to mileage, since what is now FTR para. 1-4.5 authorizes the payment of mileage to only one of two or more employees traveling together on the same trip in the same vehicle. 32 Comp. Gen. 550 (1953) and B-162162, August 28, 1967.

3. Authorization or approval

a. No authorization or approval

An employee is not entitled to mileage for voluntarily transporting a fellow employee in a POV without administrative authorization or approval. B-134115, November 6, 1957 and B-158046, January 11, 1966.

b. Authorization or approval given

An employee who voluntarily returns from his TDY station for the weekend by a POV in the company of a second employee traveling in a TDY status may be reimbursed for his mileage for transporting the second employee, when this travel arrangement is administratively directed and approved. B-158046, April 5, 1966.

c. Transport of fellow employees to and from home

An employee who, with administrative authorization or approval, picks up a fellow employee at his home in a POV for travel on TDY is authorized mileage for the extra distance required to pick up the employee. B-158519, February 21, 1966. However, when fellow employees are not allowed home-to-work travel in the vicinity of their headquarters, mileage is not reimbursable to the driver for such transportation. 45 Comp. Gen. 197 (1965).

G. Mileage Rates

1. Generally

When an agency determines that TDY travel by a privately-owned conveyance will be advantageous to the government, the mileage rates for automobiles, motorcycles, and airplanes may not exceed the maximum rates prescribed in FTR para. 1-4.2.

2. Less than maximum rate

a. Variation for labor negotiations

An agency requested our ruling on a union-proposed bargaining agreement provision that requires Agriculture to authorize the maximum mileage rate for meat grader employees who use their POVs in connection with their work. The FTR requires agency and

department heads to fix mileage rates at less than the statutory maximum, if the vehicle travel is determined not to be advantageous to the government. Hence, the proposed provision was contrary to the FTR. 57 Comp. Gen. 379 (1978).

b. Administrative discretion

Within the maximum rates established by the statute and the FTR, administrative agencies have the discretion to establish rates to compensate the employee, such as a sliding scale of diminishing rates for longer distances and a higher rate for hauling a trailer. B-165070, September 10, 1968 and B-170796, December 2, 1970.

3. Authority to prescribe foreign country rates

Since GSA is authorized by statute to promulgate the FTR, it may amend them to provide higher mileage rates for POV use in foreign countries. 55 Comp. Gen. 1343 (1976).

4. Effective date of rate increases

Ordinarily, there is an entitlement only to the mileage rate specified on travel orders and in effect at the time of travel, since all rights vest when the travel is performed under the orders. B-182198, January 13, 1975.

5. Rate correction

a. Generally

Travel orders may not be changed retroactively to increase or decrease mileage rates which have become fixed under a statute or the regulations, unless an erroneous rate is apparent on the face of the orders, or all the facts and circumstances clearly demonstrate that some provision previously determined and definitely intended had been omitted through error or inadvertence in preparing the orders. 48 Comp. Gen. 119 (1968) and B-168884, March 5, 1970. See, CPLM Title III, Chapter 2, Subchapter III.

b. Not committed to use government-owned vehicle

Where a lower mileage rate established by the FTR for employees committed to use government vehicles is inapplicable to certain

employees, because under agency regulations they clearly are not committed to use a government vehicle, their travel orders may be corrected to authorize the ordinary, higher mileage rate. B-183886, July 30, 1975.

c. Agency implementation required

When rate increases are authorized by statute, but are not automatic, and require further administrative action before higher rates are effective, travel orders issued before the statute was enacted cannot be modified to retroactively increase mileage rates. 35 Comp. Gen. 148 (1955).

d. Maximum FTR rate increases

Maximum mileage rate increases authorized by an amendment to the FTR are effective, even though the employing agency's regulations have not been changed to provide for the higher rates. 55 Comp. Gen. 179 (1975).

Other Expenses Allowable

A. Baggage

1. Authorization for excess baggage

An employee and his family, while on home leave in the U.S., shipped their baggage to his overseas station in excess of the weight authorized for the shipment. Subsequently, the employee's agency requested that it be authorized to relieve the employee of liability for the excess charges. The authority to relieve the employee of his liability for excess weight was denied. B-186135, September 7, 1977 and B-171969, April 14, 1972.

2. Handling charges

a. Government-owned property

For an employee in a travel status to be entitled to reimbursement for tips or fees paid for the handling of government-owned equipment at hotels, there must be a showing that a separate or additional charge was made on account of the government property. In the absence of such a showing, the tips or fees are to be regarded as expenses included in the per diem allowance. 37 Comp. Gen. 408 (1957) and 26 Comp. Gen. 598 (1947).

An employee claimed reimbursement for tips paid to airport porters for the handling of a box containing literature acquired at a conference. The agency reduced the amount allowed for reimbursement, contending that the amount claimed by the employee was unreasonable. We will not disturb an agency determination regarding reasonableness of an expense, absent a showing that the determination was arbitrary, capricious or clearly erroneous. Moreover, since no separate charge was made for the handling of the box, the amount allowed for reimbursement should be charged to the employee's actual subsistence allowance, rather than as a necessary business expense. Robert P. Trent, B-211688, October 13, 1983.

b. Personal property

Charges for transferring baggage authorized by FTR para. 1-5.3b, refer to charges by carriers for transferring baggage between air terminals, or railroad stations, or pick-up and delivery charges by transfer and express companies, so that fees paid by an employee to porters for baggage transferred to and from checkrooms at air

terminals or rail stations are not reimbursable under that paragraph, but are covered by the per diem in lieu of subsistence authorized by the FTR. 32 Comp. Gen. 357 (1953).

c. Storage

An employee traveling by a POV on a mileage basis may be reimbursed his storage charges on the automobile on the basis that it contains government property used on official business. However, it must appear that the primary purpose of the storage is the protection of the property, the automobile being merely incidental thereto. Also, it must appear that the property is of sufficient weight and value to warrant storage in such a manner, and that no government storage facilities are available or convenient. 26 Comp. Gen. 286 (1946).

d. Dependents' baggage

While the per diem allowance authorized by the FTR for the employee is applicable to all fees covering the handling of baggage necessary for the personal use of the employee, it does not include the handling charges for the baggage of an employee's dependents. Therefore, an employee whose dependents were authorized their transportation, but not per diem at government expense, is entitled to reimbursement for the baggage handling charges attributable to the dependents' baggage including any authorized excess baggage. 33 Comp. Gen. 610 (1954).

Federal agencies and officials must act within the authority granted to them by statute in issuing regulations. The construction of a statute as expressed in implementing regulations by those charged with its execution, however, is to be sustained in the absence of plain error, particularly when the regulations have been long followed and consistently applied with Congressional assent. Hence, regulations of the Secretary of State in effect since 1960 authorizing shipments of unaccompanied baggage for the student-dependents of federal civilian employees stationed overseas on occasions when those dependents travel to and from schools located in the U.S., issued under a statute broadly authorizing reimbursement of their "travel expenses," are upheld as valid. Student-Dependents of Government Personnel Stationed Overseas-Baggage Shipments, 64 Comp. Gen. 319 (1985).

Further, a statute enacted in 1983 provides that under regulations prescribed by the Secretary of Defense, members of the uniformed services stationed overseas may be paid a "transportation allowance" for their dependent children who attend school in the U.S. The legislative history reflects that Congress intended to provide service members with benefits similar to those authorized by a law enacted in 1960 to cover the "travel expenses" of the student-dependents of civilian employees stationed overseas. Regulations of the Secretary of State under the 1960 enactment properly include provision for unaccompanied personal baggage shipments, so that there is no objection to a similar provision adopted through regulation by the Secretary of Defense under the 1983 enactment, since related statutes should be construed together in a consistent manner. Student-Dependents of Government Personnel Stationed Overseas-Baggage Shipments, 64 Comp. Gen. 319 (1985).

e. Loss or damage to baggage

A National Park Service employee's suitcase was damaged incident to official business travel and the airline replaced the suitcase with an identical case, but charged the employee a replacement fee of $30, (the suitcase was 6 years old at the time, and the airline arrived at the $30 fee by deducting for estimated depreciation). The employee claimed the $30 replacement fee from his agency. 31 U.S.C. § 3721 authorizes the head of each agency or his designee to pay claims up to $15,000 for damages to, or loss of, personal property incident to an employee's service. GAO has no jurisdiction to consider the claims of employees of other agencies for the loss of, or damage to, personal property under that act. Accordingly, the determination of the National Park Service's Regional Solicitor, who has been delegated the authority to settle claims under that act, to pay the $30 claim, was final and conclusive, and there is no duty upon the certifying officer to question such a determination or to request an advance decision from GAO. B-187913, February 9, 1977.

B. Communication Services

1. Authorization

The FTR provides that telephone, teletype, telegraph, cable, and radio service may be used on official business, when necessary.

2. Official purpose and personal business

a. Telegrams

The mentioning of hotel reservations in telegrams, relating to official travel, between administrative officials and employees may be considered as merely incidental to the official business involved, and the costs of such telegrams may be charged as a miscellaneous expense, rather than a personal expense. 24 Comp. Gen. 583 (1945). If the primary purpose of the telegram is to request or confirm hotel reservations, the cost of the telegram is considered a personal expense. 24 Comp. Gen. 583 (1945). If the primary purpose of the telegram is to request or confirm hotel reservations, the cost of the telegram is considered a personal expense. 31 Comp. Gen. 474 (1952); 30 Comp. Gen. 389 (1951); and B-163015, February 16, 1968. Telegrams relating to salary checks or to report the illness of a traveler are considered personal in nature, and not reimbursable. A-47551, March 2, 1933 and A-25306, December 21, 1928.

b. Telephone calls to arrange ground transportation

Long-distance telephone calls made by an employee while on TDY to notify a relative to pick him up at the airport in a POV, because he had obtained a reservation on a different flight, and the flight was delayed, may be administratively determined to be official telephone calls under what is now 2 JTR para. C4707-2. However, this expense may be allowed only if the certificate required by 31 U.S.C. § 1348 is obtained. B-179823, July 14, 1975. See also, 44 Comp. Gen. 595 (1965) and B-186081, June 22, 1976.

c. Telephone calls regarding travel arrangements

An employee claimed the cost of three long-distance calls made to his wife while he was on TDY in Israel, because he only had 48 hours notice of the trip and this was insufficient time to adjust his personal business. The employee's agency advised that the calls were personal in nature, and there was no certification that the calls were necessary in the interest of the government, as required by 31 U.S.C. § 1348. Therefore, the claim was denied. B-196549, January 31, 1980. Compare: An employee of DEA claimed payment for a long-distance telephone call from Bogota, Colombia, to her residence in Arlington, Virginia, to notify her family of her location in the event of an emergency. Since she had no advance notice of the

travel required or where she would be staying, and since the agency official designated under 31 U.S.C. § 1348 certified that the call was in the interest of the government, payment could be made. B-192691, February 20, 1979. Also see, 56 Comp. Gen. 28 (1976).

d. Telephone calls before and after days of conference

An employee claimed reimbursement for the cost of local telephone calls charged to his hotel room. The agency had disallowed reimbursement for local calls dated for the day before and day after the dates on which the conference which he attended was in session, stating that there was no need for the employee to conduct official business on these days. The employee bears the burden of proving that the costs incurred were essential to the transacting of official business. Because the employee failed to prove that these telephone calls were necessary business expenses incident to his official travel, his claim was denied. Robert P. Trent, B-211688, October 13, 1983.

e. Personal telephone and telegram expenses while on overseas TDY

An employee performing official travel overseas incurred expenses for several emergency telephone calls and a telegram all of which were personal to him. His claim for reimbursement of these expenses as a travel expense is denied. The Federal Travel Regulations, which are statutorily authorized and have the force and effect of law, provide in paragraph 1-6.4b that such expenses may not be charged to the government nor may they be reimbursed to the employee. James R. Shea, B-229151, April 14, 1988.

3. Telephone service

a. Statutory restrictions

31 U.S.C. § 1348 forbids the expenditure of appropriated funds for the payment of long-distance telephone tolls, except when strictly required on public business. B-186877, August 12, 1976. See also, 59 Comp. Gen. 723 (1980).

b. Local calls from private telephone

Employees may not be reimbursed charges for the use of telephones in their private residences for local calls made on government business, even though the employees had no office assigned or available to them. 26 Comp. Gen. 668 (1947); 33 Comp. Gen. 530 (1954); 35 Comp. Gen. 28 (1955); and B-186877, August 12, 1976. See also, 59 Comp. Gen. 723 (1980).

c. Installation and service charges

Employee used quarters during temporary duty that did not have telephone service included within the cost of the quarters. He may be reimbursed as part of his cost of lodgings for the monthly service charge for telephone service, but he may not be reimbursed for installation charge absent a finding that the installation of the telephone was a matter of official necessity. Richard E. Garofalo, B-213777, August 8, 1986.

d. Military necessity

Because of the necessity to ensure telephone service in the Air Deputy's residence upon his occupancy of quarters in Norway, telephone service was secured by the U.S. government under a long-term lease. For 2 months between incumbents, the residence was vacant, but the telephone charge continued to accrue. Although 31 U.S.C. § 1348 prohibits using appropriated funds for telephone service in a private residence, the statute was not to be applied here, where neither the outgoing, nor incoming, Air Deputy occupied the premises during the period covered by the charges. B-201842, May 20, 1981; modifying 11 Comp. Gen. 365 (1932).

4. Supporting statement

Charges for official telephone calls, telegrams, cablegrams, or radiograms on official business shall be allowed, provided a statement is furnished showing the points between which service was rendered, the date, the amount paid for each telegram, cablegram, or radiogram, and that they were required on official business. When the public interest so requires, the points between which the telephone service was rendered need not be stated in the official travel voucher, but may be stated in confidence to the administrative official. 32 Comp. Gen. 432 (1953).

C. Miscellaneous Travel Expenses

1. Expenses allowable generally

Charges for necessary stenographic or typing services, or the rental of typewriters in connection with the preparation of reports or correspondence; clerical assistance; the services of guides, interpreters, packers, drivers of vehicles; and the storage of property used on official business shall be allowed when authorized or approved. FTR para. 1-9.1a.

2. Meals at government expense on government aircraft

Absent specific statutory authority, a federal agency may not provide meals at government expense to its officers, employees, or others. This general prohibition extends to in-flight meals served on government aircraft, although it does not apply to government personnel in a travel status for whom there is specific statutory authority to provide meals. Hence, the National Oceanic and Atmospheric Administration could not provide cost-free meals to those aboard its aircraft on extended flights engaged in weather research, except for government personnel in a travel status. Provision of Meals on Government Aircraft, 64 Comp. Gen. 16 (1985).

3. Meetings

See, CPLM Title III, Chapter 3, Meetings and Conventions.

a. Rooms

(1) Hire of room—When necessary to engage a room to transact official business, a separate charge may be allowed when authorized or approved. FTR para. 1-9.1b. Superior sleeping car accommodations may be authorized or approved by the head of the agency, because they are more advantageous to the government. 34 Comp. Gen. 44 (1954). The rental for maintaining dual living accommodations may be reimbursed in unusual circumstances provided that an appropriate official of the employing agency or department made a determination that the employee had no alternative but to incur duplicative costs. B-182600, August 13, 1975 and B-158882, April 26, 1966. Compare: B-184790, December 9, 1976.

(2) Meeting facilities—Federal agencies may now procure the use of short-term conference and meeting facilities, without regard to the prohibition against rental contracts in the District of Columbia

in 40 U.S.C. § 34, inasmuch as GSA in 41 C.F.R. § 101-17.101-4 has interpreted the procurement of the use of short-term conference facilities as a service contract, instead of a rental contract. OTA, which has legislative authority to contract for such services, may reimburse its panel members' sponsors for expenses incurred in arranging OTA panel meetings at the COSMOS Club in the District of Columbia, with appropriate reductions in each member's actual subsistence allowance for meals provided in this manner. 35 Comp. Gen. 314; 49 Comp. Gen. 305; and B-159633, May 20, 1974, insofar as they prohibited the procurement of short-term conference facilities in the District of Columbia, will no longer be followed. 54 Comp. Gen. 1055 (1975).

Where an agency elects to have a meeting at a membership club, it can arrange with a club member to procure rooms, facilities, food, and services for the meeting and reimburse the member for the expense. Per diem of travelers should be appropriately reduced. 54 Comp. Gen. 1055 (1975); 49 Comp. Gen. 305 (1969); 35 Comp. Gen. 314 (1955); and B-159633, May 20, 1974.

(3) Canceled reservations—Rent for a hotel room reserved by agency employees for the use of a civilian employee scheduled to travel on official business from a distant city to that city, but not used by him due to the cancellation of the travel may not be paid by the government in the absence of a valid contractual agreement between the government and the hotel, since the employee traveling on per diem is expected to reserve and pay for his own lodging. B-181266, December 5, 1974. Compare: 48 Comp. Gen. 75 (1968). Where the agency undertakes to engage rooms for a group of travelers who are delayed and unable to use the rooms, the rent may be paid as a necessary expense incident to the authorized travel. 41 Comp. Gen. 780 (1962).

4. Fees

a. Membership fee

The annual dues an employee is required to pay for membership in a professional organization are not reimbursable to the employee, even though a savings would accrue to the government from reduced subscription rates, and notwithstanding that the government would benefit from the employee's development as a result of the membership. 5 U.S.C. § 5946 prohibits the use of appropriated

funds for the payment of membership fees or dues of officers and employees of the government as individuals, except as authorized by a specific appropriation, by express terms in a general appropriation, or in connection with employee training pursuant to 5 U.S.C. §§ 4109 and 4110. However, the agency is not precluded by 5 U.S.C. § 5946 from becoming a member and paying the required dues, if it is administratively determined to be necessary in carrying out authorized agency activities. 52 Comp. Gen. 495 (1973); see also, 57 Comp. Gen. 526 (1978) and 53 Comp. Gen. 429 (1973).

b. Bar association

An IRS estate tax attorney, who paid $50 to maintain his status as an attorney in good standing of the State Bar of California, could not be reimbursed a membership fee, as 5 U.S.C. § 5946 provides that appropriated funds may not be used for membership fees of an employee in a society or association, and no appropriation language is evident authorizing such an expenditure. B-171677, March 2, 1971.

c. Cancellation of registration reservation

Due to an unexpected, heavy snowstorm, an employee was unable to attend a course for which he was registered. The claim of the association offering the course for $170 for the seminar and registration fees could be allowed, since, where a contract for schooling is for a specified period for which a definite payment of tuition is to be made, and there is no general stipulation for a deduction or refund in the event of an inability to attend, the entire contract price is payable, regardless of nonattendance by the student unless the school has been responsible for the student's failure to attend. Also, no charge could be made against the employee, since the association provided a credit which could be used for a future course, and the employee's absence was justified. B-159820, September 30,1966. See also, B-159059, June 28, 1966 and B-164372, June 12, 1968.

d. Meal cost included

The general rule is that when registration fees for attendance at a conference include the cost of meals, no separate charge made for meals may be allowed. 38 Comp. Gen. 134 (1958). However, where the meal is not a part of a registration fee, we have held that there

must also be a showing that the particular meal was incidental to the meeting; that the attendance of the employee was necessary to his full participation in the scheduled meeting; and that he was not free to partake of his meals elsewhere without having been absent from essential formal decisions, lectures, or speeches concerning the purpose of the conference. B-166560, February 3, 1970 and B-154912, August 26, 1964. However, where the registration fee consisted primarily of the cost of a luncheon meal, it is not reimbursable from the appropriated funds of the agency. B-195045, February 8, 1980.

A civilian employee was the coordinator of a seminar conducted for the purpose of training employees of the International Agricultural Development Service. He paid the cost of the meals for non-government guest speakers and for the employees attending the seminar conducted at their headquarters. He could be reimbursed for the expense incurred upon a determination by the appropriate authority that the cost of the meals furnished the non-government guest speakers was authorized under 5 U.S.C. § 4109. He could also be reimbursed the cost of the employees meals, since the business of the seminar was conducted during mealtime, thereby requiring the attendance of the employees. 48 Comp. Gen. 185 (1968). See also, 50 Comp. Gen. 610 (1971).

e. Locksmith fee

An employee on official travel may not be reimbursed for a locksmith fee incurred because he locked himself out of his rental car. The FTR does not allow reimbursement, because the fee was not necessarily incurred in the transacting of official business. The fee is personal to the employee, and so is not payable by the government. Robert Berman, B-210928, April 22, 1983.

5. Food

a. Refreshments at meetings

The cost of serving coffee or other refreshments at meetings is not the "necessary expense" contemplated by that term as used in appropriation acts. Unless specifically made available, appropriations may not be charged with a cost that is considered in the nature of entertainment. Although this rule also applies to the purchase of the equipment used in preparing refreshments, the small

amount expended by an agency to purchase coffeemakers, cups, and holders for use in serving coffee at meetings designed to improve management relationships will not be questioned in view of the administrative belief that the interests of the government will be promoted through the use of the equipment. 47 Comp. Gen. 657 (1968).

b. Luncheons at conference

An employee who attended a conference could be reimbursed $27 for the cost of two luncheons, although they were not listed in the conference brochure, since they were official luncheons which were not listed, because they were limited to thirty persons each. However, he was not entitled to $86 for other conference functions listed as optional social events, since social events are not reimbursable. B-186820, February 23, 1978.

c. Luncheons at headquarters

Headquarters employees attending a 3-day conference at a local hotel together with private consultants could not be compensated for their meals, even though the employees took their meals with the consultants so that the business of the conference could be concluded as soon as possible. Apparently, the employees were not in a travel status, nor was this an employee training session within 5 U.S.C. § 4109. Therefore, the rule against the payment for government employee meals, even under unusual or inconvenient working conditions, was applicable. B-168774, September 2, 1970.

A senior official of Treasury sought reimbursement for the cost of an annual luncheon sponsored by OPM for the federal labor relations community. Although the luncheon included a labor relations speaker, it was not a meal incident to a meeting for which reimbursement may be allowed. The general rule against reimbursement for meals at an employee's official duty station applied. B-202400, September 29, 1981.

An employee was invited to speak at a luncheon session of an agency training program at her PDY station, and sought reimbursement of the cost of the luncheon. The cost of the luncheon could be paid under 5 U.S.C. § 4110, since the record indicated that (1) the meal was incidental to the training program, (2) attendance at the meal was necessary for full participation in the meeting, and (3) the

attendees were not free to take their meals elsewhere. Ruth J. Ruby, 65 Comp. Gen. 143 (1985).

Employees of the National Park Service sought reimbursement for meal costs incurred while attending a monthly federal Executive Association luncheon meeting. Meal costs could not be reimbursed. The meetings were held at the employees' official duty station and the employees' meals were not incidental to the meetings, a prerequisite for reimbursement, since the meetings took place during the luncheon meals. Gerald Goldberg, et al., B-198471, May 1, 1980, explained. Randall R. Pope and James L. Ryan, 64 Comp. Gen. 406 (1985).

An employee may not be reimbursed for a meal at his headquarters solely by virtue of having met the three-part test established in Gerald Goldberg, et al., B-198471, May 1, 1980. Rather, the employee must first show that the meal was part of a formal meeting or conference that included not only functions such as speeches or business carried out during a seating at the meal, but also included substantial functions that took place separate from the meal. See, Randall R. Pope and James L. Ryan, 64 Comp. Gen. 406 (1985). J. D. MacWilliams, B-200650, April 23, 1986.

A Customs Patrol Officer on an extended surveillance assignment at his headquarters, who was required to remain in a motel room for several days, could not be reimbursed for meal expenses. Absent specific statutory authority or exigent circumstances involving danger to human life or the destruction of federal property, the government could not pay the subsistence expenses or furnish free food to employees performing duty at their headquarters. Customs Patrol Officer - Meal Expenses at Headquarters, B-217161, April 1, 1985. See also, Karen A. Killian, B-223500, March 16, 1987.

6. Entertainment, recreation, and personal furnishings

As a general rule, appropriated funds may not be used for entertainment, except when specifically authorized by statute, and also authorized or approved by proper administrative officers. See, 43 Comp. Gen. 305 (1963). The basis for the rule is that entertainment is essentially a personal expense, even where it occurs in some business-related context. Except where specifically appropriated for, entertainment cannot normally be said to be necessary to carry out

the purposes of an appropriation. Similarly, the established rule is that personal furnishings are not authorized to be purchased under appropriations, in the absence of specific provisions therefor contained in such an appropriation or other act, if such furnishings are for the personal convenience, comfort, or protection of such employees, or are such as to be reasonably required as a part of the usual and necessary equipment for the work on which they are engaged or for which they are employed. 35 Comp. Gen. 361 (1955). For a full discussion of Comptroller General decisions in this area, refer to Chapter 3 of the manual prepared by the staff of the General Government Matters Division of GAO's Office of General Counsel, entitled Principles of Federal Appropriations Law (1982).

7. Other miscellaneous expenses

a. Travel agency charges

See, CPLM Title III, Chapter 2.

b. Auto storage

(See also, CPLM Title III, Chapter 4). An employee who abandons his POV at his TDY station, because of weather conditions, and continues his travel by airplane, is entitled to reimbursement of the storage cost for his POV under the FTR. B-140119, July 23, 1959.

c. Passports

A local hire employee in Japan, who has no overseas transportation agreement, claimed reimbursement of the fee to obtain a passport showing her status as a U.S. employee. The record did not show that she was "officially required" to renew her passport, and the applicable Status of Forces Agreement does not require a passport to reflect the status of a person who is ordinarily a resident of Japan. Since the record did not indicate that the claimant was not ordinarily a resident of Japan, her claim was not within the purview of 52 Comp. Gen. 177 (1972), and could not be paid. B-190831, March 27, 1978.

d. Brokers' fees

Employees of HUD's Chicago Regional Accounting Office assigned to TDY at the New York Regional Office for 6 months for training purposes could be reimbursed under FTR para. 1-9.1d for brokers' fees charged for locating rental housing, if the fees were necessary, and the sum of the fees and the rent was less than the cost of hotel rooms for the same period. 59 Comp. Gen. 622 (1980).

e. Attorney's fees

A claim for an attorney's fee for services rendered in connection with obtaining a continuance in an employee's divorce proceedings due to a TDY assignment in Egypt was denied. There is no government interest at stake in such a proceeding, and the proceeding does not concern actions within the scope of the employee's official duties. There are no provisions which generally authorize the reimbursement of personal expenses incurred as a result of a TDY assignment. The fact that an employee or his family would not have had the occasion to incur a personal expense but for the performance of official travel is not a sufficient basis for shifting such an expense to the government. B-197950, September 30, 1980.

f. Clothes and toiletry items

Purchases of toilet articles and personal clothing by an employee while performing TDY in emergency circumstances are not miscellaneous expenditures necessarily incurred by a traveler in connection with official business under the provision of FTR para. 1-9.1(d), nor do such items constitute special clothing and equipment within the provisions of 5 U.S.C. § 7903. B-198823, December 10, 1980.

g. Bedboard

An employee would not be entitled to bedboard expenses needed for sleeping because of an injury to his back. Such expenses are considered part of lodging, which is part of the expenses included in per diem. Bedboard expenses are not reimbursable as miscellaneous expenses, since such expenses are personal, and not essential to the transaction of official business. B-166411, September 3, 1975.

h. Transporting POV back to permanent station

An employee on TDY travel could be reimbursed for a payment to a private firm for transporting his POV back to his PDY station, since an injury prevented his operation of the vehicle on the return trip. 5 U.S.C. § 5702(b) and FTR para. 1-2.4 authorize reimbursement for the expense of the return of a vehicle to a PDY station when an employee is incapacitated, not due to his misconduct. 44 Comp. Gen. 783 (1965) and B-176128, August 30, 1972, overruled by 59 Comp. Gen. 57 (1979).

i. Room key fee

An employee on official travel could not be reimbursed for any expenses incurred because he locked a key in his hotel room. The regulations do not allow reimbursement, since the fee incurred was not in connection with the transaction of official business. The employee was at fault for locking the key in his room, and the fee is in the nature of a fine or penalty incurred through negligence. Such a fee would be personal to the employee, and not payable by the government. B-198824, January 23, 1981.

j. Check cashing fee

Some employees sought reimbursement of fees incurred in cashing travel advance checks for travel in the U.S. Although FTR para. 1-9.1c(2) specifically allows the reimbursement of exchange fees for cashing government checks issued for expenses incurred for travel in foreign countries, no such allowance exists for check cashing costs incurred incident to travel within the U.S. These employees' check cashing costs could not be allowed. B-206779, August 31, 1982.

k. Pet care

An employee of HUD sought reimbursement for the cost of boarding his pet in a kennel while he was on TDY. Kennel expenses could not be paid, since neither 5 U.S.C. § 5706, nor FTR Chapter 1, Part 9, authorize such an entitlement. Absent statutory or regulatory authorization, kennel costs may not be reimbursed. John A. Maxim, Jr., B-212032, July 6, 1983.

Pet care expenses incurred by a federal employee while on TDY are not reimbursable, since neither the statute nor the applicable regulations governing the reimbursement of travel expenses authorize payment for such expenses. Michael J. Washenko, B-219094, December 5, 1985.

l. Loss on currency exchange

An employee on official travel may not be reimbursed for loss he sustains in reconverting traveler's checks and cash, drawn in British pounds, into United States dollars. As a general rule, the risk of incurring an exchange loss while on temporary duty in a foreign country lies with the employee. 23 Comp. Gen. 212 (1943). Absent statutory or regulatory authorization, losses incurred on a currency exchange may not be reimbursed. Similarly, there is no authority for the agency to recoup any gain in currency conversion from the employee. Chester M. Purdy, 63 Comp. Gen. 554 (1984).

An employee on official travel may not be reimbursed for losses he alleges that he sustained in converting United States dollars into Saudi Arabian riyals. As a general rule, the risk of incurring an exchange loss while on temporary duty in a foreign country lies with the employee. Absent statutory or regulatory authorization, losses incurred on a currency exchange may not be reimbursed. Harold M. Thompson, B-222833, January 2, 1987.

m. Relicensing and retitling POV

Expenses incurred by an employee for relicensing and retitling his privately owned vehicle upon return to his permanent duty station in one state from a temporary duty training assignment in another state whose laws required initial relicensing and retitling are reimbursable as miscellaneous expenses. Robert H. Chappell, B-214930, October 1, 1984.

n. Travel to obtain visa

Employee who traveled between Norfolk and Arlington, Virginia, to obtain a visa in time to perform scheduled travel to Spain is entitled to reimbursement of the travel costs thereby incurred. Reimbursement is authorized under para. 1-9.1d of the Federal Travel Regulations based on the agency's determination that the employee's travel to Washington was necessary to the transaction

of official business. B-153103, January 21, 1964. William T. Kemp, B-223186, February 27, 1987.

Per Diem

A. General Provisions

1. Authorities

The authority for the payment of a per diem allowance to employees traveling on official business away from their designated post of duty is contained in 5 U.S.C. § 5702 and the implementing regulations contained in Part 7, Chapter 1, of the FTR. The regulations, effective July 1, 1986, established a new lodgings-plus per diem system (without quarter day computation for travel within the continental United States).

2. Actual performance of travel

An employee claimed that his agency's refusal to allow him to perform two TDY assignments constituted an unfair labor practice under 5 U.S.C. § 7116, and that he was entitled to the per diem, overtime compensation, and holiday premium pay he would have received had he performed the assignments. The GAO may not consider allegations concerning unfair labor practices, since the Federal Labor Relations Authority has exclusive jurisdiction to decide such complaints. In any event, the employee was not entitled to per diem, since that allowance is authorized only if an employee actually performs official travel. Emery J. Sedlock, B-199104, February 6, 1985.

3. In lieu of subsistence

Per diem is an allowance authorized in lieu of the reimbursement of subsistence expenses on an actual expense basis. It is intended to serve for all reimbursable subsistence expenses, and, consequently, may not properly be supplemented by a provision for additional payment on an actual expenses reimbursement basis to cover any subsistence item or items otherwise covered by the per diem payment. See, 48 Comp. Gen. 75 (1968).

4. Payment of per diem discretionary

While the applicable regulation, (FTR para. 1-7.1(a)), states that per diem allowances shall be paid for official travel, (except where reimbursement is made for actual subsistence expenses), our decisions have long held that per diem is not a statutory right and that it is within the discretion of the agency to pay per diem only where it is necessary to cover the increased expenses incurred arising from the performance of official duty. 31 Comp. Gen. 264 (1952);

B-187184, March 2, 1977; B-185374, July 29, 1976; B-171969.31, November 14, 1973; and 55 Comp. Gen. 1323 (1976).

Pursuant to 2 JTR para. C8101-3f, (currently 2 JTR para. C4552-3f), a Navy activity had authority and responsibility for issuing a directive establishing a special rate of per diem for TDY to Andros Island, Bahamas, based on a determination that commercial establishments which prepare and serve meals were unavailable. The determination of the availability of commercial establishments was a matter within the discretion of the appropriate officials of the Navy activity. Absent clear evidence that the Navy officials abused their discretion, GAO will not question the conclusion that commercial establishments were unavailable. Per Diem Allowances—Temporary Duty at Andros Island, Bahamas—Reconsideration, B-201588, March 8, 1983.

5. Purpose of per diem

The purpose of per diem is to reimburse an employee for meals and lodgings while on TDY while he also maintains a residence at his PDY station. B-185932, May 27, 1976 and B-180111, March 20, 1974.

An SSA employee in Arlington, Virginia, requested a transfer at his same grade to an SSA office in Fort Lauderdale, Florida. The employee was detailed to a position in the Fort Lauderdale office from May 31 to September 1, 1977. There was an oral understanding with agency officials that his travel expenses would not be at government expense, and no written travel order was issued. The employee sought reimbursement of per diem and travel expenses, and a restoration of annual leave. Since the claimant requested the detail, and decided that the detail, and possibly a subsequent permanent transfer, was in his interest, as well as in the interest of the government, and in the absence of a written travel order authorizing or approving any reimbursement, the U.S. was not obligated to pay the employee's travel expenses. B-198937, April 15, 1981.

6. Reduced per diem rate does not meet expenses

An employee claimed additional per diem on the basis that the reduced per diem rate established by his agency for employees on TDY was not sufficient to cover all of his subsistence expenses. His claim could not be allowed, because the decision as to whether or not to authorize per diem, and as to the amount of the per diem, is

within the discretionary authority of the employing agency. B-201508, July 15, 1981.

7. Liability of government when employee fails to pay for lodgings and meals

The Forest Service, on behalf of summer employees assigned to TDY on a forest project in Maine, requested a lodge owner to furnish them lodgings and meals. The employees received per diem, and all but one paid the owner for the lodgings and meals. The Forest Service could not pay the owner the amount of the unpaid bill, since it was a personal debt of the employee. B-191110, September 25, 1978.

8. Per diem at headquarters

Under the provisions of FTR para. 1-7.6a, an employee may not be paid per diem at his PDY station, nor at his place of abode from which he commutes daily to his official duty station. The determination of what constitutes an employee's PDY station or headquarters involves a question of fact, and is not limited by an administrative determination. 31 Comp. Gen. 289 (1952); 27 Comp. Gen. 657 (1948); 25 Comp. Gen. 136 (1945); 19 Comp. Gen. 347 (1939); 15 Comp. Gen. 1097 (1936); and 10 Comp. Gen. 469 (1931).

Agency's determination that employee cannot be paid per diem for temporary duty because her lodgings at the temporary duty site were also the residence or place of abode from which she commuted daily to her permanent duty station is sustained. Although the employee initially acted prudently in establishing a residence at the temporary duty site in view of her recurring assignments there, there is no explanation as to why she continued to lodge at the temporary duty site and commute to her permanent duty station after all temporary duty had ended. Accordingly, we cannot conclude that the agency's determination is incorrect. See FTR para. 1-7.6a and cases cited. Mary Ann Relford, B-224636, June 1, 1987.

An employee's headquarters has been construed to be the place where the employee expects and is expected to spend the greater part of his time. 32 Comp. Gen. 87 (1952) and 31 Comp. Gen. 289 (1952). Such a determination is made based upon the employee's orders, the nature and duration of his assignment, and the duty performed. 32 Comp. Gen. 87 (1952); B-182728, February 18, 1975; B-171969.31,

November 14, 1973; B-172207, July 21, 1971; and B-169759, October 30, 1970. See also, 36 Comp. Gen. 161 (1956).

An employee who was assigned as a crew member aboard National Oceanic and Atmospheric Administration (NOAA) aircraft to perform weather reconnaissance flights out of Miami, Florida, claims per diem for the food he brings and consumes during the flights. The claim is denied since per diem may not be paid to the employee at his permanent duty station. Since the flights take off and land at Miami, both the aircraft and its airbase are the employee's permanent duty station. Howard C. Moore, B-229279, August 25, 1988.

a. Extraordinary circumstances

Generally, there is no authority to allow per diem at the employee's headquarters, even if authorized by government officials. B-182586, December 17, 1974. This rule applies even where per diem expenses are incurred under the following circumstances: late conference sessions (B-198471, March 18, 1981; B-185885, November 8, 1976; and B-180806, August 21, 1974); heavy volume of work (B-192027, November 28, 1978); adverse weather conditions (B-188985, August 23, 1977 and B-200779, August 12, 1981); protective missions by security personnel (B-186090, November 8, 1976; B-185923, November 8, 1976; and B-202104, July 2, 1981); unable to leave duty post (42 Comp. Gen. 149 (1962); 16 Comp. Gen. 158 (1936); and B-185159, December 10, 1975); boats and ports were the employee's official station (B-193542, June 19, 1979); employee's life threatened (B-225089, September 21, 1987). For luncheons at the official duty station, see, CPLM Title III, Chapter 5.

Under very limited circumstances, we have allowed reimbursement for subsistence expenses incurred by the protectors of life and federal property in an emergency situation. 53 Comp. Gen. 71 (1973) and B-189003, July 5, 1977. See also, Herbert R. Gercke, B-229181, September 22, 1988.

An exception to the general rule prohibiting the payment of subsistence at an employee's headquarters is where employees who train volunteers for VISTA were required to take meals at their headquarters. Since the meals constituted an intrinsic part of the training sessions, and the Director had determined that round-the-clock supervision was required for the training, the necessary expenses

incurred for meals and lodgings at the headquarters by the employees who train VISTA volunteers may be reimbursed. B-193034, July 31, 1979.

An employee recalled to his PDY station for medical reasons while on a TDY assignment may not be reimbursed for his subsistence expenses there, notwithstanding his contention that it was unsafe for him to return to his permanent place of abode at his duty station because of threats of mob violence. Fraudulent Travel Voucher, B-217989, September 17, 1985.

An employee who was selected to fill a vacant position with his duty station in Missoula, Montana, and with TDY to be performed in Kalispell, Montana, could be paid per diem for duty he performed at Kalispell from July 27, 1981, through August 3, 1982, pending a relocation of the District Office to Missoula, since the evidence indicates Kalispell was a TDY station. It was intended that the employee perform TDY at Kalispell for only a short period of time, but there were difficulties in locating suitable office space. Further, the employee had reason to expect that the assignment would terminate at an early date. Don L. Hawkins, B-210121, July 6, 1983.

9. Close proximity to headquarters

a. Generally

Where an employee is assigned to TDY a short distance from his headquarters, per diem should not be allowed, if the employee's duties require his presence at this site at such regular and frequent intervals as ordinarily required in performing duty at his headquarters, and if the duties performed are of such a nature as to permit the employee's return to his residence or official duty station each day. B-189731, January 3, 1978; B-185195, May 28, 1976; and B-180603, April 18, 1974.

If TDY requires the employee's presence during such hours as to render impracticable daily travel between the TDY station and his residence or official station, and if such TDY puts the employee to greater subsistence expense than ordinarily incurred at his headquarters, the employee may be allowed per diem. 24 Comp. Gen. 179 (1944).

An employee may not be paid per diem under 5 U.S.C. § 5725 when he is evacuated on an emergency basis from furnished quarters and relocated in commercial lodgings beyond the limits of his official duty station. However, since he was required to perform official duties at the location of the commercial lodgings, he may be reimbursed per diem and mileage allowances under the provisions of the Federal Travel Regulations applicable to travel in a temporary duty status. Delmer Ziegler, B-218857, January 29, 1986.

b. Agency discretion, mileage radius

(1) Generally—Agencies may reasonably restrict the payment of per diem within a certain mileage radius from the employee's place of duty or PDY station. 59 Comp. Gen. 605 (1980); 52 Comp. Gen. 446 (1973); and B-191104, May 9, 1979.

Employees are entitled to per diem at a TDY station a short distance beyond the boundaries of a military base which is their PDY station, where the agency determined that the employees should remain at that place overnight to complete a special task. B-193137, July 23, 1979.

(2) Fifty miles—We have held that it was a proper exercise of agency discretion to not authorize per diem for training prior to an employee's assignment to his first duty station, if his residence was within 50 miles of the training site. B-185374, July 29, 1976.

(3) Two hundred miles—Where an employee commuted 200 miles per day as a passenger in a contractor-owned vehicle in order to perform TDY, we held that he would be entitled to per diem for the additional expenses incurred. B-161048, April 11, 1967.

10. TDY at or near residence

The payment of per diem is not automatically precluded because an employee is assigned to TDY at or near his permanent residence. 53 Comp. Gen. 457 (1974); 19 Comp. Gen. 414 (1939); B-143631, August 12, 1960; and B-58867, October 24, 1946. When an employee is on TDY

near his residence, the per diem allowable should be only as justifiable under the circumstances. 53 Comp. Gen. 457 (1974) and 31 Comp. Gen. 266 (1952).

11. Preceding or following travel

An employee may not be paid per diem while at his residence awaiting space aboard a government flight overseas, since to be considered in a travel status, the employee must make himself available for travel at the nearby air base. B-170177, September 2, 1970. Per diem may not be paid to a former employee while waiting overseas for transportation home after being separated due to a RIF, because he was not away from his official duty station in a travel status. B-130614, May 29, 1957.

Where an employee, because of a blizzard, is prevented from returning to his residence after his flight is cancelled, he may be allowed per diem for his expenses incurred in the vicinity of the airport. Under the provisions of FTR para. 1-7.6e, official travel begins when the traveler leaves his home, office, or other point of departure. 52 Comp. Gen. 135 (1972). Where an employee returned from TDY and arrived at the train station at 10:45 p.m., too late to use public transportation to his residence, he could be reimbursed for his lodging expenses incurred, which were substantially less than the taxicab fare to his residence. B-182277, August 14, 1975. See also, 60 Comp. Gen. 630 (1981).

12. Itinerant employees

Per diem is payable only for periods during which an employee is on official business away from his designated post of duty, and, therefore, an "itinerant" employee must have some place designated as his headquarters or official station. 23 Comp. Gen. 162 (1943) and B-176440, August 10, 1972. Consider: Employees of Interior who, in fact, function as itinerant employees working as a survey crew, were traveling between TDY stations with a 4-hour official stopover planned for their official duty station in Denver. The employees spent the weekend in Topeka, Kansas, to avoid incurring overtime for travel on Saturday and Sunday. Itinerant employees are required to travel on nonworkdays to the extent required by the 2-day rule stated in 56 Comp. Gen. 847 (1977) when returning to their official duty station. However, in this case, due to

the distance involved in traveling by automobile, the employees were entitled to per diem for the weekend. B-192184, May 7, 1979.

13. Remote seasonal worksite

A Forest Service employee claims per diem while assigned to a remote, seasonal worksite 6 months of every year. Although the agency designated two official duty stations for this employee and officially transferred him every 6 months from one station to the other, we conclude that the remote, seasonal worksite was a temporary duty location. The employee is entitled to appropriate per diem and mileage allowances while performing this temporary duty. Mason E. Richwine, B-224811, September 25, 1987.

14. Seasonal employees

Eleven seasonal employees of the Forest Service's Northern Region claim per diem for a 3-month assignment to fight fires in the Southwestern Region from April to July 1983. The Forest Service denied per diem under the Northern Region's Supplement to Federal Travel Regulations (FTR) para. 1-1.3 which provides that when a seasonal employee is assigned to a new location for over 2 weeks, the new location becomes the employee's official station. The denial of per diem is sustained. The Supplement is a valid exercise of discretion and is consistent with the FTR and our decisions. Gene Bassette, et al., 65 Comp. Gen. 906 (1986).

15. Brief stop at headquarters

Where, incident to a longer journey, a pilot-employee made a touchdown stop at his PDY station, and consumed a meal there, per diem could not be allowed him, since the subsistence of civilian employees at their official station is personal to such employees, and may not be reimbursed. B-185932, May 27, 1976.

16. TDY station which becomes permanent

a. Generally

Where an employee is assigned to TDY, and is later transferred to that TDY station, his entitlement to per diem will terminate after the notification of the transfer or on arrival. B-204630, July 7, 1982. See also: 30 Comp. Gen. 94 (1950); 24 Comp. Gen. 593 (1945); 23 Comp.

Gen. 342 (1943); 5 Comp. Gen. 874 (1926); 5 Comp. Gen. 337 (1925); and B-188093, October 18, 1977.

b. Notification of transfer

Formal notification of a transfer is not necessary, and it is sufficient if the notification imparts actual knowledge of the position and the location of the transfer. 30 Comp. Gen. 94 (1950); B-188093, October 18, 1977; and B-175883, June 16, 1972. Thus, an employee claimed per diem for the period between July 1, 1973, and June 1975 for duty in the Hartford area on the basis that Hartford did not become his new duty station until a SF 50 evidencing the transfer was issued in June of 1975. Since the record otherwise established that the employee was transferred to Hartford effective July 1, 1973, the agency's failure to issue travel orders and otherwise formally document the transfer until 1975 did not provide a basis to pay the per diem claimed or to reimburse the expenses of a house-hunting trip undertaken more than 2 years after the effective date of the transfer. B-200691, August 24, 1981. See also, B-205440, May 25, 1982.

17. No position at new duty station

a. Generally

A transfer is effective, and the employee's entitlement to per diem will terminate, even if there is no position available for the employee at the new duty station. 32 Comp. Gen. 87 (1952); 25 Comp. Gen. 136 (1945); and B-158797, April 8, 1966.

b. Exception

An exception to the general rule that per diem terminates at the temporary station after the notification of a transfer to that station exists in certain cases where the TDY is considered intermittent and the employee is expected to return to his headquarters for official duty prior to the transfer. 51 Comp. Gen. 10 (1971); B-190107, February 8, 1978; B-139223, June 15, 1959; and B-135690, May 8, 1958. See also, 54 Comp. Gen. 679 (1975); 25 Comp. Gen. 461 (1945); and B-175031, April 4, 1972.

An employee who is assigned TDY for training with the understanding that if he successfully completes the training he will be transferred to that duty station, is entitled to per diem for the period of the training prior to the effective date of the transfer. 32 Comp. Gen. 493 (1953).

Where an employee is ordered to attend orientation sessions in Washington, D.C., prior to his transfer overseas, his assignment to Washington may not be considered a PCS, which would entitle him to real estate expenses, but it may be considered TDY for which per diem may be paid. B-166181, April 1, 1969.

Where an employee on temporary detail was offered a permanent position at the TDY station before his detail was terminated, but he did not accept the position until after the temporary detail terminated, the employee was entitled to per diem for the duration of the detail. B-186595, April 10, 1978.

18. Residence moved to TDY site

We have not required an employee to maintain a residence at his PDY station in order to qualify for per diem while on TDY away from the station. B-188515, August 18, 1977. Also, we have held that when an employee assigned to TDY realizes an overall savings in travel expenses by obtaining lower cost lodgings outside the immediate vicinity of the TDY station, the additional transportation costs incurred, (or mileage for the use of a POV), may be reimbursed in an amount not to exceed the expense had he obtained lodgings at the TDY station. B-192540, April 6, 1979.

Under 5 U.S.C. § 5702 and 2 JTR para. C4550-3, per diem may not be allowed at an employee's PDY station. As defined at 2 JTR, Appendix D, the effective date of a change of duty station is the date on which an employee reports for duty at his new PDY station. These provisions, when construed together, constitute a requirement that an employee must actually report for duty at his new duty station before it is regarded as his PDY station, so as to entitle him to per diem while on duty at the former duty station. B-203371, February 9, 1982. Consider the following case examples:

- An employee who traveled to his new duty station on a house-hunting trip prior to the date scheduled for his transfer, and on the day before his scheduled transfer date received TDY orders for duty

at his old station, could not be paid per diem and mileage at the old duty station, unless it was determined that he did, in fact, report for duty at the new duty station before returning to the old duty station. B-204938, April 7, 1982.

- A new employee of SSA could be reimbursed for per diem while attending a 3-month training course away from his duty station, even though he did not have a permanent residence at the time of the temporary assignment. 57 Comp. Gen. 147 (1977). The employee's decision to reside at the temporary station when his wife entered a university there, and to commute 70 miles to his duty station at the conclusion of his training assignment, did not preclude per diem prior to the time the temporary locale became his permanent residence. B-203440, February 26, 1982.

- An agency's regulation provided that per diem may not be paid on nonworkdays to employees assigned to TDY between Baltimore, Maryland and Washington, D.C. An employee headquartered at Baltimore and assigned to TDY at Rockville, Maryland, near Washington, relinquished his Baltimore residence, and obtained lodgings in Chevy Chase, Maryland, during a temporary assignment. Although the employee had no Baltimore residence, he could be paid only the per diem for 4-3/4 days per week, plus the mileage for constructive weekend travel pursuant to the agency regulation, since the agency may require employees to return on nonworkdays to their headquarters where no per diem may be paid. B-188515, August 18, 1977.

19. Per diem at old duty station where transfer delayed

Where an employee's PCS is delayed due to the performance of unanticipated work at the old duty station, he may be paid per diem at his old duty station on the basis of exceptional circumstances, where the employee has reasonably relied upon his travel orders, vacated his old residence, obtained a new residence, and shipped his HHG. 54 Comp. Gen. 679 (1975). See also, B-168875, April 1, 1970; B-160366, January 12, 1967; B-147047, November 9, 1961; and B-140423, September 24, 1959. But see, B-189580, March 31, 1978. However, an employee must actually report to his new duty station before it is regarded as his PDY station, so as to entitle the employee to per diem at the former duty station. B-191492, November 2, 1978; distinguishing 54 Comp. Gen. 679 (1975).

An employee was notified about November 2, 1976, that she would be transferred in about 4 weeks. After she told her landlord of the transfer, he ordered her to vacate by December 15, 1976, or be evicted. The employee's agency then issued a transfer order effective December 12, 1976, and authorized TDY and per diem at the old duty station from December 13 to 23, 1976. While per diem may not ordinarily be paid at the PDY station, the employee could be paid her expenses, not to exceed a temporary quarters allowance, since her agency determined she should not suffer financially because of its delay and a temporary quarters allowance could have been authorized. B-189580, March 31, 1978.

Where an employee is advised that his headquarters office would close, and it actually was closed, and he terminated his per diem there and took all of his personal belongings with him, and he is later returned to that old duty station for TDY, he may be paid per diem while there, since his old duty station may not be considered to be his headquarters for travel and per diem purposes. B-160180, October 31, 1966 and B-131736, June 25, 1957.

20. "Temporary duty" at new duty station

An employee detailed to TDY at the location of his new duty station, subsequent to notification of a PCS, may not be paid per diem while performing duty at the new duty station, notwithstanding an erroneous administrative authorization, since the government cannot be bound beyond the actual authority conferred upon its agents by statutes and regulations. B-194082, May 8, 1979.

21. New appointees

New hires and transferees may be authorized subsistence at a training site prior to their detail to their permanent station, if the training site is not a PDY station. B-194642, August 24, 1979.

Where orders assign newly appointed seasonal employees to a duty station where they are fed and lodged and all their duties are to be performed at that station, they cannot be viewed as itinerant employees for travel per diem purposes.

Where newly appointed employees report to an administrative headquarters merely for personnel processing and perform all duties at an assigned duty station in the field, the reporting station

cannot be considered their duty station for travel per diem purposes even though the agency designates it as such on the employees' orders. There is no authority to pay per diem to the employees from the time they departed the reporting station. Daisy Levine, et al., 63 Comp. Gen. 225 (1984).

22. Benefit of travel need not be shown

An employee may be reimbursed travel expenses where travel expenses are authorized in advance by the head of an agency or by an official to whom such authority has been delegated. There is no requirement that the employee show that a benefit resulted to the agency involved due to the travel performed. B-193346, March 20, 1979.

23. Official duty station changed on arrival

Pursuant to a proposed RIF, an employee accepted a demotion and a transfer from Oakland to Los Angeles, in order to avoid separation. His family remained near Oakland. Although the RIF was later cancelled, and the employee was reinstated in Oakland, he is not entitled to per diem or travel expenses for commuting between Los Angeles and Oakland every weekend, nor to per diem at Los Angeles. The claimed expenses resulted from a personal decision to retain the residence, and there is no authority to pay under the Back Pay Act, 5 U.S.C. § 5596. However, he was entitled to the expenses of two transfers. B-188358, August 10, 1977; B-169329, October 28, 1976, and B-167022, July 12, 1976.

An employee was reassigned to a new duty station, but later returned to his former duty station after a grievance examiner concluded that the reassignment was improper. The employee's claims for mileage, parking fees, and overtime for commuting to the new duty station were denied. A determination that a reassignment was improper does not convert an assignment to TDY, and these claims could not be paid for commuting to the employee's official duty station. B-198381, February 13, 1981.

24. Effect of other benefits on entitlement to per diem

a. Temporary promotion

An employee who is assigned to a TDY station in conjunction with a detail to a higher-grade position may not be required to choose between accepting per diem or a temporary promotion. 55 Comp. Gen. 836 (1976).

b. Overtime compensation

Where an employee performed TDY in connection with his duties as a chauffeur, his entitlement to overtime compensation does not defeat his entitlement to per diem. B-173978, October 21, 1971.

B. Expenses Covered by Per Diem

1. Tips

Under the provisions of FTR para. 1-7.1c(3), the per diem allowance includes all fees and tips which are considered expenditures for personal services as distinguished from expenses necessarily and primarily incurred incident to the transaction of official business. B-182853, January 30, 1976. Thus, tips paid to bus and limousine drivers are not reimbursable separately, but are included in the per diem allowance. 44 Comp. Gen. 479 (1965). Tips for wheelchair services are to be covered in the subsistence allowance. B-151701, July 3, 1963.

Under what is now FTR para. 1-7.1c(3), per diem in lieu of subsistence expenses includes all fees and tips to waiters, porters, baggagemen, bellboys, hotel maids, dining room stewards, and others on vessels, and hotel servants in foreign countries, but does not include a tip to a motel courtesy cab driver. B-171953, March 30, 1971.

2. Forfeiture of rent and reservation deposits

An employee who forfeited his prepaid rent and security deposit as a result of a shortened assignment of TDY had been authorized, and reimbursed, at the maximum per diem rate. Nonetheless, if the agency determined that the employee qualifies for actual subsistence expenses, he could be reimbursed his actual subsistence expenses not to exceed the statutory maximum. In determining the

actual subsistence expenses, the total amount of rent paid by the employee may be prorated over the period the employee occupied the lodgings. B-188358, August 10, 1977.

Where an employee has placed a nonrefundable reservation deposit on vacation lodgings, and his annual leave is cancelled by his agency due to pressing official business, there is no basis for reimbursement of that forfeited deposit. B-176721, November 9, 1972.

An employee of the IRS who was scheduled for an extended TDY assignment made a nonrefundable $150 deposit to lease an apartment. Subsequently, the assignment was cancelled, and the deposit was forfeited through no fault of the employee. The employee could be reimbursed a reasonable deposit made in anticipation of ordered travel, when his travel was cancelled, and his deposit was forfeited. B-194158, B-194900, July 18, 1980. See also, 59 Comp. Gen. 609 (1980).

An employee of GSA in Portland, Oregon, deposited $33 for a hotel reservation in connection with TDY travel to Washington, D.C. The employee became ill, the travel was cancelled, and, although the hotel was notified of the cancellation, the deposit was forfeited. The employee could be reimbursed for the forfeited hotel deposit. B-198699, October 6, 1980.

A security deposit could be reimbursed, even though the employee knew at the time of negotiating the lease that his TDY would terminate before the end of the term of the lease. The lease arrangement resulted in a cost advantage to the government, since the rental, plus the security deposit, prorated over the days of his apartment occupancy, amounted to a total cost well below the regular commercial rate for the area, and less than the actual subsistence expenses authorized. B-192026, October 11, 1978. However, an employee may not be reimbursed for a forfeited security deposit paid to secure lodgings at a prospective TDY station, when the temporary assignment is cancelled in advance, since the FTR does not authorize reimbursement. B-194900, September 14, 1979.

3. Furniture rental, telephones, other utilities, and cleaning services

An employee who is assigned to an extended period of TDY, and who rents an apartment, instead of utilizing hotel/motel accommodations, may include in his per diem expenses ordinarily included

in a hotel room charge such as rent; rental of furniture, stove, refrigerator, television set, or vacuum cleaner; telephone user charges, (but not telephone installation charges), and other charges for utilities; and maid or cleaning services, (limited to commercial rates for service once a week). 56 Comp. Gen. 40 (1976). See also, 52 Comp. Gen. 730 (1973) and 49 Comp. Gen. 753 (1970).

4. Motor home or trailer rental

a. Generally

An employee's claim for per diem in connection with the use of a truck-camper, instead of a hotel or motel room while on a field assignment, could be paid pursuant to what is now FTR para. 1-7.6b, which provides for a per diem allowance for travel by means of a privately-owned trailer. Although a truck-camper is not a trailer, it is a temporary living unit, and may, therefore, be viewed as within the regulations for purposes of approving a per diem allowance. The allowance, not having been approved in advance, could under the regulation be post-approved. 50 Comp. Gen. 647 (1971).

b. Costs includable

An employee who chooses to lodge in a private recreational vehicle at a TDY station, in lieu of a hotel, may not be reimbursed for the vehicle's upkeep and maintenance, including depreciation, for the period of such lodging. He may, however, be reimbursed for his expenses incurred incident to his actual subsistence, such as food, propane for heating, rent for the site on which the trailer was placed, and the cost of utilities. B-189392, August 23, 1977.

An employee of the National Park Service was entitled to a per diem rate based on the lodging-plus method for the rental cost of a camping vehicle used as his lodging during TDY. Although a depreciation charge for the use of the employee's own camping vehicle as his lodging on TDY may be considered a nonreimbursable personal cost, the rental of a camping vehicle for lodging is a direct cost of TDY, and is allowable as a lodging expense in the computation of per diem. B-199462, August 12, 1981.

An employee who leased a mobile home, which he occupied while on TDY, claimed per diem at a rate which included the total rental of

his home. The lease agreement was, in fact, a conditional sales contract with an option to purchase. Therefore, only that part of the monthly payment which does not represent credit towards a purchase could be used in computing the lodging costs. B-180650, March 9, 1976.

C. Expenses Not Covered by Per Diem

1. Leased personal property with option to buy

Absent evidence that a claimant terminated a television lease agreement with an option to purchase at the end of a TDY assignment, he could not include the cost of renting the television in the computation of the lodgings portion of his per diem allowance. Payments on personal property for the purpose of eventual ownership are not within the purview of lodging costs recognized as reimbursable. Lucius Grant, 62 Comp. Gen. 635 (1983).

2. Tips

Necessary charges incurred by an employee in a travel status for the handling of heavy government-owned equipment properly are for reimbursement as transportation expenses, and are not to be regarded as porters' fees or tips, which are required to be paid out of the employee's per diem allowance as charges primarily incident to the handling of personal baggage. 27 Comp. Gen. 52 (1947).

In order for an employee in a travel status to be entitled to reimbursement for tips or fees paid for the handling of government-owned equipment at hotels, there must be a showing that a separate or additional charge was made on account of the government property, and in the absence of such a showing, tips or fees are to be regarded as expenses included in the per diem allowance. 37 Comp. Gen. 408 (1957).

The per diem allowance does not cover tips to motel employees for furnishing equipment and services to prepare motel meeting rooms for official use, where the expenditures were not made for personal services to the employee. Such expenses are reimbursable as miscellaneous expenses under what is now FTR para. 1-9.1d. B-166810, July 17, 1969.

3. Additional meals

Where a traveler is provided a meal on an airline flight, the cost of which is included in the price of the ticket, he may not be reimbursed for an additional meal, absent circumstance justifying the additional expense. B-186820, February 23, 1978 and B-185826, May 28, 1976.

4. Snacks

There is no authority for reimbursement for snacks such as candy, pop, coffee, or rolls, which are not consumed as part of a regular meal, or for miscellaneous expenses such as newspapers or taxi fares to laundry facilities or to obtain incidental items. B-187976, April 11, 1977. See also, 31 Comp. Gen. 208 (1951).

5. Alcoholic beverages

Alcoholic beverages are not considered necessary expenses incident to official travel, and are not reimbursable. B-164366, August 16, 1968. See also, B-164366, March 31, 1981, reaffirming the exclusion of alcoholic beverages from the general class of beverages that are included within the definition of "subsistence".

6. Coffee in the office

The cost of serving coffee or other refreshments at meetings is not the "necessary expense" contemplated by that term as used in appropriation acts, and, unless specifically made available, appropriations may not be charged with a cost that is considered in the nature of entertainment. Although this rule also applies to the purchase of the equipment used in preparing refreshments, the small amount expended by an agency to purchase coffeemakers, cups, and holders for use in serving coffee at meetings designed to improve management relationships will not be questioned in view of the administrative belief that the interests of the government will be promoted through the use of the equipment. 47 Comp. Gen. 657 (1968).

7. Lodging aboard common carriers

As provided in FTR para. 1-7.1b, the term "lodging" does not include accommodations on airplanes, trains, or steamers, and these

expenses are not considered to be subsistence expenses. B-183091, October 20, 1975. See also, "F. Rates," in this Chapter.

8. Meals of firefighters on TDY near PDY station

An employee who worked as a firefighter, claimed per diem expenses of $16 for meals consumed while on a TDY assignment near his PDY station. Under 2 JTR para. C4550-4, a per diem allowance will not be authorized under these circumstances, unless the employee incurs additional subsistence expenses because of a TDY assignment near his PDY station. If the same system prevails at both PDY and TDY stations, with firefighters bringing food with them for meals eaten during duty hours, then it would appear that the employee did not incur additional expenses. Therefore, he was not entitled to a per diem allowance. B-198887, September 21, 1981. See, CPLM Title III, Chapter 7, "C. Types of Expenses," "Meals included in price of airplane ticket."

9. Room reservations unused

Where there is no contract between the government and the hotel, and a reservation made by agency personnel for an individual is not timely cancelled, and remains unused, the government is not obligated to pay for the room, nor may the employee be reimbursed for the expenses charged, and paid for by him in addition to the per diem he has received. B-192804, December 18, 1978.

10. Rooms not used for lodging

Where lodgings provided by an agency at a training site are used only for changing clothes and studying by an employee who returns each night to his residence, there is no entitlement to per diem. Such use of the lodgings does not meet the statutory and regulatory requirements of "necessity" and "reasonableness" for per diem purposes. B-190376, August 25, 1978.

11. Value of lost vacation

Where an employee's authorized leave was interrupted, and he was ordered to return to his duty station for official duty, there is no authority for the reimbursement of the "value" of the lost vacation, nor for the travel expenses incurred by the employee's spouse. B-191588, January 2, 1979.

12. Security deposit

An employee may not be reimbursed for a forfeited security deposit paid to secure lodgings at a prospective TDY station, when the temporary assignment is cancelled in advance, since the FTR does not authorize reimbursement. B-194900, September 14, 1979.

D. Interruptions of Per Diem Entitlement

1. Leave

a. Generally

If a leave of absence begins or terminates within a traveler's prescribed hours of duty, his per diem shall terminate the next quarter day or it shall begin with the quarter day during which the leave of absence terminates. If the leave of absence is not within his prescribed hours of duty, he is entitled to per diem until midnight of the last day preceding the leave of absence and from 12:01 a.m. of the day following the leave of absence. B-168293, January 2, 1970.

b. Nonworkdays

Where an employee was on leave on Friday and Monday, he may not be paid per diem for Saturday and Sunday. B-176650, February 28, 1973. See also, 38 Comp. Gen. 384 (1958) and 35 Comp. Gen. 606 (1956).

Where an employee was required to attend two meetings within a 4-day interval, there was no necessity to return to his official duty station between meetings, since the amount of per diem was less than the round-trip airfare. B-163112, March 13, 1968.

An employee is entitled to per diem on nonworkdays, unless he returns to his official station or place of abode, or unless he is on leave at the end of the workday preceding the nonworkday, and the beginning of the workday following the nonworkday and the period of leave exceeds one half the prescribed working hours that day. Per diem will not be interrupted, unless the travel situation meets these conditions. Thus, where an employee left his TDY station prior to a 3-day weekend for July 4, but he did not return home, and the nonworkdays were not preceded and followed by leave, he was entitled to per diem for the 3 nonworkdays. B-171266, February 24, 1971. See also, 31 Comp. Gen. 144 (1951).

c. Compensatory time

(1) General rule—Where an employee is in a TDY status, and he is granted compensatory time-off from duty, in lieu of overtime, he is regarded to be in a leave of absence status, and is not entitled to subsistence. 26 Comp. Gen. 130 (1946).

(2) Exception—Although, generally, the compensatory time-off from duty pursuant to 5 U.S.C. § 5543(a)(2) in lieu of overtime that is granted to an employee in a travel status is regarded as a leave of absence and requires the suspension of any subsistence allowance during the leave of absence, when the compensatory time is granted or ordered in the interest of the government, a suspension of per diem is not required. 49 Comp. Gen. 779 (1970).

d. Religious holiday

Where an employee takes annual leave to observe a holiday, he is not entitled to per diem for that day. B-185618, June 1, 1976 and B-168053, November 10, 1969.

e. Excess traveltime

Where an employee chooses to travel by a POV for his own convenience, any excess traveltime will be charged to his annual leave, and the employee will not be entitled to per diem while on that leave. B-171420, March 3, 1971.

2. Illness or injury

a. Generally

Under the provisions of FTR para. 1-7.5b(1), when a traveler is incapacitated due to an illness or injury, not due to his own misconduct, his per diem shall be continued not to exceed 14 days during his leave of absence, (unless a longer period is approved). See, B-203080, June 8, 1982; B-176956, December 14, 1972; and B-174242, November 30, 1971. See also, 43 Comp. Gen. 128 (1963). FTR para. 1-7.5b(1) implements the language of 5 U.S.C. § 5702(b), which, according to its legislative history, was designed to prevent the imposition on government employees of the inequitable hardships which result from becoming incapacitated by an illness or injury while away on government business. S. REP. NO. 1364, 81st

Cong., 2d Sess. 1 (1950) and H. R. REP. NO. 1332, 81st Cong., 1st Sess. 1 (1949).

In view of the equitable purpose of this statute, we have given it, and the regulations which implement it, including FTR para. 1-7.5b(1), a liberal construction. See, for example, 59 Comp. Gen. 57 (1979), (the employee was entitled to the reimbursement of the expenses of returning his vehicle to his duty station, after he became incapacitated while on TDY); B-132769, August 15, 1957, (the employee entered into "a per diem status" beginning with the departure of the train which he had boarded in order to go to his TDY assignment; therefore, he was entitled to per diem, despite the fact that, before the train left the metropolitan area, he became incapacitated, was removed from the train, and was hospitalized "close to his residence and official headquarters"); and B-122154, December 31, 1954, (the employee was entitled to per diem in lieu of subsistence for the period in which he was incapacitated and was under the care of a physician at a place other than his residence, official duty station, or TDY station). Moreover, we have held that the language of FTR para. 1-7.5b(1), (stating that per diem "shall be continued for periods not to exceed fourteen calendar days"), is mandatory and vests no discretion in administrative officials to deny an employee per diem for a sick leave period otherwise coming within the terms of that regulation. B-144985, March 3, 1961.

b. Sick leave

Although the regulations authorize reimbursement for an employee's return transportation expenses when he becomes incapacitated due to an illness while en route to or at a TDY station, and also provide for the continuance of per diem for 14 days when a traveler takes a leave of absence because of being incapacitated due to an illness, those provisions would not be applicable to situations where the employee becomes incapacitated due to an illness prior to his departure on a TDY assignment. In such a case, the payment of travel expenses would not be warranted. B-179134, January 14, 1974.

c. Evidence of illness

As to the evidence of an illness or injury, see FTR para. 1-7.5b(2) and 41 Comp. Gen. 573 (1962).

d. Limited to employee's per diem

An employee's per diem entitlement may be continued when he is sick, but not the per diem entitlement of any dependents. B-181573, February 27, 1975 and B-174242, November 30, 1971.

e. Employee's illness or injury

For the employee's per diem to continue, it must be the employee's illness or injury, and not that of his or her dependents, which is involved. B-175436, April 27, 1972 and B-148398, April 6, 1962. But see 5 U.S.C. § 5702(b)(1)(B) and FTR, Chapter 1, Part 12 (Supp. 20, May 30, 1986), which now authorizes emergency return travel under certain circumstances.

f. Illness occurs after entitlement to per diem ceases

If an employee's entitlement to per diem has expired, for example at the end of a house-hunting trip, prior to his having been injured, it cannot be continued under FTR para. 1-7.5(b)(1) because of his illness. B-166193, April 2, 1969. Where an illness occurred subsequent to the time of an employee's constructive scheduled return by a common carrier, his claim for per diem for any extra days of delay caused by the illness may not be allowed. Allowable traveltime is limited to the constructive traveltime of the common carrier used in computing per diem when travel by a POV is not advantageous to the government. B-180010.12, March 8, 1979.

g. Employee dies while on TDY

An employee who dies while on a TDY assignment, but while AWOL, may not be allowed per diem, unless the absence is due to an illness or injury, and is not due to his own misconduct. 52 Comp. Gen. 493 (1973).

h. When employee receives reimbursement for medical expenses

(1) Generally—In accordance with FTR para. 1-7.5b(3), if a traveler receives hospitalization or reimbursement for expenses under any federal statute, other than the provisions of 5 U.S.C. §§ 8901-8913, pertaining to employee health benefit plans, per diem may not be allowed. 40 Comp. Gen. 167 (1960). And, even though reimbursement under the Federal Employee's Compensation Act, at what is now

5 U.S.C. § 8132, is limited to the difference between the actual medical expenses incurred and personal insurance benefits, no per diem may be allowed. 32 Comp. Gen. 113 (1952).

(2) Computing hospital lodgings costs—As for computing per diem where the hospital is unable to allocate a specific figure for lodgings, see 52 Comp. Gen. 123 (1972) and B-171933, March 19, 1971.

3. Return to official station due to illness or injury

a. Illness during weekend break in TDY

An employee on an extended TDY assignment in Washington, D.C., returned home voluntarily during a nonworkday break, but did not return to TDY due to medical reasons. Since the employee, in essence, abandoned his TDY assignment when he was advised of the need for surgery, he could be reimbursed travel and subsistence expenses up to the point of abandonment. However, since travel was part of his voluntary weekend travel, the employee could be reimbursed only to the extent that the travel did not exceed the allowable travel and subsistence expenses he would have incurred, if he had remained at his TDY station. B-190525, April 7, 1978.

b. Fitness for duty or medical emergency

Where an employee is directed to travel to undergo a physical examination for fitness for duty, he may be paid per diem for his traveltime and the time for the examination. 49 Comp. Gen. 794 (1970).

c. Nonemergency surgery

Where the employee elects to undergo surgery, no additional per diem may be allowed, if there is no indication that the employee was incapacitated or that it was emergency surgery which could not have been reasonably postponed. 49 Comp. Gen. 794 (1970). See also, B-185287, July 23, 1976.

d. Routine examination

An absence from TDY must be one over which the employee has no control, and per diem will not be allowed where an employee

returns to his official duty station in order to undergo a VA examination, where the employee was not incapacitated, and where the examination was not for fitness for duty or primarily for the benefit of the government. B-188012, May 10, 1977.

e. Attendant required

Where an employee becomes ill on TDY, and cannot return to his official duty station without the services of an attendant or escort, as medically required, the transportation expenses, (but no per diem), of such an attendant may be allowed. B-176128, August 30, 1972; B-174242, November 30, 1971; B-169917, July 13, 1970; and B-127109, April 6, 1956.

f. Forfeited deposit or rent

An employee whose TDY assignment is terminated due to his illness, and who returns to his official duty station, may not be reimbursed any additional amounts beyond his per diem entitlement for a security deposit or prepaid rent which he forfeited by abandoning his long-term temporary lodgings. B-184006, November 16, 1976.

4. Other return to official duty station

a. Return travel required

Under the provisions of FTR para. 1-7.5c, an employee may, within the discretion of administrative officials, be required to return to his official duty station during nonworkdays. B-184183, August 13, 1975 and B-188515, August 18, 1977. In requiring the employee to return, the agency must pay the employee's total expenses, even if it exceeds the cost of remaining at the TDY station. B-186200, January 27, 1977.

b. Return based upon cost analysis

If the employee's presence is not required at the TDY station, and the government would realize a substantial savings, the employee must return on nonworkdays, or be limited to the costs which would have been incurred, if he had returned to his official duty station. B-172565, August 3, 1971 and B-139852, July 24, 1959.

c. Minimal cost difference

An overall savings of $7.50 has been held to be not sufficiently significant to require return travel by an employee. B-171583, March 23, 1971.

d. Efficiency and productivity as cost factors

Agencies may determine, through cost analysis, that the costs of periodic weekend return travel are outweighed by the savings realized through increased efficiency and productivity, and reduced costs for recruitment and retention, and, therefore, may authorize weekend return travel as a necessary travel expense of the agency. 55 Comp. Gen. 1291 (1976).

5. Voluntary return travel

a. Generally

An employee who voluntarily returns to his official duty station on nonworkdays, (or workdays), may be reimbursed for transportation and per diem not to exceed the amount which would have been allowed, had the employee remained at the TDY station. 54 Comp. Gen. 299 (1974) and 50 Comp. Gen. 44 (1970).

A DOE employee claimed weekend return travel reimbursement based on the maximum per diem rate, rather than the lesser amounts allowed for the use of a travel trailer during the week at the TDY station. The agency's determination to look to the average amounts allowed in the week preceding the return travel was permissible. Gene Daly, B-197386, June 15, 1983.

An employee on an IPA assignment to a university in Fayetteville, Arkansas, claimed travel expenses for his return to Kansas City on nonworkdays. Although it was originally intended that he would relocate his residence and change his PDY station to Fayetteville, his travel orders were ambiguous as to whether TDY entitlements or PCS allowances, or both, were authorized. Since employees traveling on IPA assignments may receive per diem or PCS allowances, but not both, we did not object to the employee's election to be paid per diem at Fayetteville; and the travel expenses claimed, insofar as they do not exceed the per diem that would have been paid, if he

had stayed in Fayetteville for the nonworkdays involved. Dr. William P. Hefly, B-208996, April 12, 1983.

An employee on TDY who used the return portion of a "super saver" airline ticket for his weekend voluntary return travel to his PDY station claimed that the difference between the regular one-way coach fare and the "super saver" fare should be used in the computation of the maximum allowable reimbursement for his voluntary return travel. He argued that the "super saver" fare applied only to round-trips, and if he had not used the return portion, the government would have had to pay the full coach fare for his travel to the TDY point, because his other travel was performed by automobile with another employee. The agency properly limited his reimbursement to the per diem which he would have received if he had remained at the TDY station. There is no basis to include costs other than those the employee would have incurred had he remained at his TDY station. Hugo H. Huslig, B-216261, February 4, 1985.

b. Return to permanent residence

An employee may be reimbursed for travel to his permanent residence, which is not located at his official duty station. 53 Comp. Gen. 313 (1973).

6. Indirect route, delayed or interrupted travel

a. Generally

Where a traveler interrupts his travel or deviates from the direct route for his personal convenience, or through the taking of leave, the per diem allowed may not exceed that which would have been incurred on uninterrupted travel by a usually traveled route. B-185652, December 28, 1976.

See also National Security Agency Employee - Applicability of Per Diem - Europe - Nonworkday Travel, B-217797, September 12, 1985.

b. Required to proceed expeditiously

c. Prudent person test

Travelers are generally required to proceed expeditiously to and from their TDY assignments, and to exercise the same care in incurring expenses that a prudent person would exercise, if traveling on official business. See, FTR para. 1-1.3a.

d. Return would involve late arrival

Where an employee completes his TDY assignment at the close of the business day, but reasonably delays his return travel until the next day, in view of the length of his workday and the return traveltime, he may be allowed the additional per diem expense incurred. 51 Comp. Gen. 364 (1971).

e. Per diem for delay limited

An employee who completed his TDY assignment on Friday at 4 p.m., however, would not be allowed per diem beyond 5 p.m. Saturday. B-167422, August 13, 1969.

f. Early departure

It is not unreasonable for an employee to depart for TDY early, so as to avoid a later arrival at the destination well beyond the end of the normal workday, so as to travel to the maximum extent practicable during normal duty hours. B-179503, January 21, 1974.

g. Travel during duty hours

In determining constructive travel, it is not unreasonable to give the employee the benefit of the doubt, and to choose a flight which would allow travel during normal duty hours, absent a determination that the employee's presence at the official station at that time was necessary. B-175627, July 5, 1972 and B-155693, January 11, 1965.

h. Travel during rest periods

The FTR provision requiring uninterrupted travel does not, however, require travel during normal hours of rest, if sleeping accommodations are not available. 54 Comp. Gen. 1059 (1975).

An employee in an official travel status made an unauthorized daytime stopover as a rest stop instead of continuing travel to his destination, which by his own admission he could have reached well before nightfall. His claim for additional per diem incident to the rest stop may not be allowed. Our decisions do not approve rest stops unless travel during normal periods of rest are involved. 54 Comp. Gen. 1059 (1975). John B. Cheatham, 67 Comp. Gen. 292 (1988).

i. Delay due to leave or personal reasons

An employee assigned to TDY who departs earlier than necessary in order to take authorized annual leave and consumes traveltime in excess of that which would be allowed for official travel alone on a constructive travel basis by virtue of special routing and departure times may not be allowed per diem for the excess traveltime pursuant to the FTR, and should be charged annual leave for such excess traveltime consumed for personal convenience. 54 Comp. Gen. 234 (1974).

An employee who delays his return travel for personal reasons, so as to meet with former colleagues, is not entitled to additional per diem. B-177138, January 18, 1973. Where an employee missed the sailing of a ship on which he was to perform TDY, no additional per diem could be allowed while awaiting the ship's return, since the employee delayed his travel for his own personal convenience. B-174325, January 7, 1972.

An employee worked on the last day of his TDY until 3:45 p.m., and delayed his return to his headquarters until the following morning by a POV authorized for his convenience. Constructive per diem and traveltime by commercial air could cover the overnight layover. A delayed flight would have been reasonable, since the last workday was relatively long, and the flight would not have arrived at his headquarters until 9:34 p.m., well beyond normal duty hours. Also, the employee's presence at work was not required the first thing the following morning. Per diem and traveltime for leave purposes are limited to that for constructive air travel. B-199432, June 16, 1981.

j. Delay due to circumstances beyond employee's control

(1) Delay due to airline strike—An exception to the general rule requiring employees to travel direct routes exists when the

employee is unable to return by a direct route due to circumstances beyond his control, such as an airline strike. B-171708, February 18, 1971. If the employee delayed his return travel by taking annual leave, and was further delayed by an airline strike, no per diem for the delay is allowed. 41 Comp. Gen. 196 (1961).

(2) Another airline flight available—Where an employee missed his return flight due to circumstances beyond his control, he was not entitled to an additional day of per diem, since he did not return home on the next available flight, which would not have involved extensive travel during nonduty hours. B-190163, February 13, 1978.

k. Abandonment of TDY

(1) Employee lacked equipment—An employee's actions in returning to his PDY station without the consent of his supervisor are improper, and are not to be condoned, but where abandonment of the project was due to a lack of equipment, and no additional expenses were incurred in completing the project, the employee's travel expenses may be allowed. B-176778, November 16, 1972.

(2) Returned for military duty—Where an employee abandons his TDY assignment for induction into a National Guard unit which has been called into active military service, he may be paid travel expenses and per diem up to the point of induction. 37 Comp. Gen. 655 (1958).

l. Delays for miscellaneous reasons

(1) Weather conditions—Where an employee's travel is delayed by weather conditions, or while awaiting reservations, which, by the nature of his work, could not be obtained earlier, the employee may be allowed additional per diem. 41 Comp. Gen. 605 (1962).

(2) Awaiting shipment of automobile—An employee of the Army who had suffered a heart attack and was authorized surface transportation for separation travel from Korea to Indiana, based on a doctor's recommendation in accordance with 2 JTR, and who incurred delays as a result of an administrative oversight by the Army, including a 9-day delay in San Francisco awaiting the arrival of his automobile being shipped from Korea, was entitled to per diem for the periods of delay, since the delays, in the circumstances

presented are not deemed "for traveler's personal convenience," so as to destroy his entitlement. B-181344, February 12, 1975.

(3) Passport stolen—An employee who, while traveling from an overseas post, has his passport stolen, may be paid per diem while waiting for a special passport. B-121059, January 4, 1955.

(4) Break-down of automobile—When an employee is delayed in his official travel by reason of the break-down of his automobile, the use of which was determined to be advantageous to the government, his per diem allowance should not be reduced, if the period of delay was reasonable, and the traveler's action following the break-down accords with administrative instructions or was administratively approved. 42 Comp. Gen. 436 (1963).

(5) Vacating lodgings per government orders—Although an employee's family, incident to his transfer from Wake Island to Kwajalein, traveled by an indirect route, and incurred additional expenses by their delay, the employee's travel voucher for an additional 15 days of per diem for his family may be paid, since the indirect travel and delay was caused by the government in requiring the family to leave Wake Island before quarters in Kwajalein were available, and was not for the personal convenience of the employee or his family. B-180736, June 18, 1974.

E. Computation of Per Diem

1. Time determinations

a. Use of standard time

Under the regulations, and for the purpose of per diem, hours of departure and arrival shall be recorded in the standard time then currently in effect at the place where the official travel begins and ends, even though daylight savings time is also in effect there. 46 Comp. Gen. 213 (1966).

b. International Dateline

For the purpose of computing per diem when a traveler crosses the International Dateline, (180th meridian), the actual elapsed time shall be used, rather than calendar days, when the total traveltime exceeds 24 hours. 39 Comp. Gen. 853 (1960). Where an employee travels around the world, a compensating 24-hour adjustment in per

diem, in addition to the International Dateline adjustment, is to be made upon the completion of the travel. B-193499, June 28, 1979.

2. Computing basic entitlements

a. Travel of 24 hours or less

Under what is now FTR para. 1-7.6d(1) for continuous travel of 24 hours or less, the travel period commences with the beginning of travel and ends with its completion, with one-fourth of the applicable per diem rate allowed for each 6-hour period or fraction thereof. B-163011, December 27, 1967. FTR para. 1-7.6d(1) does not require the payment of per diem for travel of 24 hours or less. B-185195, May 28, 1976.

The Federal Home Loan Bank Board questioned whether it may establish different per diem policies for employees traveling less than 24 hours, to travel periods exceeding 11 hours, and to areas outside a radius around an employee's official duty station. Since agencies may consider factors which will reduce an employee's expenses such as familiarity with the locality through repeated travel, the Board could limit per diem under certain circumstances. See, FTR para. 1-7.3a. Agencies need not pay the same per diem rate to different employees, but, in the interest of fairness, agencies should limit per diem under uniform guidelines applicable to all employees. In view of agencies' broad discretion, they may limit per diem to a flat rate reimbursement where travel is less than 24 hours. B-198008, September 17, 1980.

b. Travel of 10 hours or less

Under FTR para. 1-7.6d(1), per diem shall not be allowed for travel of 10 hours or less during the same calendar day, unless the travel period is 6 hours or more and begins before 6 a.m. or ends after 8 p.m. B-185195, May 28, 1976.

3. Day of departure to and arrival from overseas

a. Generally

When employees are authorized to travel on official business to places outside of the continental U.S., the rate of per diem applicable in the U.S. continues through the quarter beginning immediately prior to the actual hour of departure from the point of exit, and commences at the beginning of the quarter immediately following the actual hour of arrival at the point of entry in the U.S. 39 Comp. Gen. 728 (1960) and B-198455, January 6, 1981.

For travel outside the conterminous U.S. involving an elapsed traveltime of 6 hours or more, an employee is entitled to the per diem rate prescribed by FTR para. 1-7.4b(2). He is entitled to that rate, and not the higher per diem of the destination duty point for the quarter in which his flight lands under FTR para. 1-7.6d(2), which provides that the rate in effect at the beginning of the quarter in which a change in per diem rate occurs shall continue to the end of that quarter. B-198455, January 6, 1981.

b. Duty point

Where an employee departs from Miami, Florida, to fly to storm areas outside the conterminous U.S. and return, the point of contact with a storm is not considered a duty point where the travel begins or ends under the regulations. The employee's per diem entitlement will be based upon the actual elapsed traveltime. B-187921, November 18, 1977.

4. Beginning and ending entitlement

a. Generally

Under the provisions of FTR para. 1-7.6e, the per diem allowance shall be computed for official travel beginning at the time the traveler leaves his home, office, or other point of departure, and ending with his return at the conclusion of the trip. Thus, per diem begins when the employee leaves home, without regard to the scheduled departure of the common carrier, but per diem may not be allowed when the traveler performs a substantial amount of official duty, (1 hour or more), at his office prior to his departure or after his return from TDY. B-172094, April 12, 1972.

b. "Thirty-minute rule"

Under FTR para. 1-7.6e, when the time of departure or arrival is within 30 minutes before or after the beginning of a quarter day, respectively, per diem for either such quarter day shall not be allowed, absent a statement explaining the official necessity for the time of departure or return. 55 Comp. Gen. 1186 (1976).

The 30-minute rule applicable to the payment of per diem under FTR para. 1-7.6e is not intended to be applicable to continuous travel of 24 hours or less. Lloyd G. Chynoweth, 62 Comp. Gen. 269 (1983).

Under the "30-minute rule" an employee who completes temporary duty travel within 30 minutes after the beginning of a per diem quarter must provide a statement on his travel voucher explaining the official necessity for his arrival time in order to receive per diem for that quarter. That statement should demonstrate that he departed from his temporary duty station promptly following the completion of his assignment and that he proceeded expeditiously thereafter. Where statement furnished by employee fails to address promptness of departure, agency properly denied claim for an additional quarter day of per diem submitted by an employee who returned to his residence at 6:10 p.m. John D. Tree, Jr., B-221634, June 24, 1986.

c. Meeting fellow employee for travel

An employee who drives to a rendezvous point to meet a fellow employee who will drive to the TDY station, is entitled to per diem based on the time of his departure from his home to his return. 49 Comp. Gen. 525 (1970).

5. Leave and TDY travel

a. General rule

The general rule is that when an employee proceeds to a point away from his official duty station on annual leave, he assumes the obligation of returning at his own expense. 39 Comp. Gen. 611 (1960) and 11 Comp. Gen. 336 (1932).

b. Performs TDY and resumes leave

An employee whose authorized leave of absence was interrupted for the performance of TDY at places other than his headquarters—being permitted, thereafter, to resume his leave status at the place where it was interrupted—is entitled to per diem in lieu of subsistence and traveling expenses incident to the travel from his place of leave to the places of TDY, his headquarters, and his return to the place of leave. 28 Comp. Gen. 237 (1948). See also, B-190698, April 6, 1978.

An employee whose leave of absence away from his official headquarters was interrupted for the performance of TDY at the place of leave—there being no additional travel involved—under orders which authorized per diem in lieu of subsistence is to be regarded as in a travel status, so as to be entitled to per diem in lieu of subsistence for the period of TDY. 28 Comp. Gen. 697 (1949).

c. Performs TDY and returns to official station

If an employee is required to perform TDY during leave, and he is required, or chooses, to return to his PDY station after the completion of the TDY, he may be reimbursed only for the difference between what it cost him to return to his PDY station via such temporary place of duty and what it would have cost him to return to his PDY station directly from the place where he was on leave. 56 Comp. Gen. 96 (1976); 30 Comp. Gen. 443 (1951); 16 Comp. Gen. 481 (1936); 11 Comp. Gen. 336 (1932); and B-185070, April 13, 1976.

d. TDY authorized prior to departure on leave

Where an employee is authorized, prior to departure on annual leave, to travel to a TDY station and return to his headquarters, he may be paid his travel expenses not to exceed the cost of the direct travel from his headquarters to the TDY station, without regard to the cost of returning to his headquarters from his place of leave. 24 Comp. Gen. 443 (1944). See also, B-189265, December 12, 1978.

An employee who was authorized, prior to departure on annual leave, to attend a meeting near his leave point, claimed per diem for his traveltime to and from his TDY station. His travel authorization was ambiguous, because it stated "TRAVEL AT NO COST TO GOVERNMENT," but authorized per diem. However, since the employee

had to begin travel 2 days before his leave started, he could be allowed per diem for his traveltime to and from his TDY station. B-192246.2, April 26, 1979.

e. TDY canceled after departure on leave

An employee who departs early on annual leave, prior to some scheduled TDY, but whose TDY is later canceled, may be reimbursed for his travel expenses, if it can be shown that he would not have taken the annual leave but for the TDY assignment. 52 Comp. Gen. 841 (1973) and 36 Comp. Gen. 421 (1956).

f. Hotel reservations canceled

Where an employee takes leave after TDY, and his leave is canceled early for a return to his duty station on official business, the hotel deposit which was forfeited due to the cancellation of his leave may not be reimbursed. B-190755, June 15, 1978.

g. Additional TDY while on leave

An employee who completed his TDY assignment and was authorized to return to his headquarters by a circuitous route while on annual leave, not to exceed the cost of the travel by a direct return route, was called back from his leave point to perform additional TDY; he could be allowed his travel expenses to the point he abandoned his travel on leave, less the excess cost of the airfare between the circuitous travel and direct travel. 53 Comp. Gen. 556 (1974).

6. Traveltime

a. "Two-day rule"

(1) Proceed expeditiously or travel during duty hours—Pursuant to 5 U.S.C. § 6101(b)(2), we have recognized that travel may be delayed to permit travel during regular duty hours, and such delays, resulting in the payment of per diem up to 2 days, are not unreasonable. See, 53 Comp. Gen. 882 (1974).

(2) Avoiding travel on weekend—An employee who is scheduled to perform TDY on Monday, may not be paid per diem for 2 consecutive nonworkdays when he departs on Friday in order to avoid traveling on the weekend. 56 Comp. Gen. 847 (1977).

Where two employees completed their TDY assignments on Saturday, but delayed their return travel until Monday, it was within the agency's discretion to allow the 1 additional day of per diem. 53 Comp. Gen. 882 (1974).

The "2-day per diem" rule limiting per diem which is outlined in 56 Comp. Gen. 847 (1977) and 55 Comp. Gen. 590 (1975) is not applicable where an employee's travel is extended by 2 or more days, not due to his personal desire to avoid working on nonworkdays, but rather due to government orders based upon an administrative determination that it would be cost effective to extend the employee's travel-time in lieu of requiring weekend overtime work. Gerald F. Krom and James A. Bosch, 63 Comp. Gen. 268 (1984).

(3) Avoiding off-duty travel—In the absence of any indication that the employee was required to be at his headquarters at the start of the workday, he may delay his travel overnight, so as to avoid off-duty travel of 3 hours. B-168855, March 24, 1970. However, our so-called "2-day per diem" rule merely governs payment of per diem when an employee delays travel in order to travel during regularly scheduled working hours. The entitlement to overtime compensation is determined by distinct and additional criteria contained in three statutes which are either not applicable or whose criteria are not met in the present case. B-203915, June 8, 1982.

7. Excursion fares

a. General rule

An employee who incurs additional per diem expenses in order to qualify for reduced rate excursion fares which cover or more than cover the additional per diem cost, may be reimbursed for the additional per diem cost. B-169024, May 5, 1970 and B-167567, August 18, 1969. See also, B-192364, February 15, 1979.

b. Vacation included

Where two employees arranged a vacation en route to their TDY assignments, and where part of their excursion fare included ground accommodations, they could be reimbursed for the amount paid for the accommodations as an additional air fare expense, not a subsistence expense, since the use of the accommodations qualified them for the lower fare, and since there was no additional expense to the government. 54 Comp. Gen. 268 (1974).

c. No double reimbursement for ground accommodations

Where payment for a ground accommodations package and per diem would result in double reimbursement, and where the excursion fare and accommodations package would represent an additional expense to the government, the employee will be limited to reimbursement for the airfare and per diem. 55 Comp. Gen. 1241 (1976).

F. Rates

1. Maximum rates payable

a. Conterminous U.S.

Reimbursement for official travel within the limits of the conterminous U.S. shall be at a daily rate not to exceed the maximum published in the FTR.

b. Other than conterminous U.S.

For travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the possessions of the U.S., the per diem rate shall be not in excess of the rate prescribed by the Secretary of Defense and published in the Civilian Personnel Per Diem Bulletins. See, FTR para. 1-7.2b.

c. Foreign areas

As provided in FTR para. 1-7.2c, the per diem rate for travel in any area, (including the Trust Territory of the Pacific Islands), situated outside the U.S., the Commonwealth of Puerto Rico, and the possessions of the U.S., shall be not in excess of the rate prescribed by the

Secretary of State and published in the Standardized Regulations (Government Civilians, Foreign Areas).

d. Lodging at employee's property held for rental

An employee on an extended temporary assignment lodged in a camp which he owned and claimed to hold as rental property. For the entire period of his temporary assignment, he claimed per diem for lodging in an amount which he says is the minimum for which he would have rented his camp to sportsmen on a daily basis. Payment of his claim could not be authorized in the absence of clear and convincing evidence that the lodging would have been rented during the entire period covered by his claim, and then only for the expenses occasioned by his temporary assignment. Rodney J. Gardner, B-210755, May 16, 1983.

An employee who used his mobile home for lodging while on TDY could not include a $600 rental payment allegedly made to himself in computing the lodgings portion of his per diem allowance, even though he claimed that the mobile home was held for rental purposes. If the employee submitted documentation to establish that the property was held and used as a rental unit and would otherwise have been rented out during the period of his claim, allocable interest and taxes incurred, if any, could be included in determining his lodging costs. Lucius Grant, Jr., 62 Comp. Gen. 635 (1983).

2. Rates fixed by agencies

a. Justified by circumstances

Under the provisions of FTR para. 1-7.3a, each agency shall authorize only such per diem allowances as are justified by the circumstances affecting travel, and the agency should not fix per diem rates in excess of that necessary to meet authorized subsistence expenses.

Per diem which is provided at a reduced rate for DOD employees traveling overseas where they have meals available at lower than commercial prices is not contrary to law, and is not an additional allowance prohibited by 5 U.S.C. § 5536. Instead, it is the travel per diem authorized by law. 5 U.S.C. § 5702. Therefore, an employee who claims per diem at a higher rate, on the basis that the lower rate is

unauthorized, may not have his claim allowed. B-200794, July 23, 1981.

b. Lodging-plus method

FTR para. 1-7.5, effective July 1986, implements a new lodgings-plus per diem system (the average cost of lodging computation has been rescinded). Deviations from the lodgings-plus per diem system for lower rates is authorized to agencies under FTR para. 1-7.5d.

A civilian employee on a TDY assignment rented lodgings on a monthly basis. The TDY assignment was cut short unexpectedly, and the employee incurred rental expenses for the remainder of the month following the termination of the TDY. Since a rental on a daily basis would have been more expensive, and because of the unexpected curtailment of the assignment, reimbursement could be made for the rental on the basis of dividing the total rent paid by the total number of days of occupancy, so long as the individual daily expenditures did not exceed the maximum authorized per diem as stated in the travel orders. B-188924, June 15, 1977. See also, 59 Comp. Gen. 609 (1980).

c. Fractional days—same rate

Where per diem has been computed by the lodging-plus method, that rate applies to fractional days where lodging is not required, and there is no necessity to establish a second per diem rate. B-187344, February 23, 1977; B-178878, August 27, 1973; and B-174683, January 12, 1972.

d. Accommodations on common carrier

For the purpose of the computation under the lodging-plus method, lodging does not include accommodations on trains or other common carriers. B-183091, October 20, 1975.

3. Reduced per diem

a. Staying with friends or relatives

(1) Generally—Where an employee obtains lodgings with friends or relatives, he may not be reimbursed the maximum per diem allowance, or a rate based on the lowest commercial rate in the locality.

The charge for lodging in such noncommercial facilities must be reasonable in amount and necessarily incurred, and should reflect such factors as the number of visitors involved, the necessity for hiring extra help, and the extra work performed. 55 Comp. Gen. 856 (1976). See also, B-190508, May 8, 1978; B-193382, February 16, 1979; B-193130, May 3, 1979; and B-193761, August 21, 1979.

Where an employee occupies noncommercial lodgings while on TDY, he may not be reimbursed for amounts paid to his host using an amount calculated on the basis of charges for comparable lodgings. In the absence of evidence of the expenses incurred by the host, only the reasonable minimal daily amount established under agency regulation is reimbursable. Fraudulent Travel Voucher, B-217989, September 17, 1985.

(2) No gifts or gratuities—While it may be customary to purchase a gift or to treat the host to a meal, such a gratuity is unrelated to the cost of staying with a friend or relative, and is not reimbursable. B-64193, March 14, 1978. See also, 56 Comp. Gen. 321 (1977).

b. Noncommercial lodgings

AID evacuees who had initially been authorized the special subsistence allowance on a flat-rate basis were advised that the Secretary of State had authorized future payments on a lodging-plus basis, and that those who stayed with friends or relatives would not be reimbursed any amount for lodgings. Since the regulations contemplate payment on a per diem basis, the Secretary acted properly in authorizing reimbursement based on the lodging-plus system now in effect. The Secretary's determination to prohibit reimbursement for noncommercial lodgings is within his authority and consistent with the per diem regulations of certain other federal agencies. 60 Comp. Gen. 459 (1981).

c. Lodging at family residence

(1) Generally—An employee on TDY who stays at a family residence may not be reimbursed lodging costs based on the average mortgage, utility, and maintenance costs, since these are costs attributable to the acquisition of private property as a second residence, and are not incurred by reason of the employee's travel, or in addition to his travel expenses. 56 Comp. Gen. 223 (1977). See also,

B-201894, February 23, 1982, citing, Bornhoft v. United States, 137 Ct. Cl. 134 (1956).

Employee claims reimbursement for reduced per diem rate (no lodging cost) while staying at his residence which is near his temporary duty site. When working at official duty station 65 miles from his residence, employee does not commute from his residence but stays at his in-laws' house. His travel orders authorized payment of per diem in accordance with Joint Travel Regulations (JTR). Both JTR and agency's own regulations provide for payment of reduced per diem (no lodging cost) in this situation. We hold that these regulations require payment of a reduced per diem rate under these circumstances. Durel R. Patterson, B-211818, February 14, 1984.

The location of an employee's official station is a question of fact, and the factors to be considered are: the administrative designation; the place where the employee performs the major part of the duties; and the length and nature of the employee's duties and assignments. Here, the employee performed some duties at the administratively determined official station, but performed a majority of his duties at another station. However, since the nature of his employment was itinerant with assignments to many different temporary duty stations, we hold that the administratively determined official station was, in fact, his official duty station. B-211818, February 14, 1984, sustained. Durel R. Patterson-Reconsideration, B-211818, November 13, 1984.

(2) Purchase as result of TDY assignment—An employee purchased a residence at his TDY location after his assignment there, relocated his household, and rented out his residence at his PDY station. He could be paid a per diem allowance in connection with the occupancy of the purchased residence, while on TDY, based on the meals and miscellaneous expenses allowance, plus a proration of the monthly interest, tax, and utility costs actually incurred. This case is distinguished from 56 Comp. Gen. 223, involving an employee whose second residence, where he lodged while on TDY, was maintained as a result of the employee's desire to maintain a second residence, without regard to his TDY assignment. 57 Comp. Gen. 147 (1977). See also, B-192435, June 7, 1979 and B-203820, October 19, 1981.

d. Based on survey of living costs

Where per diem rates for travel in a given location are reduced, based on an agency survey of living costs, there is no entitlement to additional per diem, even though it is contended that other employees were overpaid. B-184520, July 13, 1976.

e. No survey of costs

Where no survey has been undertaken, or where the reduced rate is based on reduced rate lodgings which were not available to the traveler, additional per diem may be allowed. B-177431, February 23, 1973.

f. Reduced rates for extended stays

(1) Lower costs—Employees who are assigned to TDY for extended periods, and who are able to secure lodgings and meals at lower costs, shall have their per diem rate adjusted downward. B-185975, October 28, 1976.

(2) Rate continues despite interruption—Where an employee was authorized $16 per day for the first 30 days, and $11 per day thereafter, he may not be allowed the higher rate following interruptions in the TDY for return travel to his headquarters. B-160985, March 17, 1967.

g. Meals or lodgings furnished by the government

(1) Rate should be reduced—Where meals and/or lodgings are furnished by a government agency, without charge or at nominal cost, an appropriate deduction should be made from the per diem rate. 48 Comp. Gen. 185 (1968).

Five employees of the Forest Service performed temporary duty at seasonal worksites in Boise National Forest. They were denied per diem allowances because they were furnished government quarters in lieu of per diem in accordance with Forest Service regulations. Since the employees maintained residences at their permanent duty stations and incurred additional expenses for meals and miscellaneous items during their temporary duty assignments, they are entitled to payment of a reduced per diem. Jack C. Smith, et al., 63 Comp. Gen. 594 (1984).

An FBI employee whose permanent duty station is in Philadelphia, Pennsylvania, was assigned temporary duty at the FBI Academy, Quantico, Virginia, to work on a highly sensitive investigation. While there, he was provided certain services such as lodging, meals and laundry privileges at government cost. Since it is the responsibility of the government agency involved to determine, in the first instance, the amount of reduced per diem allowance, if any, due the employee under these circumstances, we remand this claim to the agency for that determination. David A. Seel, B-224074, June 1, 1987.

(2) What are not government-owned lodgings—Where employees on TDY overseas obtain lodgings and meals in employee association staff houses or in private quarters of fellow employees, at reduced or no costs, the quarters are not government-owned for the purposes of reducing per diem. B-191706, June 13, 1978.

(3) Rooms or meals contracted for by government—A government contracting officer may contract for rooms or meals for employees traveling on TDY. Appropriated funds are not available, however, to pay per diem or actual subsistence expenses in excess of that allowed by statutes or regulations, whether by direct reimbursement to the employee, or indirectly by furnishing the employee rooms or meals procured by contract. Because of the absence of clear precedent, the appropriations limitation will be applied only to travel performed after the date of this decision. 60 Comp. Gen. 181 (1981).

When a contracting officer procures lodgings or meals for an employee on TDY, and furnishes either to the employee at no charge, the lodging-plus system is normally inappropriate, and a flat per diem at a reduced rate should be established in advance. 60 Comp. Gen. 181 (1981).

Occasionally, the government may be required to purchase or lease quarters for rent-free use by employees on TDY, because commercial lodgings are unavailable or unsuitable. These expenses need not be taken into account in establishing a per diem rate. If a special flat per diem rate is not established, the amount payable is the allowance prescribed by the FTR for meals and incidental expenses under the "lodging-plus" system of computing per diem. B-200750, August 4, 1981.

(4) Sleeping bags and tents—Lodging may include any type of shelter, such as sleeping bags and shelters for employees, such as firefighters. 24 Comp. Gen. 458 (1944) and B-162674, February 6, 1968.

(5) Inconvenient living conditions—Young Adult Conservation Corps enrollees in Alaska were properly denied a per diem allowance under competent orders providing that no per diem would be authorized where subsistence is furnished by the government. The fact that the camp did not have laundry or shower facilities did not entitle the enrollees to per diem, as per diem is intended as a reimbursement for additional costs, rather than for any inconvenience resulting from a TDY assignment. B-195658, March 19, 1980.

(6) Lodging in employee's camper—An employee of the FHA was entitled to a per diem rate based on the lodgings-plus method, when he stayed in his camper during a TDY assignment. He was not entitled to a higher per diem rate, even though, had he traveled by air, he might have incurred higher lodging costs, which might have, consequently, resulted in a higher per diem rate. B-195638, September 14, 1979.

(7) Trailer—Interior leased camp trailers in the summer of 1980 for use by employees detailed to a drilling project in Wyoming. Department officials reasoned that because the government's average daily expense for providing a trailer was computed at $21, and the maximum statutory per diem rate was then $35, the cash per diem allowable to an employee for meals and incidentals could, therefore, not exceed $14. However, since the trailers were government quarters, rather than commercial lodgings rented by the employees, that limitation should not have been applied, and a per diem rate should, instead, have been set commensurate with the employees' subsistence needs, exclusive of the expense of those quarters. B-200750, August 4, 1981. See also, 16 Comp. Gen. 895 (1937).

(8) Government vessel—A Navy employee was assigned to the USNS Bowditch, in port at St. John's, Newfoundland. He used commercial lodgings for 2 nights, since the employee he was to replace did not vacate the stateroom he intended to use. What is now 2 JTR para. C4552-3b(6) prescribed a shipboard per diem rate for the first 3 days in port, but the employee claimed a higher locality per diem rate based on a recommended change of the 3-day rule. Since the employee could have used other shipboard accommodations,

and since the change in the regulations could not be retrospectively applied, he was only entitled to the per diem granted by the regulation in effect at the time of his travel. B-199104, February 4, 1981. See also, 50 Comp. Gen. 388 (1970).

Meals and lodgings provided aboard a government vessel require a reduction in per diem, and the adequacy of such quarters is primarily a consideration for the agency concerned. B-170655, November 18, 1971 and B-138597, February 20, 1959.

(9) Part of convention fee—Where a fee for attendance at a meeting or convention is paid by the government, and includes the cost of meals, the per diem must be reduced. B-66978, August 25, 1957. See also, 5 C.F.R. § 8410.603(a), in regard to extended training assignments.

(10) Foreign government—The term "Government" refers to the U.S. government, and the regulation does not encompass meals and/or quarters furnished by a foreign government. 43 Comp. Gen. 227 (1963) and 33 Comp. Gen.183 (1953).

4. Increases and decreases in per diem rates

a. Increases in maximum rates

(1) General rule—The general rule is that a per diem rate increase authorized by a statute or regulation is not automatically implemented, and requires administrative action before it takes effect. 57 Comp. Gen. 281 (1978); 55 Comp. Gen. 179 (1975); 49 Comp. Gen. 493 (1970); 35 Comp. Gen. 148 (1955); and 28 Comp. Gen. 732 (1949).

(2) Agency stipulates maximum rate—Where an agency, by regulation, has authorized the maximum allowable per diem rate, absent any specific intent to pay a lower rate, an employee may receive the higher per diem rate, when it is increased. B-186809, July 27, 1976 and B-180970, November 11, 1974.

(3) Union agreement to use subsequent survey—An employee of Department of Health and Human Services received travel orders which prescribed a per diem rate of $41 per day, but indicated a "final rate" would be established after the performance of a survey, which was required by an agreement established between the employee's union and the agency. The survey was not completed

until after the travel was performed. Under the circumstances of this case, the general rule prohibiting the retroactive increase of benefits is not applicable, since the final per diem rate had not been established at the time of travel. Mary Lou Young, B-217852, September 30, 1985.

b. Decreases in per diem rates

See also, CPLM Title III, Chapter 2, Subchapter III.

(1) Lower rate, regardless of notice—Although an employee may be authorized a certain per diem rate in his travel orders, a lower rate which is established by statute or regulation will govern, whether or not the employee or his office received notice of such a reduction. 56 Comp. Gen. 425 (1977). Amendatory regulations changing per diem rates have the force and effect of law, and are applicable from the stated effective date, and that rule is applicable not only to cases where the individual employee has not received notice of the increase or decrease in the rate, but also to cases in which the installation responsible for the employee's TDY assignment is not on actual notice. B-189537, December 11, 1978 and B-190014, August 30, 1978.

An employee claimed an additional per diem allowance based on the fact that when he left for TDY in Germany, in August 1979, the per diem rate for Heidelberg was $68. However, a September 1979 change in 2 JTR, reducing the per diem rate for Heidelberg to $48, effective as of June 1, 1979, was based on regulations of State issued in June 1979, which made the $48 per diem rate effective as of June 1, 1979. The employee's ignorance of the changed rates was irrelevant, since the amendatory regulation changing the per diem rates had the force and effect of law. B-198399, April 6, 1981. See also, B-191696, June 22, 1981, (applying the same rule as above, where the agency was mistakenly not notified of a decrease in the per diem rate).

Civilian employee of the Defense Logistics Agency assigned to long-term training at the Armed Forces Staff College in Norfolk, Virginia, was authorized and paid a per diem rate that included a housing allowance for government family quarters.

Agency now seeks to limit the per diem housing allowance to the single occupancy rate thereby placing the employee in debt to the

government. There is no legal justification to revoke and retroactively modify the employee's per diem entitlement, which vested at the time the assignment was performed under competent travel orders, where employee's authorized per diem entitlement at family quarters rate incident to long-term training did not clearly conflict with law or regulation and agency's unwritten, unarticulated policy, which was not ascertainable by employee, is not "apparent error" to justify retroactive modification of travel order. Betty D. Gardner, B-214482, September 7, 1984.

5. Erroneous travel orders

Generally, travel orders may not be retroactively modified, so as to increase or decrease the rights and entitlements of a traveler, unless the error is apparent on its face, or that which was previously intended has been omitted through an error or inadvertence. See, 24 Comp. Gen. 439 (1944) and 23 Comp. Gen. 713 (1944). However, where travel orders are issued in contravention of the scope of authority granted under law and regulation, it is proper to reduce the per diem rate. B-185429, July 2, 1976. And, where an unauthorized agency official issued travel orders prescribing a lower per diem rate, the employee is not precluded from claiming reimbursement at the higher, authorized per diem rate. 27 Comp. Gen. 556 (1948).

6. Limited to authorized rate

Where the per diem rate is clearly established, absent any error, there is no authority to pay a higher rate. B-183633, June 10, 1975.

7. Attendance at staff college with family

A Department of the Army employee who was selected to attend the Armed Forces Staff College in Norfolk, Virginia, may not be reimbursed subsistence expenses based on the rate for family-type government quarters he and his family occupied in Norfolk when they accompanied him during his training. The Army follows a policy of not paying for family quarters for its civilian employees selected to attend the staff college. Although he was invited to bring his family, he was advised in advance that only the single-type quarters rate was authorized for him. Consistent with this advice, he was paid on the single-rate basis, as provided in Volume 2 of the Joint Travel Regulations (JTR), para. C4552. This is in

accord with the general rule that agencies are obligated to pay only the subsistence expenses of their employees in such cases. Betty D. Gardner, B-214482, September 7, 1984, distinguished. Robert W. Ralson, B-225311, July 13, 1987.

8. Miscellaneous rate cases

a. Double occupancy of lodgings

An accompanied employee who is charged for lodgings at a double occupancy rate, could be reimbursed for the lodgings at the single occupancy rate, not one-half the double occupancy rate, since he would have used the same accommodations at the single occupancy rate. B-187344, February 23, 1977.

b. Dual lodgings

Where it is administratively determined by an appropriate official that an employee had no alternative but to retain lodgings at two locations, the employee may be reimbursed for his actual subsistence expenses, in lieu of per diem, up to the maximum allowable amount. 55 Comp. Gen. 690 (1976) and B-184790, December 9, 1976.

An individual employed as a pilot, spent the night away from the TDY location to which he expected to return. The lodging expenses both at, and away from, that TDY station could be paid. Also, lodging costs could be paid, if the pilot unexpectedly remained overnight at his permanent station. Payments in these cases involve special circumstances beyond the employee's control, and, therefore, must be based on a determination by the appropriate agency official that the employee acted reasonably in retaining the lodgings at his TDY station. 60 Comp. Gen. 630 (1981).

c. Lodgings away from TDY station on weekends

An employee was on a TDY assignment at Parker, Arizona, where he rented an apartment. He traveled to Las Vegas, Nevada, one weekend, and to Van Nuys, California, another weekend. No official business was transacted at those locations. Since allowable travel expenses are confined to those prudently incurred and essential to official business, the employee could not receive more than the amount he would have received at his TDY site. See, FTR para. 1-1.3.

His claim for additional weekend expenses could not be paid. B-195876, June 16, 1980.

d. Required to use government-furnished quarters—not available

Where an employee is required to use government-furnished quarters, but it appears that such quarters are unavailable, the employee may be paid full per diem, even in the absence of a certificate of the unavailability of such quarters, where the lack of such a certificate is not the employee's fault. B-182715, August 28, 1975.

e. Fraudulent claims

See, CPLM Title III, Chapter 10, Part B.

f. Lodging bonus due to overbooking by hotel

An employee, while traveling on official business, was denied lodging the first night at the selected hotel due to their overbooking. The hotel issued a bonus lodging certificate to the employee for one night of free lodging. Such a certificate is the property of the government and not the employee since the general rule is that a federal employee is obligated to account for any gift, gratuity or benefit received from private sources incident to the performance of official duty. Also, allowing the employee to retain the certificate would result in double reimbursement to the employee since the government paid for lodging at a substitute hotel that evening. Elizabeth Duplantier, 67 Comp. Gen. 328 (1988).

Actual Subsistence Expenses

A. Authorities

The statutory authority for the payment of actual subsistence expenses is found at 5 U.S.C. § 5702. The regulations governing actual subsistence expenses are found at FTR Chapter 1, Part 8. A traveler may be authorized actual subsistence expenses, if he is entitled to per diem, and if it is determined that the maximum allowable per diem is inadequate to cover actual and necessary expenses. The determination that actual expenses are needed may be made when unusual circumstances are present in the travel assignment.

A Forest Service firefighter was authorized reimbursement on an actual subsistence expense basis in lieu of a per diem rate of $5. The firefighter argued that the FTR, paragraph 1-8.1c, authorizes reimbursement on an actual subsistence basis only where unusual circumstances exist. The Forest Service believed that unusual circumstances existed because the firefighters were working in remote areas where food and lodging is not normally available and is provided by the Forest Service. It believed that reimbursement on an actual subsistence expenses basis would ensure that only those employees that actually incurred expenses would be reimbursed, and cited further administrative savings realized by a reduction in the number of travel vouchers that would have to be processed. The Forest Service could not authorize the firefighters actual subsistence expenses, since FTR paragraph 1-8.1c provides that actual subsistence expenses may be authorized where the authorized per diem would be insufficient to cover expected expenses. Therefore, the firefighter could be paid the claimed per diem. Frank C. Sanders, 64 Comp. Gen. 825 (1985).

B. At Duty Station

An employee who claims actual subsistence expenses at his official duty station, because his duties as Coordinator for the Vice President's Public Forum on Domestic Policy required his continued presence at a local hotel, may not be reimbursed. An employee is not entitled to per diem or subsistence at his official duty station. B-185885, November 8, 1975. Thus, for example, a transferred employee required to attend training classes at her old duty station before reporting to her new station claimed actual subsistence expenses for the period of training during which she remained in her former residence at her old station. The claim could not be allowed, since an employee must actually report to his new duty station before it can be regarded as his new duty station, so as to

entitle the employee to subsistence expenses at his former duty station. B-203371, February 9, 1982. See also, B-207563, September 8, 1982.

An employee who had been in an actual subsistence expense travel status requested reimbursement for drycleaning expenses incurred before the departure and after his return from his official travel. The FTR permits reimbursement of an employee's expenses on an actual subsistence expenses basis only for expenses which are incurred during official travel. Since these expenses were incurred before and after the employee was in a travel status, they were not reimbursable. James E. Dorman, B-207039, March 1, 1983.

See also Department of Housing and Urban Development - Excess Subsistence Expenses - Subsistence at Official Duty Station, 64 Comp. Gen. 447 (1985).

C. Types of Expenses

1. Snacks

Expenditures made for snacks, in addition to regular meals, may not be reimbursed. Snacks are not necessary expenses of subsistence. B-185826, May 28, 1976. Newspapers; coffee and rolls (not part of a regular meal); candy; and soft drinks are not allowable subsistence expenses. B-167820, October 7, 1969.

2. Meals provided as integral part of training

Where an employee was authorized travel to attend a training conference and lunches were provided as an integral part of the training, her reimbursement for her actual subsistence expenses had to be reduced by the value of the lunches to the employee. Judy A. Whelan, B-207517, April 13, 1983.

3. Additional meals

An employee on TDY travel who was authorized actual subsistence expenses claimed a breakfast expense incurred in returning home. A breakfast expense is not a necessary expense of official travel prudently incurred, when the employee, instead of having a breakfast meal at home at a customary time, elects on the basis of his personal preference to purchase a meal at a train station at 12:30

a.m., while still in a travel status. B-198775, April 16, 1981. However, where the employee's departure is at such an early morning hour that it would be unreasonable to expect him to eat breakfast at home, he may be reimbursed for a breakfast purchased away from his PDY station. B-195940, December 26, 1979. See also, B-197830, April 22, 1980.

An employee on TDY obtained a meal at the airport prior to his return flight. Although a traveler is ordinarily expected to eat dinner at his residence on the evening of this return from TDY, the determination of whether an employee should be reimbursed is for the agency. In determining whether it would be unreasonable to expect an employee to eat at home rather than en route, factors such as elapsed time between meals and absence of in-flight meal service may be considered. Shawn H. Steinke, 62 Comp. Gen. 168 (1983).

4. Alcohol

An alcohol expense is not a subsistence expense. B-164366, August 16, 1968.

5. Meals included in price of airplane ticket

Where a member of the Advisory Council to the Public Land Law Review Commission is reimbursed for his actual travel and subsistence expenses incurred in attending meetings, and meals are included in the price of the airplane ticket, and, in fact, are provided during the course of the flight, it would not be proper to allow him reimbursement for any duplicate meals purchased after the member leaves the plane, in the absence of justifiable reasons as to why the member did not eat the meals on the flight, and, if he did eat the meals, why extra meals were justified. B-157312, May 23, 1966.

a. Reimbursement allowed for another meal

An employee on TDY could be reimbursed the cost of a dinner purchased after his arrival at the TDY station, even though he traveled on an airplane flight on which dinner was included in the ticket price. Because of official duties, the employee ate a late lunch and did not eat on the airline, where the dinner was served 1-1/2 hours

after his lunch, and well in advance of the normal dinner hour. B-192246, January 8, 1979.

b. Reimbursement denied for another meal

Where an employee traveled on an airplane to a TDY station, and claimed the cost of a dinner purchased after his arrival at the TDY station, reimbursement could not be allowed, since the cost of his meal was included in the government-paid airplane ticket. The facts that the employee had not eaten by his personal choice, or that he desired additional food, are not sufficient reasons to allow reimbursement. B-193504, August 9, 1979.

6. Expense must be incurred

An employee may not be reimbursed for lodging costs on a day he does not incur lodging costs, such as the last day of travel, even though the lodging expenses for previous days may have caused the employee to exceed the maximum authorized daily rate. B-164272, June 24, 1968.

7. Excessive meal costs

An employee who was authorized his actual subsistence expenses for a TDY assignment lasting approximately 2 months obtained lodgings at a monthly rate which was considerably cheaper than the daily rate. However, the employee submitted a claim for his daily expenses at or near the maximum allowable rate, as the employee spent exorbitant amounts for his meals. The employee could be reimbursed only for reasonable expenses for his meals. Travelers are expected to act prudently in incurring expenses. B-186078, October 12, 1976.

Certain employees were authorized actual subsistence expenses for the first 30 days of their TDY assignment. The employees obtained lodging at a monthly rate and at significant savings over the average daily rate charged for other available lodging. The lodgings savings resulted in proportionally higher meal expenses than the agency anticipated, causing the agency to question the reasonableness of the employees' meal expenditures. Employees are entitled to reimbursement only for reasonable expenses for meals, since a traveler is required to act prudently in incurring such expenses. Here, the agency had established guidelines limiting the amount

that employees properly could spend on meals, and the employees' expenditures were within those guidelines. Since there was no further evidence that the meal expenses claimed were extravagant or unreasonable under the circumstances, the employees could be reimbursed for their expenditures. Social Security Administration employees—Claims for actual subsistence expenses while on temporary duty, B-208794, July 20, 1983.

8. Apartment costs

An employee on TDY who was authorized actual and necessary expenses, and who rented an apartment, could be reimbursed for his electricity; reasonable cleaning fees; telephone user charges (but not installation); and television rental. 56 Comp. Gen. 40 (1976) and 49 Comp. Gen. 753 (1970).

An employee on TDY who lodged at the apartment of a private party was not entitled to reimbursement of the amount paid for his lodgings in the absence of evidence that the rental agreement was the result of an arm's-length business transaction between the parties, or that the expenses were otherwise reasonable and within the standards set forth in 52 Comp. Gen. 78 (1972). Andres Tobar, B-209109, December 15, 1982.

9. Excessive costs

An Internal Revenue Service (IRS) employee who had been in an actual subsistence expense travel status submitted claim for meal expenses which was found to be excessive based on survey of meal expenses of other employees on same temporary training assignment. IRS' reduction of employee's meal expense reimbursement to the average amount reimbursed to other employees attending same training program is arbitrary. Since the IRS has failed to substantiate a basis for the reduction, the employee's claim is allowed. Coleman Mishkoff, B-212029, August 13, 1984.

An employee is entitled to reimbursement for only reasonable expenses incurred incident to a TDY assignment, since travelers are required by FTR para. 1-1.3a to act prudently in incurring expenses. That paragraph provides:

"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."

Also, see; 2 JTR para. C4464-1 to the same effect.

In applying this requirement to claims for reimbursement of various types of travel expenses, this Office has consistently held that it is the responsibility of the employing agency to make the initial determination as to the reasonableness of the claimed expenses. See, for example, B-197621, B-197622, February 26, 1981. Where the employing agency has made the initial reasonableness determination, this Office will overturn the agency's determination only where our review of the evidence results in a finding that the agency's determination was clearly erroneous, arbitrary or capricious. B-198775, April 16, 1981. The burden is on the employee to prove that the agency's determination is defective. See, 4 C.F.R. § 31.7. In cases where the agency has not made a determination concerning reasonableness, this Office normally returns the claim to the agency for it to make the initial determination. B-186078, October 12, 1976. For case examples involving laundry expenses, see B-203857, December 15, 1981 and B-202778, June 28, 1982.

10. Laundry and dry cleaning expenses

An employee who was being reimbursed temporary duty travel on an actual expense basis asserted a claim for laundry and dry cleaning expense. Normal laundry and dry cleaning is deemed an accumulated expense and is to be prorated over temporary duty period. Since his total daily expenses were considerably less than the maximum daily rate authorized, he may be reimbursed the daily pro rata cost of laundry and dry cleaning during that period. Richard E. Garofalo, B-213777, August 8, 1986.

D. Unusual Circumstances

1. Inflated costs because of conventions, sports events or other causes

Where travel is to an area where the choice of accommodations is limited, or the costs of accommodations are inflated, because of conventions, sports events, natural disasters, or other causes which reduce the number of units available, such events may be considered as unusual circumstances of the travel assignment which

would permit payment of expenses to an employee or member on an actual expense basis, depending upon the circumstances of each case, and the necessity and nature of the travel. 59 Comp. Gen. 560 (1980).

2. "Ten-hour rule"

Guidance issued by the Assistant Administrator of GSA interpreting the FTR does not bind agencies as does the FTR, but GAO will accord deference to such guidance. Since a GSA employee relied on the GSA guidance interpreting the FTR as precluding the application of the "ten-hour rule," (see FTR para. 1-7.6d(1) and CPLM Title III, Chapter 6), in the case of actual subsistence reimbursement, and since decision B-184489, April 16, 1976, was similarly interpreted by a number of agencies, the "ten-hour rule" was not applied to this employee, nor in cases of actual subsistence reimbursement prior to the issuance of 58 Comp. Gen. 810, but the rule applied after September 27, 1979, the date of the issuance of our original decision. 60 Comp. Gen. 132 (1980); modifying in part 58 Comp. Gen. 810 (1979). See also, B-198575, August 11, 1981.

3. Consultant—leased apartment

A consultant who maintains an apartment in Washington, D.C., for his use when he is in Washington for business, could include 1/30 of his monthly rental as part of his daily subsistence expenses on those days he is engaged in official business. B-185467, May 5, 1976.

4. Rental of block of rooms

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. Dale Adams, et al., B-219147, February 11, 1986.

5. No-show reservations

An employee made confirmed reservations at a motel by using her credit card for nine other employees and herself who were scheduled for temporary duty. The employee and seven of the other employees made reasonable attempts to locate the motel on the first night but could not do so due to an erroneous address in a General Services Administration (GSA) Directory. The employee incurred liability of $276.48 for eight no-show reservations, and her agency has determined that she acted in a reasonable manner and in her official capacity. We grant her claim in these circumstances in which the failure to locate the proper motel and consequent liability for no-show reservations was due to an erroneous address in the GSA Directory. Dora M. Perez, B-225155, July 16, 1987.

6. Dual lodgings costs

An employee on TDY who was authorized actual subsistence expenses incurred dual lodging costs on the same night. He could be reimbursed his actual subsistence expenses up to the authorized amount, so long as an appropriate official determines that the employee had no alternative but to retain lodgings at his regular TDY post, while occupying lodgings at another temporary post. 55 Comp. Gen. 690 (1976). However, where an employee's TDY was interrupted on two occasions for personal reasons, his claim for his lodgings expenses while he was absent from duty could not be paid without a showing that the employee had no alternative but to retain the lodgings during the periods of absence from the TDY station. B-190525, April 7, 1978.

An employee on TDY was unexpectedly ordered back on official business to his permanent post of duty for a 3-day period during his scheduled TDY. The rent had already been paid on an apartment at the TDY site on a monthly basis. The agency disallowed a claim for his lodging expenses on the rented apartment for the 3 nights that the employee stayed at his PDY station. The employee was entitled to the reimbursement of his lodging expenses for the apartment at the TDY site for the 3 nights that he was at his PDY station. Payment

was based on the agency's recognition that the employee acted reasonably in retaining his lodgings at his TDY station. B-206057, June 16, 1982; citing the principle set out in 59 Comp. Gen. 609 (1980) and 59 Comp. Gen. 612 (1980), that when an employee has acted reasonably in incurring otherwise allowable lodging expenses pursuant to his TDY travel orders, but the orders are later canceled for the benefit of the government, and the employee is unable to obtain a refund, reimbursement of the expenses should be allowed to him as a travel expense to the same extent that they would have been, if the orders had not been canceled.

7. Reserved accommodations—assignment canceled

Federal employees may be allowed reimbursement of their expenses when they reserve hotel accommodations for an official travel assignment and forfeit the room deposit because the assignment is subsequently canceled, but only if they exercise reasonable prudence in minimizing the costs involved. Hence, an employee of the Army Corps of Engineers may not be reimbursed for a forfeited room deposit where it appeared that he could have avoided the forfeiture if he had taken reasonable action to notify the hotel promptly after learning of the cancellation of his trip, and he failed to take that action. Miguel H. Cintron, B-221662, July 28, 1986.

8. Lodging with friends or relatives

An employee who was transferred from Chicago to Springfield, Illinois, thereafter performed TDY travel on an "as required" basis throughout Illinois, including Chicago, where his family continued to reside. His subsistence expenses while staying with his family in Chicago were administratively disallowed, since he stayed at his family's residence. Since Springfield was the employee's PDY station, the fact that he stayed with his family while on TDY does not bar reimbursement of his travel expenses. Algie Horton, Jr., 64 Comp. Gen. 902 (1985).

Agency's disallowance of employee's claim for $20 per night paid to employee's parents for lodging with them in New York City while assigned there on official business is sustained. Employee submitted no documentation of the specific expenses incurred by his parents. Under these circumstances, the agency's determination that the amount claimed was excessive is not clearly erroneous, arbitrary, or capricious. Robert J. Gofus, 66 Comp. Gen. 347 (1987).

E. Subsequent Approval

1. Substitution of subsistence expenses for per diem

An employee who was authorized per diem, who forfeits his prepaid rent and a security deposit as a result of a shortened TDY assignment, may be reimbursed for his actual subsistence expenses, if the agency determines that the employee otherwise qualified for actual subsistence expenses. His rent may then be prorated over the time the employee actually occupied the lodgings, but not for the period of the rental agreement. B-184006, November 16, 1976; B-188346, August 9, 1977; and B-138032, January 2, 1959.

2. Banquet expense

An employee could not have his per diem changed to actual subsistence expenses to cover the cost of attending a banquet held in conjunction with a meeting. However, if the employee's agency administratively determined that the banquet was an integral part of the meeting, the cost of the banquet could be included in the cost of the meeting with an appropriate adjustment of the per diem. 42 Comp. Gen. 549 (1963).

3. Change in subsistence rate

An employee may not have his actual subsistence rate changed retroactively, in the absence of error, as generally travel authorizations may not be modified retroactively. B-164228, October 9, 1975.

F. Authorized Reimbursement

1. Agency-established maximum

An employee claimed reimbursement for meal and miscellaneous expenses incurred while attending a conference. The agency reduced the amount allowed for reimbursement on this item to a percentage of the statutory maximum actual subsistence allowance, as specified in an agency guideline. We concluded that the agency was justified in reducing the employee's reimbursement for meal and miscellaneous expenses, and that the formula used to reduce these expenses, was not arbitrary nor capricious, and so was permissible. Robert P. Trent, B-211688, October 13, 1983.

Since there is nothing in the statute or implementing regulations precluding an agency head from prescribing a daily limitation on the amount that may be paid a traveler who is being reimbursed on

an actual expense basis for his lodgings, the agency head may, by regulation or agency-wide policy, place a limitation on the lodgings. B-182853, January 30, 1976.

2. Maximum daily reimbursement

An employee was authorized his actual subsistence for TDY assignments totaling 22 days within a 30 day period in the same city. The employee rented lodgings at a special rate for 30 days which was $54 cheaper than the daily rate for 22 days. He was entitled to reimbursement on the basis of dividing the total lodging cost by 22, instead of 30. B-183341, May 13, 1975.

Lodging expenses accrue on a daily basis, and ordinarily actual subsistence expenses incurred each day may not be averaged to avoid exceeding the maximum daily allowance for subsistence. Further, the employee could be reimbursed only for his actual expenses incurred during any one day, if they are less than the authorized amount. However, if the employee remains in the same accommodations, but reduces costs by electing to pay a lodging rate varying with the day of the week, rather than a weekly rate accruing in equal daily amounts, he may be reimbursed the average of the variable rates paid over the applicable computation period. Reimbursement of the average rate, in these circumstances, is consistent with the rule than an employee should limit expenses to the extent a prudent person traveling on personal business would limit his own travel costs. B-205396, July 20, 1982 and B-192026, October 11, 1978.

3. Actual occupancy less than for period prepaid

Where employees on a training assignment paid for their lodgings in advance, and the training assignment was cut short unexpectedly, reimbursement could be made on the basis of dividing the total payment by the actual number of days of occupancy. The amount reimbursable could not exceed the maximum authorized per day for the area involved. B-191447, November 27, 1978.

4. Use and costs of hotel room

An employee on TDY, for purposes of recruiting new employees for his agency, rented a room in a hotel as his personal lodging, and in it he also conducted interviews of prospective candidates for

employment. The employee could not be reimbursed for all or part of the rental of the room as a necessary expense of conducting government business, rather than as part of his actual expense for lodging, since he incurred no extra expense for such lodging due to the interviews conducted there. B-200040, May 6, 1981. That decision was based on our decisions B-35306, June 29, 1943 and B-129696, December 13, 1956, in which we held that only the charges in excess of those charged for single rooms available at the same hotel for lodging purposes could be paid for as rental of office space for official business. The remainder of the room rental charge was required to be paid by the employee as the cost of his personal lodging. Compare: B-206720, June 23, 1982, where an employee on TDY stayed in a hotel room next to the Attorney General in order to conduct press conferences for the Attorney General. The employee could not be reimbursed for that part of the rental cost that exceeds the daily maximum amount allowable. The excess cost may not be treated as a necessary expense of conducting official business, rather than as part of his actual subsistence expenses, since the employee incurred no extra expenses for the room due to the press conferences conducted there.

G. Agency Responsibilities

1. Review and administrative control

Agencies should establish procedures for the review of expenses claimed by any traveler who is reimbursed for his actual expenses to determine whether the expenses were allowable and whether the expenses were incurred incident to the travel assignment. FTR para. 1-8.3b. An employee on a TDY assignment questioned his agency's authority to issue guidelines limiting reimbursement for meals and miscellaneous expenses to 46 percent of the maximum rate for actual subsistence expenses when the traveler incurs no lodging expenses. An agency may issue guidelines alerting employees that the maximum amount considered reasonable under ordinary circumstances is 46 percent of the statutory maximum, but it should also provide that amounts in excess of 46 percent may be paid, if adequate justification based on unusual circumstances is submitted. B-201554, October 8, 1981. See also, B-207563, September 8, 1982.

An employee who attended a meeting sponsored by a private organization in an HRGA was provided a lunch and dinner without cost to the government. Under 5 U.S.C. § 4111 and para. 4-2.1 of the FTR, the employee's reimbursement for actual subsistence

expenses—which was limited to $75 per day—need not be reduced by the value of the provided meals. Agencies have considerable discretion to determine the extent to which travel allowances must be offset by the amount of a private contribution. Neither the statute nor its implementing regulations expressly require an agency to reduce an employee's entitlement to other subsistence expenses actually incurred by the value of a private contribution. Walter E. Myers, 64 Comp. Gen. 185 (1985).

2. Constructive travel

An employee who traveled by a POV on TDY for his personal convenience requested that his constructive travel entitlements be increased by the amount of per diem he would have received if he had traveled by a common carrier. An employee's constructive travel was properly computed by using the actual expense method for the time he would have spent traveling by an airplane. His travel orders provided for his actual expenses, and his agency computed the constructive travel properly, since it is unlikely that the employee would have incurred additional subsistence expenses while traveling by an airplane. B-195908, January 22, 1981.

An employee, prior to leaving his PDY station for his leave point, was authorized travel to two TDY stations and return. Since the authorization for TDY occurred before the departure from the PDY station, he was properly reimbursed his actual travel expenses not exceeding the constructive cost of round-trip travel by a direct usually traveled route between the PDY and TDY stations. Lawrence O. Hatch, B-211701, November 29, 1983.

H. Interruption of Subsistence Status

1. Subsistence status interrupted for personal reasons

An employee assigned to a 2-month TDY assignment in Washington, D.C., interrupted his assignment and was away from Washington on two occasions—once for medical reasons and once due to a death in his family. The employee's claim for lodging expenses incurred while he was away from Washington could not be paid, as there was no determination that he had no alternative but to retain the lodgings while away from the TDY station. B-190525, April 7, 1978.

An employee, whose official duty station was Washington, D.C., was on TDY assignment in New York City. He took annual leave on

Thursday and Friday and utilized the weekend to attend a family funeral in Denver. He returned to his TDY site on Sunday. Although the employee would be entitled to subsistence expenses for Saturday and Sunday, he is not entitled to the constructive cost of 2 days subsistence as an offset against the cost of his travel to and from Denver. William H. Tueting, B-208232, December 2, 1982.

An employee on a temporary duty assignment returns home late in the day after being notified of a death in the family and is required by the motel to pay for his room for that day due to the lateness of his departure. Since the employee was in a travel status on official business at the time he became obligated to pay for the motel room, his lodging costs may be considered an actual and necessary expense of travel within the meaning of the Federal Travel Regulations and included in his actual subsistence expense allowance for that day. A. Brinton Cooper III, B-213163, February 6, 1984. But see 5 U.S.C. § 5702(b)(1)(B) and FTR Chapter 1, Part 12 (Supp. 20, May 30, 1986) which now authorizes emergency return travel under certain circumstances.

2. Return to duty station on nonworkday

An employee on an extended TDY assignment in Washington, D.C., returned to his home voluntarily on a nonworkday break. However, he did not return to the TDY station due to medical reasons. Although he, in effect, abandoned his TDY assignment, he could be reimbursed for his subsistence expenses up to the point of abandonment. Since his travel home was part of voluntary weekend travel under FTR para. 1-8.4f, he could be reimbursed for the travel to the extent it did not exceed the allowable travel and subsistence expenses he would have incurred if he had remained at the TDY station. B-190525, April 7, 1978.

3. Weekend return travel

Where an agency determines, after a cost analysis, that the cost of reimbursing employees who are required to perform extended periods of TDY for the expenses of returning home for weekends is outweighed by savings in terms of employee efficiency, productivity and retention, the cost of weekend return travel may be considered a necessary travel expense of the agency. 55 Comp. Gen. 1291 (1976).

An employee, whose official station was Martinsburg, West Virginia, and who was performing TDY in Cincinnati, Ohio, traveled to Parkersburg, West Virginia, on the weekends for personal reasons. The employee could not be reimbursed transportation expenses on a comparative cost basis under FTR para. 1-8.4f, unless he returned to his PDY station or place of abode. During weekend travel to a location other than his residence or PDY station, his entitlement to actual subsistence expenses continued, and the fact that he actually incurred relatively few subsistence expenses did not entitle the employee to reimbursement of transportation costs incurred for personal reasons. James R. Curry, B-208791, January 24, 1983.

I. Evidence of Actual Expenses

1. Itemization

FTR para. 1-8.5 requires that a traveler authorized actual subsistence expenses itemize his expenses in a manner prescribed by his agency which will at least permit a review of the amounts spent for lodgings, meals, and other items of subsistence. An agency may determine the reasonableness of a claim for reimbursement of meals by a traveler who itemized the cost of meals on a daily basis, when the agency's regulations only require itemization on a daily basis. However, itemization of each meal would provide a better basis for determining the reasonableness of the claim. B-186740, March 15, 1977. See also, B-205908, August 24, 1982.

An employee in a travel status in April and May 1984 was authorized reimbursement on an actual expense basis, and he claimed meal expenses in excess of the agency guideline permitting reimbursement up to 45 percent of the daily maximum per diem rate, as reasonable, without requiring further justification. The employee later reduced his claim to an amount equal to the 45 percent guideline, but again did not itemize his daily meal costs. The agency, recognizing that he had incurred some meal costs, reimbursed him less than 45 percent of the applicable rate. The employee claims additional reimbursement, arguing that since his revised claim did not exceed 45 percent of maximum per diem, he is not required to itemize or further justify his expenses. His claim may not be paid since paragraphs 1-8.5 and 1-11.5(b)(2) of the Federal Travel Regulations (FTR) require subsistence expense itemization to at least permit agency review. While written agency guidelines may authorize, as reasonable, subsistence reimbursement up to 45 percent of a maximum per diem rate, such guidelines do not supersede other

requirements of law or statutory regulations. Therefore, we concur with the agency action to require the employee to comply with FTR requirements to support his additional claim. Edward C. Licht, B-227485, November 6, 1987.

Certain employees were authorized actual subsistence expenses for TDY assignments in Los Angeles, California. The employees lodged together in order to reduce their lodging costs, but they submitted claims for reimbursement of meal costs in excess of the amount the agency determined to be reasonable for their meals. The employees were entitled to reimbursement only for the reasonable expenses for their meals, since travelers are required to act prudently in incurring expenses. Here, the employees did not meet the burden of proving that this agency action was clearly erroneous, arbitrary, or capricious. B-197621, B-197622, February 26, 1981.

Where an employee failed to itemize his actual expenses, and he claimed reimbursement on a flat-rate basis, the claim could not be allowed, since employees detailed to an actual expense area may not be reimbursed at a per diem rate, and the voucher does not identify the daily expenditures for his meals for review and verification by the agency. B-190511, March 24, 1978 and B-191185, August 22, 1978. The employee had to provide an itemization of his actual food costs on a daily basis. 56 Comp. Gen. 40 (1976).

2. Estimates

Generally, an estimate of the average cost of meals per day is too general to be considered in compliance with the itemization requirements of what is now FTR para. 1-8.5, and an employee may not be reimbursed on that basis. However, we have held in cases where the estimate for expenditures for meals was such that it is reasonable to assume that at least the estimated amount would have been spent for food, the voucher may be certified. B-167662, September 18, 1969. However, where an employee who stayed with parents while on TDY submitted a breakdown of his parents' costs, which appears to the agency not to represent actual costs, the employee could be required to submit additional information explaining or substantiating the expenses, before the claim was paid. B-200079, April 3, 1981.

3. Repetitious amounts

Claims for dinners by an employee authorized actual subsistence, which are repetitious in amount and reflect the maximum amounts authorized, without receipts, do not conform to the FTR, and may not be certified for payment, without a determination by the agency that, in the circumstances, the amounts are reasonable. B-189623, May 19, 1978 and B-195380, December 5, 1979.

4. Without receipts

Where employees who performed TDY in an actual expense area were erroneously authorized per diem in their travel orders, reimbursement of their actual expenses may be made, provided the employees fully explain the lack of lodging receipts in their travel vouchers, and itemize their expenses to permit a review by the agency. B-192138, April 9, 1979.

J. Transportation in Lieu of Actual Subsistence Expenses

1. Commuting expenses

Where an employee on TDY in an HRGA lodged, at no cost to the government, 45 miles from his duty station, the commuting cost may be reimbursed in an amount not to exceed the actual expenses that would have been incurred, had lodgings been obtained in the high-cost area. No determination will be required as to what is a reasonable commuting distance, but agencies should limit the employee's choice of lodging location administratively, so that unreasonable commuting times will not be involved. B-192540, April 6, 1979. A determination by the FAA as to the reasonableness of expenses by an FAA employee was not arbitrary or capricious, where the employee's claim for reimbursement for his lodgings and taxi fares on an actual subsistence basis was reduced to those incurred by other FAA employees on the same TDY assignment. The employee utilized a travel agent, and made hotel reservations prior to the issuance of his travel orders, when the agency had rooms reserved at a lower cost; and resided further from the TDY site, when lodging was available within the immediate vicinity at a lower cost. No additional reimbursement was allowed. B-197576, September 8, 1980.

Travel Overseas

A. Authorities

The S.R. issued by the State Department applies to employees of government agencies overseas. (See also, certain provisions of the FTR.)

B. Tour Renewal Travel

See, CPLM Title IV, Relocation.

C. Educational Allowance

See, S.R. § 270.

1. Child custody arrangements

In our decision 59 Comp. Gen. 450 (1980), the issues presented related to the allowability of travel and transportation expenses, and education allowances, for the children of an employee stationed outside the continental U.S. in the light of a divorce decree providing that custody of the children shall be divided equally between the employee and his former wife. We concluded that the employee, as a new appointee, could be allowed travel and transportation expenses for his children under 5 U.S.C. § 5722, and education allowances for his children under 5 U.S.C. § 5924. The period of the entitlement for each child begins with the time when the facts and the intent of the parties show that the child became a member of the employee's household at the overseas duty station. The employee could not be allowed the expenses or allowances for "visitation travel," when the child actually resides elsewhere.

2. Child residency and purpose of travel

The children of an employee of the Panama Canal Commission who live in San Francisco with the employee's wife are not eligible for tour renewal travel to Panama to visit the employee during summer vacation. Unless the children return to Panama to live they cannot be considered members of the employee's household within the meaning of the Federal Travel Regulations. James R. Dunworth, B-212480, February 15, 1984.

3. Employee transferred to different foreign post

An employee was transferred from The Hague to Hong Kong, after his daughter had finished 3 years of high school, but before she began her senior year. The daughter remained at The Hague to complete high school. The employee could be reimbursed at the

rates designated for an educational allowance in Hong Kong, not at the higher rates for The Hague. B-186275, November 2, 1976.

4. Employee transferred to U.S.

There is no authority to continue the educational allowance to the end of the school year, when an employee is transferred to the U.S. The allowance terminates upon his transfer under S.R. § 274.23. B-156055, April 21, 1965.

5. Allowance in Panama City

An employee whose daughter had completed kindergarten in the U.S. was transferred to Panama City, Panama. He was unable to enroll her in a Canal Zone school due to the requirement that students be 6 years old or older on December 1. (His daughter's birthday was December 2.) He could not receive an educational allowance for sending his daughter to a private school in Panama City, as S.R. § 920 provides an educational allowance in Panama City only for handicapped children. B-177843, April 5, 1973.

D. Educational Travel

See, S.R. § 280.

1. Per diem

An employee's son traveled from the Canal Zone to the U.S. on a MAC flight to attend college. Due to the scheduling of the MAC flight, the son arrived 2 days earlier than necessary. He was not entitled to per diem for the 2 days awaiting the beginning of the school year. Per diem is limited to the time required to perform authorized travel. B-179178, March 21, 1974.

2. Entitlement

The travel of a USIA employee, his wife, and his son was authorized May 24, 1963, from Washington, D.C. to Oslo, Norway. The son, a Naval Academy student, left Washington in June 1963 by a military aircraft for training in the Mediterranean, visited Beirut, and traveled at government expense to Oslo, arriving on August 12, 1963. On August 30, 1963, he traveled to Washington to attend the Naval Academy. The employee could not be reimbursed for his son's travel from Oslo to Washington, since the son was not overseas for

the number of days required by S.R. § 284 for the entitlement to the educational travel. The son's travel overseas for training duty was unrelated to the employee's change of duty post. B-156493, June 17, 1965.

Since the entitlement to educational travel expenses under 5 U.S.C. § 5924(4)(B) is limited to travel to and from a university in the U.S., an employee was not entitled to the expenses for a dependent's travel between his overseas duty station and the Munich, Germany, campus of the University of Maryland. Educational Travel Expenses, B-209292, February 1, 1983.

E. Miscellaneous

1. Separation travel

In order for an employee to be reimbursed expenses incident to his return travel to his former place of residence, the travel must be clearly incidental to his separation and should commence within a reasonable time thereafter. An employee who resigned his position in Alaska effective October 2, 1981, notified his agency on March 2, 1982, of his intent to return to his former place of residence in the continental U.S. commencing on September 23, 1983, and who accepted employment at the location of the resigned position, did not meet the requirements for reimbursement. Consuelo K. Wassink, 62 Comp. Gen. 200 (1983).

2. TDY in U.S.

An employee of the DEA stationed in Japan was on leave in the U.S. at his personal expense. While on leave, he was ordered to TDY in Los Angeles. The employee was not entitled to be reimbursed for the cost of his return travel to Japan, unless his TDY was approved prior to his departure from Japan. B-187926, June 8, 1977 and 24 Comp. Gen. 443 (1944).

3. Loss on currency exchange

An employee on official travel may not be reimbursed for loss he sustains in reconverting traveler's checks and cash, drawn in British pounds, into United States dollars. As a general rule, the risk of incurring an exchange loss while on temporary duty in a foreign country lies with the employee. 23 Comp. Gen. 212 (1943). Absent statutory or regulatory authorization, losses incurred on a currency

exchange may not be reimbursed. Similarly, there is no authority for the agency to recoup any gain in currency conversion from the employee. Chester M. Purdy, 63 Comp. Gen. 554 (1984).

4. Travel for medical treatment

An overseas employee of the FBI permanently assigned to Caracas, Venezuela, traveled from Caracas to his home in Oklahoma City, Oklahoma, in order to receive medical treatment for pain in the upper portion of his back. Appropriated funds and GTRs were authorized to purchase the employee's air transportation. Since there was no specific statutory authorization for the payment of medical travel for overseas employees of the FBI, government funds could not be used to pay for such travel. The employee could not be reimbursed for the travel expenses incurred by his wife from Caracas to Oklahoma City in order to be with the employee, since there was no basis for the payment of the employee's travel expenses, no evidence that the spouse's absence would have resulted in great personal hardship for the employee, and no determination that the services of an attendant were required. B-191190, March 16, 1979; affirmed February 13, 1980.

5. Escort for overseas employee

See, CPLM Title III, Chapter 2—Applicability and General Rules, Subchapter I—Applicability, B. Specific Classes of Persons Covered, Private Parties, 1. Award ceremonies, b. Non-federal, (2) Escorts and attendants, (c) Escorts for overseas employee.

6. Lodging at other than TDY station

An Army employee sent on TDY to Slough, England, stayed, instead, in Cowley, rather than Slough. The reimbursement for per diem was limited to the rate for Slough, unless the Army determined, in accordance with the regulations, that suitable accommodations were not available in Slough. B-194256, September 17, 1979.

Two employees on official business in Reading, England, resided in London because they claimed only minimal lodging was available in Reading. Their per diem reimbursement is limited to the per diem rate for Reading since there is no evidence that suitable lodgings were unavailable in that locality. Jack R. Roeder, B-223053, November 10, 1986.

7. Entitlement after transfer to international organization

An AID employee transferred to an international organization for 4 years was not entitled to R&R travel, granting of earned leave benefits, and the reimbursement of his expenses incurred in the shipment of his personal automobile, since such benefits are not authorized under 5 C.F.R. § 352.310(a) (3), implementing 5 U.S.C. § 3582(b). 59 Comp. Gen. 130 (1979).

8. Passport for locally hired employee

A locally hired employee who meets the conditions for eligibility for tour renewal travel is generally entitled to the same benefits as an employee recruited in the continental U.S. Therefore, the employee could be reimbursed for the cost of obtaining passports for himself and his dependents, including photographs. 52 Comp. Gen. 177 (1972).

9. Cost of currency conversion and cablegram

The cost resulting from a currency exchange at an unfavorable rate, necessitated by regulations of the U.S.S.R. which required that payment for a hotel room be made in hard currency, not rubles, was allowable under FTR para. 1-9.1. The cost of a cablegram for the initial room reservation was also allowable. B-185286, August 26, 1976.

10. Traveler's checks

The cost of traveler's checks purchased in connection with travel outside the limits of the conterminous U.S. could be reimbursed. The amount of the checks could not exceed the amount reasonably needed to cover the reimbursable expenses incurred. B-182013, May 14, 1975.

11. Travel document cost

Fees in connection with the issuance of passports, visas, and health certificates, etc., could be allowed when necessary. 55 Comp. Gen. 1343 (1976).

12. Travel to obtain visa

An employee who traveled to and from Tokyo, Japan, to obtain a visa, could be reimbursed for the travel expense, if it was administratively determined that it was necessary for the employee to appear personally before the embassy in Tokyo to obtain the visa. B-153103, January 21, 1964.

13. Automobile insurance in foreign countries

See, CPLM Title III, Chapter 4, Subchapter I.

14. Fly America Act

See, CPLM Title III, Chapter 4, Subchapter I.

Sources of Funds

A. Authorities

FTR paras. 1-10.1 to 1-10.4 set forth the applicable regulations concerning the sources of funds.

B. Advance of Funds

1. Excessive advance

Travel advances are in the nature of a loan given to an employee and should only be given when clearly necessary. Also, travel advances should be held to the minimum amount necessary, which generally will be an amount to cover a time period before a voucher can be prepared by the traveler and processed by the agency. A $28,500 advance given an employee to cover his estimated per diem for a 1-1/2-year period was clearly beyond the contemplation of the statute and regulations authorizing travel advances. William T. Burke, B-207447, June 30, 1983.

2. Collection of travel advance debt—hearing

The Social Security Administration's debt collection procedures did not require hearing for the collection of an outstanding travel advance. The Debt Collection Act of 1982 and implementing Federal Claims Collection Standards do not require a hearing when collection is under the general provisions of 31 U.S.C. § 3716 and the travel advance recoupment provisions of 5 U.S.C. § 5705, even though a hearing would be required for collection of other debts under 5 U.S.C. § 5514. Gayla Chappel Reiter, B-219734, April 16, 1986.

3. Loss of advanced travel funds by traveler

Advanced travel funds in the amount of $768.80 were stolen from an employee's apartment, prior to his departure on TDY overseas. The agency head had to recoup the advanced travel funds from the employee, even though they were stolen. FTR para. 1-10.3c. Advances not fully recovered by deduction from reimbursement vouchers or voluntary payments shall be deducted from any salary due or retirement credit. FTR para. 1-10.3c(3). Advanced travel funds are a loan for the personal benefit of the traveler, who would otherwise expend personal funds for which he would later be reimbursed. A bond or other security can be required. B-183489, June 30, 1975.

An employee who was robbed of his $150 travel advance before departing for TDY apparently would not be able to recover those funds under what is now Money and Finance, codified at 31 U.S.C. § 3721, since the implementing agency regulations restrict the allowance of claims for the loss of money or currency to losses incident to fire, flood, hurricane, natural disasters, or theft from assigned government quarters. B-197927, September 12, 1980.

Where travel advance funds obtained by an employee's secretary on the basis of the employee's signed request remain unaccounted for in circumstances giving rise to a dispute as to whether the funds were returned to the government when the travel plans were canceled, the employee could not be relieved of liability for their loss on the basis that she never obtained physical possession of such funds. Travel advancements are considered to be like loans to an employee, and, thus, her personal funds. Where the employee cannot show that the funds were either expended for travel or refunded to the government, she is liable for them. B-200867, March 30, 1981. Having permitted another employee to pick up the funds for her, pursuant to agency procedures which allow an employee to send a representative, the employee was liable for their loss. B-204387, February 24, 1982.

4. Loss of unserialized train ticket

An employee of the SBA, under authorized travel orders, purchased an AMTRAK ticket by a GTR to travel from Washington, D.C., to Philadelphia, and return. While in Philadelphia, the return ticket and other personal items were stolen from her hotel room. She purchased another ticket for $20 cash, in order to return to Washington, D.C., and, subsequently, claimed reimbursement for the additional ticket. We held that where the employee purchased a replacement train ticket with her personal funds, because the unserialized ticket previously issued on a GTR was stolen and unavailable through no fault of the employee, she could be reimbursed for the full amount of the replacement ticket. B-206963, June 23, 1982.

C. Contributions From Private Sources—18 U.S.C. § 209

1. Generally

Title 18, U.S.C. § 209 sets forth the prohibition of employees receiving income from sources other than the government of the U.S.

2. Previous statutory provision

Prior to the enactment of 18 U.S.C. § 209 into positive law, similar provisions with only minor phraseology differences were contained in the Act of March 3, 1917, ch. 163, 39 STAT. 1070, 1106. Two distinct prohibitions are involved: One against the receipt by any employee, from any source other than the government, of any salary in connection with his services as such employee; and the other against the making of any contribution to, or supplementing the salary of, any employee for the services performed by him for the government. 36 COMP. GEN. 155 (1956).

3. Criminal nature of statute

Jurisdiction in the enforcement of what is now 18 U.S.C. § 209 rests with the Attorney General, since it is a criminal statute. Decisions of the Comptroller General which apply the provisions are not binding on the Attorney General. 37 COMP. GEN. 776 (1958) and 48 COMP. GEN. 24 (1968).

4. Application of 18 U.S.C. § 209 to travel

a. Generally

Payment of an employee's expenses incurred incident to official travel, including the cost of travel and subsistence must be made by the employing agency from appropriated funds. 36 COMP. GEN. 268 (1956).

b. Fly America Act

The Fly America Act, 49 U.S.C. § 1517, applies not only to transportation secured with appropriated funds, but also to transportation secured with funds "owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States." Where international air travel is secured with trust funds under the control of U.S., the Fly America Act Guidelines apply. B-200279, November 16, 1981.

c. Exceptions

Reimbursement for travel expenses, either in cash or in kind, from private sources constitutes an improper augmentation of the

agency appropriation, unless, (1) the agency has statutory authority to accept gifts or donation from private sources, or (2) the reimbursement is made directly to the employee by a tax-exempt organization for training purposes or for traveling expenses to attend a meeting pursuant to the authority of 5 U.S.C. § 4111. 49 Comp. Gen. 572 (1970).

In Customs Service Charging User Fees To Recover Cost of Instructing Travel Agents, 62 Comp. Gen. 262 (1983), we concluded that when employees of the U.S. Customs Service participate as instructors in programs to train travel agents in U.S. Customs Service requirements and procedures so that the travel agents will, in turn, provide this information to travelers, the U.S. Customs Service must charge a fee to recover the full cost of the special benefit conferred. Any receipts may be deposited to the credit of the appropriation of the U.S. Customs Service pursuant to 19 U.S.C. § 1524.

The U.S. Customs Service did not possess any general statutory authority to accept and use gifts or donations for agency purposes. Thus, if the offered items were considered as donations, acceptance and use of them by the U.S. Customs Service would be precluded as an unauthorized augmentation of their appropriations. See, 16 Comp. Gen. 911 (1937). Furthermore, the airlines, schools, and travel agents participating in the seminars and providing the offer of the free ticket did not appear to be eleemosynary institutions such that acceptance by the employee of the cost of transportation and accommodation would be authorized by 5 U.S.C. § 4111. Consequently, the U.S. Customs Service proposed that acceptance be considered proper under 31 U.S.C. § 9701 authorizing agencies to charge user fees to recipients of special benefits or services.

Here, the U.S. Customs Service informally advised us that providing information to the public about procedures and requirements affecting travelers is within the scope of its authorized agency activities. The U.S. Customs Service further stated that the normal procedure for responding to inquiries is not through seminars, but by the use of pamphlets or response to questions from travelers at the U.S. Customs Service clearance stations. However, here the U.S. Customs Service intended to participate at the request of the program sponsors, and it was the sponsors and the travel agents who would have primarily benefited from this activity by having the U.S. Customs Service representatives present to provide responses

to any inquiries that might arise following their discussions of U.S. Customs Service clearance procedures and requirements for travelers.

We had no objection to the U.S. Customs Service charging a fee for this service, even though some incidental public benefit was also served by their conduct of this activity. However, the fee recovered had to be reflective of the full cost of providing the special benefit in question, i.e., the full travel costs of the employees who provide the special benefit. We noted in this regard, that no recovery was proposed to be made for all the costs incurred while the employee was in a travel status. For example, subsistence or per diem costs (with the possible exception of accommodations) did not appear to have been included in the proposal made by the U.S. Customs Service. Customs Service Charging User Fees to Recover Cost of Instructing Travel Agents, 62 Comp. Gen. 262 (1983).

See also, Walter E. Myers, 64 Comp. Gen. 185 (1985).

d. Nonduty status

No augmentation question is present, if an employee receives travel and subsistence funds while he takes a leave of absence and voluntarily participates in an outside activity. 49 Comp. Gen. 572 (1970).

e. Acceptance of funds by employee

When a federal agency is authorized to accept gifts, the travel expenses incurred by an officer or employee directed to participate in a convention, seminar, or similar meeting of an "association of regulated industries," for the mutual interest of the government and the association, may not be made by the donor directly to the employee. The reimbursement or donation should be made to the agency, and credited to its appropriation. The employee should be paid in accordance with the laws and regulations relating to reimbursement for official travel. 46 Comp. Gen. 689 (1967).

f. Goods and services furnished in kind

Any accommodations, and goods or services, furnished in kind to an employee, may be treated as a donation to the employing agency, and either no per diem and other travel expenses may be paid to the employee or an appropriate reduction may be made in

reimbursing him, depending upon the extent of the donation. 46 Comp. Gen. 689 (1967).

g. Ceremonial flight

Ceremonial flights in which government employees and their wives participate as guests of commercial air carriers, at no cost to the employees or the government, do not seem to be violations of what is now 18 U.S.C. § 209, so as to make an audit exception necessary, so long as the flight has an official nature. 37 Comp. Gen. 776 (1958).

h. Recovery of reservation penalties—carrier liability

Where an air carrier becomes liable for liquidated damages for a failure to provide a government employee on official travel with confirmed reserved space the government is regarded as damaged by the carrier's default. Since the employee is precluded from accepting any payments from private sources incident to the performance of official duties, the payment should be made to the government and deposited with the miscellaneous receipts. 41 Comp. Gen. 806 (1962).

D. Use of Foreign Currencies

Specific provisions in appropriation statutes that authorize the use of foreign currencies for projects involving foreign travel are not viewed as having been impliedly modified by the enactment of the Fly America Act, 49 U.S.C. § 1517; hence, government-sponsored travel that can be financed only with such foreign currencies may be made on a noncertificated carrier, when otherwise available American-flag carriers will not accept such currencies. 55 Comp. Gen. 1355 (1976).

E. Contributions From Other Government Agencies

MSPB ordered all hearings conducted by its hearing officers to be conducted in the MSPB's field offices, instead of the home areas of appellants. Due to the resulting inconvenience, both the employing agencies, and the employees and their unions, offered to reimburse the MSPB for the travel expenses of the hearing officers, if the hearings were moved to the home areas. The MSPB could not accept reimbursement from other agencies, or augment its appropriations by accepting donations from the employees or their unions. 59 Comp. Gen. 415 (1980).

Claims for Reimbursement

A. Authorities

FTR paras. 1-11.1 to 1-11.7 set forth the applicable regulations concerning claims for reimbursement.

B. Fraudulent Claims

Employees of the Presidential Transition Team were given money on the strength of travel orders and vouchers representing that the money was for travel. No travel was intended or taken. The payments were intended as, in effect, salary. The money was repaid. Anyone of them knowingly and willfully participating in false representations may have violated 18 U.S.C. § 1001. Also, there are civil penalties for false or fraudulent claims against the U.S. 31 U.S.C. § 3729. Enforcement is vested in the Department of Justice. B-149372, February 14, 1978.

Although the False Claims Act—28 U.S.C. § 2514—relates to claims before the Court of Claims and has no direct application in the audit of a disbursing officer's accounts, it does not mean that it would be proper for a disbursing officer to pay, or for the GAO to allow, a claim thought to be fraudulent. If fraud is suspected, the claim obviously is of doubtful validity, and under the principles of Longwill v. United States, 17 Ct. Cl. 288 (1881), and Charles v. United States, 19 Ct. Cl. 316 (1884), the claimant in such cases should be left to his remedy in the Court of Claims. 41 Comp. Gen. 206 (1961) and 41 Comp. Gen. 285 (1961).

Title 28, U.S.C. § 2514 has no application to a claim which has been settled by payment; however, where an item of pay and allowances is wrongfully obtained through fraud, misrepresentation, or otherwise, such payment is an erroneous payment for recoupment as such. It would be proper to recoup only the specific portion of the claim which is based on fraud. 41 Comp. Gen. 285 (1961).

An employee may submit a claim to GAO for settlement, even though it is considered fraudulent by his agency. Where the employee's voucher is believed to be based upon fraud, only the separate items which are based on fraud may be denied. As to subsistence expenses, only the expenses for those days for which the employee submits fraudulent information may be denied, and claims for expenses on other days which are not based on fraud may be paid. Where an employee has been paid on a voucher for travel expenses, and fraud is then found to have been involved in a portion of the claim, the recoupment of the improperly paid item should be made to the same extent and amount as if his claim were

not yet paid, and were to be denied because of fraud. 57 Comp. Gen. 664 (1978); clarifying 41 Comp. Gen. 285 (1961) and 41 Comp. Gen. 206 (1961).

The decision in 57 Comp. Gen. 664 (1978) is applicable to military members and non-government employees traveling pursuant to invitational travel orders, as well as to civilian employees. 59 Comp. Gen. 99 (1979).

Where an employee submitted a voucher for travel expenses, and the claim for the expenses of actual subsistence was based on misrepresentation and apparent fraud regarding meals and lodgings, the entire claim for his actual subsistence expenses allowance for the days for which the fraudulent information was submitted was tainted by the fraud. The employee was not entitled to the payment of subsistence for those days. B-196364, January 6, 1981.

Where an employee has submitted a voucher which is, in part, based on fraud, only the separate items attributed to the false statements are to be disallowed as tainted by fraud, and any other amounts may be allowed, if otherwise proper. For these purposes, separate items are those which the employee could claim independently of his other entitlements. B-196364, January 6, 1981. See also, B-200838, April 21, 1981.

Since acquittal on criminal charges may merely involve a finding of the lack of the requisite intent or the failure to meet the higher standard of "proof beyond a reasonable doubt," the doctrine of res judicata does not bar the government from claiming in a later civil or administrative proceeding that certain items on the employee's voucher were fraudulent. 60 Comp. Gen. 357 (1981).

In 57 Comp. Gen. 664 (1978), we held, for purposes of reimbursement where fraud is involved, that each day of subsistence expenses is a separate item of pay and allowances. That rule is applicable to a claim which has not been finally decided on the merits, and is pending on appeal, even though the relevant events took place before the date of our decision in 57 Comp. Gen. 664 (1978). 60 Comp. Gen. 357 (1981). After deciding certain legal issues, we remanded the case to the Air Force for a recalculation of the amount of suspected fraud, and a determination of the number of days, if any, for which fraudulent information was submitted.

In our decision B-200642, May 18, 1982, reconsidering our decision 60 Comp. Gen. 357 (1981), we restated that the burden of establishing fraud rests upon the party alleging the same, and must be proven by evidence sufficient to overcome the existing presumption of honesty and fair dealing. Circumstantial evidence is competent for this purpose, provided it affords a clear inference of fraud and amounts to more than a suspicion or conjecture. If, in any case, the circumstances are as consistent with honesty and good faith, as with dishonesty, the inference of honesty is required to be drawn. Accordingly, a mere discrepancy or inaccuracy, in itself, cannot be equated with an intent to defraud the government. The framework for the recalculation necessary in the case was the lodgings-plus method of determining per diem expenses. 60 Comp. Gen. 181 (1981); 60 Comp. Gen. 53 (1981) distinguished.

Four employees signed and submitted various individual travel vouchers for a 2-month period of TDY. Subsequently, the Navy determined that they had inflated the amount claimed for their total cost of lodging by submitting fraudulent lodging receipts. A fraudulent claim for lodgings taints the entire claim for per diem on days for which fraudulent information is submitted, and per diem payments will not be made for those days. Since the original vouchers were tainted, no per diem could be paid, even if the employees' reclaim vouchers contained accurate statements of the per diem expenses. Upon the submission of further vouchers, separate items such as transportation expenses could be allowed, if the Navy determined that they were reimbursable and properly verified. B-206543, September 8, 1982. See also, 59 Comp. Gen. 99 (1979).

A reasonable suspicion of fraud which would support the denial of a claim or a recoupment action in the case of a paid voucher, depends on the facts of each case. Fraud must be proven by evidence sufficient to overcome the existing presumption in favor of honesty and fair dealing. Where an employee provides receipts for 2 of the 2-1/2 months of his lodging claim, at $65 a month, and receipts were not required at the time the travel was performed, it is reasonable to assume that the employee did incur a $32.50 lodging cost for the remaining 1/2 month of lodging, and the absence of such a receipt in these circumstances does not evidence fraud. B-202695, June 17, 1982.

Three employees were determined to have filed false travel vouchers and were criminally prosecuted. The Department of Justice

entered into a compromise plea agreement with each defendant, which permitted them to enter a guilty plea to a misdemeanor, and in turn they would make restitution of the fraudulent amounts. In response to the question concerning disposition of additional amounts withheld from the employees for those days tainted by fraud, the agency is advised that only the Department of Justice is authorized to compromise fraud claims and since it has done so in this case, moneys administratively retained are to be repaid the defendants, without personal pecuniary liability attaching to the finance and accounting officer by virtue of such payment. 31 U.S.C. § 3711(d) (1982). Buffalo District, Corps of Engineers - Travel Vouchers - Compromise of Claim, 65 Comp. Gen. 371 (1986).

An agency recouped subsistence expenses advanced to an employee, determining that he had fraudulently claimed the payment of maid tips on each day of a 19-day TDY assignment. We found that the agency sustained its burden of proving that the employee filed a fraudulent subsistence claim for one of the days, but that its evidence was insufficient to overcome the presumption of honest and fair dealing in favor of the employee for the remaining 18 days. Accordingly, the employee could recover subsistence expenses for the 18 days which are not tainted by fraud. However, the agency could reduce reimbursement for maid tips, if it determines that the claimed amounts are unreasonably high. Civilian Employee of the Department of the Navy - Suspected Fraudulent Claim for Subsistence Expenses, B-213624, May 10, 1985. See also, Civilian Employee of the Department of the Navy - Suspected Fraudulent Claim for Subsistence Expenses, B-219051, November 27, 1985; Civilian Employee of the Department of the Navy - Suspected Fraudulent Claim for Subsistence Expenses, B-213620, March 14, 1985; Civilian Employee of the Department of the Navy - Suspected Fraudulent Claim for Subsistence Expenses, B-213629, January 17, 1985; and Fraudulent Travel Claim, B-214130, January 11, 1985.

An agency denied an employee's claim for subsistence expenses, determining that he had submitted a false claim for private lodging expenses. We held that the employee's claim for subsistence expenses during the period he resided in a private residence must be disallowed in its entirety, because the record shows that the employee knowingly provided false information in support of his lodging claim. Fraudulent Travel Claim, B-217689, August 22,

1985. See also, Fraudulent Travel Voucher, B-217989, September 17, 1985; and Fraudulent Travel Claim, B-217687, August 22, 1985.

Submission of fraudulent travel vouchers for a temporary duty (TDY) assignment taints each day covered by the vouchers and disqualifies the employee from any expense reimbursement for each such day. An employee cannot avoid this result by submitting corrected vouchers after it has been determined that the original vouchers were fraudulent. Mark J. Worst, B-223026, November 3, 1987.

A fraudulent claim for lodging taints the entire claim for per diem on days for which fraudulent information is submitted, and per diem payments will not be made for those days. Where fraud is suspected, the claim is of doubtful validity and the claimant is left to his remedy in the courts. Fraudulent Claim, B-225187, June 9, 1987.

C. Records of Travel and Expenses

1. Evidence sufficiency

A traveler's claim for reimbursement must accurately reflect the facts involved in every instance to avoid any violation, or apparent violation, of the FTR. 56 Comp. Gen. 104, citing FTR para. 1-11.1.

The burden is on the claimant to establish the liability of the U.S. and the claimant's right to payment. Thus, a HUD employee, appealing HUD's denial of reimbursement for certain travel expenses claimed to have been incurred while on TDY could not be reimbursed for those expenses for lodging which he could not convincingly demonstrate were both actually incurred in the amount claimed and essential, both as to amount and purpose, to transacting official business. Raymond Eluhow, B-198438, March 2, 1983.

An agency denied an employee's claim for subsistence expenses, determining that his claim for lodging in a privately-owned apartment was of doubtful validity. Although we found that the agency's evidence was insufficient to establish fraud on the part of the employee, the present record did not support payment of his private lodging expenses. Specifically, the employee did not show that the expenses resulted from a business arrangement or, alternatively, that they reflected additional costs incurred by his host. Fraudulent Travel Claim, B-217686, June 20, 1985.

2. Actual subsistence

a. Generally

An employee assigned on actual expense TDY failed to keep records of his meal costs, and failed to obtain receipts of the lodging cost. The employee was not entitled to per diem. Therefore, the employee's claim had to be limited by the requirements set forth in FTR paras. 1-8.5, 1-11.2, and 1-11.3c concerning itemization, records, and receipts. B-184614, October 5, 1976.

In order that actual subsistence expenses may be determined, FTR para. 1-8.5 requires an itemization of actual daily expenses. Thus, a daily average rate of $18 for meals, rather than an itemization of actual costs, could not be paid. 56 Comp. Gen. 40 (1976).

An employee was authorized his actual subsistence. He obtained lodgings at a reasonable rate of $13.78 a day. He spent, however, between $27.10 and $38.25 each day for meals, and submitted a claim for his daily expenses at or near the maximum rate. An employee is entitled to reimbursement only for the reasonable expenses for his meals, since travelers are required to act prudently in incurring expenses. An employing agency must determine what constitutes reasonable expenses for meals under the circumstances. B-186740, March 15, 1977.

b. Expense incurred

An employee who used a free airline ticket issued because of her husband's membership in an airline's frequent travelers club for travel on government business could not be reimbursed the constructive cost of the airline ticket, since she had not demonstrated that she paid for that ticket or had a legal obligation to do so. Thus, it was concluded that she acquired the transportation at no direct personal expense. Martha C. Biernaski, 65 Comp. Gen. 171 (1985).

c. Receipts required

(1) Generally—GAO requirements are ordinarily satisfied when legible copies of receipts are attached to travel vouchers to support employees' claims for reimbursement of travel expenses. See B-175111, February 14, 1971 and B-173221, April 26, 1973.

Where the Foreign Service Travel Regulations require receipts for each allowable cash expenditure in excess of $15, unless it is not practicable to obtain them or unless the duties of the traveler were of a confidential nature, AID properly disallowed actual subsistence expense claims for individual meal costs in excess of $15 each in the absence of receipts therefore. William L. Stanford and Melvin L. Boyer, Jr., B-207453, December 22, 1982.

(2) Disparity between receipts—An agency denied an employee's claim for subsistence expenses, determining that he had misstated his motel expenses for 3 days because the payments recorded on his receipts were higher than those entered into the motel records. We found that the agency's evidence was insufficient to establish fraud on the part of the employee, but that the employee had not sustained his burden of proving the government's liability for motel expenses at the higher rate shown on his receipts. Accordingly, reimbursement for the 3 days' lodging expenses was limited to amounts documented in the motel records. A lodging claim for an additional day was also denied, since the motel's payment records indicated that payment was not received, nor had a receipt been furnished. Fraudulent Travel Claim, B-217689, August 22, 1985. See also, Fraudulent Travel Claim, B-217687, August 22, 1985; and Fraudulent Travel Claim, B-217686, June 20, 1985.

(3) Third-party receipts—An employee, who performed TDY travel, asserted a claim for lodging expenses incident to that travel. That claim was denied by GAO in Richard E. Garofalo, B-213777, October 2, 1984, since FTR para. 1-8.5 required documentation of the incurrence of lodging expenses, and the documents submitted were inconsistent, incomplete, and did not convincingly support the claim. On reclaim, the earlier denial was sustained. The additional information submitted did not demonstrate that the individual who provided lodging to the employee received payment, or the amount thereof. There was no direct evidence to establish that the real estate agent to whom he made payment represented the owner of the residence where he stayed while on TDY. Richard E. Garofalo, B-213777, June 3, 1985.

(4) Use of credit cards—A rental car agreement stating that the cost had been charged to his personal credit card does evidence that the employee incurred the rental cost as a personal obligation and will be regarded as satisfying the receipt requirements of FTR

para. 1-11.3c(5), for the purpose of reimbursing the employee for the cost of the rental car. 55 Comp. Gen. 224 (1975).

An employee was authorized official round-trip travel from Washington, D.C., to San Diego, California, in November 1985. His wife accompanied him on the trip, and their airline tickets were purchased by the employee's secretary from the agency's Scheduled Airlines Traffic Office. Although the secretary was instructed by the employee to use his personal credit card and the government credit card to purchase the tickets separately, she inadvertently used the employee's personal credit card to purchase both tickets. The employee may be reimbursed the total cost of his airline ticket, notwithstanding the $100 cash purchase limitation contained in Federal Travel Regulations para. 1-10.2b and 41 C.F.R. § 101-41.203-2 (1985). The purchase of his ticket by his secretary with his personal credit card occurred through inadvertence and was contrary to the employee's intent and instructions. James W. Winchester, B-223815, March 20, 1987.

3. Copies of receipts

Concerning lodging receipts for attachment to a travel voucher, SF 1012, there is no requirement that such receipts be originals—legible copies are ordinarily acceptable to support the items claimed. As to certification by the payee on the face of the travel voucher that the amount claimed is correct, the receipt attached to the voucher serves as evidence of the amount paid, and details the nature of the expense and the basis for the charges. Certification by the payee is certification that the expenses have been incurred as evidenced by the receipts. If such expenses have not, in fact, been incurred, the provisions of 28 U.S.C. § 2514, and 18 U.S.C. §§ 287 and 1001, relevant to fraudulent claims, would be for consideration. See 39 Comp. Gen. 164 (1959) and B-175111, February 14, 1972.

4. Suspension of voucher

An employee on TDY rented an apartment by the week, and included his expenses for "utilities and incidental expenses" and "linen service, maid service, etc.," in addition to the weekly rental, in the total cost of the lodgings. The agency requested receipts for these additional expenses, but none were furnished. The claimed additional expenses could not be included. The regulations permit the agency to require receipts. Regulations also provide that items in

travel vouchers not properly supported by receipts, when required, must be suspended. B-180910, July 18, 1978.

The inability to procure receipts for lodging will not bar reimbursement when a hotel closed, due to bankruptcy, and no receipts were ever prepared. Other documentation, such as credit card receipts, cancelled checks, and cash receipts, if available, may be accepted in lieu of a copy of the hotel bill. B-191447, November 27, 1978.

See also, CPLM Title III, Chapter 7, I. Evidence of Actual Expenses.

5. Per diem

A claimant is entitled to the computation of his per diem allowance without any requirement of receipts for lodging for the period prior to the receipt of a memorandum from the Commander, PSNS, since the Commander exercised his discretion, and dispensed with any receipt requirement during the period in question. B-190006, May 24, 1978.

6. Travel vouchers and attachments

An employee in a travel status is responsible for maintaining a contemporaneous record of his expenses incurred incident to his travel and for submitting a voucher itemizing such expenses. 56 Comp. Gen. 40, 42 (1976), citing FTR paras. 1-11.2 and 1-11.3.

7. Use of authorized form

If a multiple-person travel voucher would serve the purpose of paying travel expenses incurred for foreign journalists touring the U.S. under arrangements with the U.S. Travel Service, Commerce should seek approval by the Administrator of GSA, in accordance with FTR para. 1-11.3a. 55 Comp. Gen. 437, 438 (1975).

Expenses incurred by youngsters on a recreation trip, and paid for by the recreation aide, were not reimbursable on a travel voucher, (SF 1012), since each traveler is required to sign a voucher to claim reimbursement for his authorized travel expenses, which he personally incurred. However, the expenses may be claimed and, if otherwise proper, paid on SF 1164, ("Claim for Reimbursement for Expenditures on Official Business"), or SF 1034, ("Public Voucher for Purchases and Services other than Personal"). If a multiple-

person travel voucher would serve the purpose of paying for the expenses incurred for the children under a recreation program sponsored by the Bureau of Indian Affairs, Interior should seek approval by the Administrator of GSA, in accordance with FTR para. 1-11.3a. B-186943, February 28, 1977.

An employee submitted a mileage claim which, while signed by the employee's supervisor, was on the wrong form, and, therefore, was rejected. The employee resubmitted the claim on the correct form which was not signed by his supervisor, but on which the supervisor's signature was typewritten. Since the employee intended to submit a claim to be reimbursed for the amount of miles he drove, and since the supervisor, when he signed the incorrect form, intended the employee to be reimbursed for such mileage, neither the use of the wrong form, nor the fact that the supervisor did not sign the correct form, served to defeat the employee's claim for his mileage reimbursement. B-195978, March 4, 1980.

8. Certification

a. Comptroller General decision

Comptroller General decision B-156593, April 8, 1966, authorizing the payment of a voucher in the amount of $124.38 was sufficient authorization to support the payment of the amount stated. Although the original approved voucher was not received with the decision, a properly certified substitute voucher incorporating all of the information shown on a copy of the original, could be paid. A copy of the decision in question could be attached to the substitute voucher, as evidence of the propriety of the payment. B-156593, September 9, 1966.

b. Items of $25 or less

Certifying and disbursing officers may, hereafter, rely upon the written advice from an agency official designated by the head of an agency, in lieu of requesting a Comptroller General decision, concerning items of $25 or less. A copy of the advice should be attached to the voucher, and the propriety of any such payment will be considered conclusive by GAO. B-161457, July 14, 1976.

c. Coast Guard

Vouchers covering the expenses of investigations under 14 U.S.C. § 93(e), which were incurred on official business of a confidential nature, and approved by a Coast Guard officer, but the nature of the expenses are unknown to the certifying officer, could not be certified for payment, without holding the certifying officer accountable for the legality of the payment. Title 14, U.S.C. § 93(e) contains no provision for the certification of vouchers by the Commandant of the Coast Guard, who is authorized to make investigations, and, therefore, the responsibility for certifying vouchers for payment is governed by 31 U.S.C. § 3325 which fixes the responsibilities of certifying and disbursing officers, and the payment for the costs of investigations may only be made in accordance with that provision. 49 Comp. Gen. 486 (1970).

d. Long-distance phone calls

A travel voucher, SF 1012, revised August 1970, provided for the certification of long-distance telephone calls by officials authorized under 31 U.S.C. § 348, on the voucher itself. Separate certification of long-distance calls was no longer required. 56 Comp. Gen. 28 (1976).

9. Evidence of authorization

A proposed amendment to what is now 2 JTR para. C3050, eliminating the requirement of written orders for sea trials, would not be proper, since FTR para. 1-1.4 requires that written orders be issued prior to incurring expenses, unless prior issuance is impractical or travel is of a limited nature in the vicinity of the employee's station. FTR para. 1-11.3b, which states that the travel voucher must be supported by a copy of the authorization, supports the above construction of FTR para. 1-1.4. B-181431, February 27, 1975.

A DOE employee sought reimbursement for two trips on TDY which his agency denied on the basis that the travel was unauthorized. Where the first trip was supported by the employee's blanket travel authorization and statements from other employees justifying the need for the trip, that travel could be reimbursed. Absent such evidence supporting the second trip, that claim was denied. Gene Daly, B-197386, June 15, 1983.

D. Preparation of Voucher

A transferred employee claimed per diem on a travel voucher which stated only the date of his departure from his old station, the date of his arrival at his new station, and the allowable travel time based on the miles between the stations divided by 300 miles per day. The payment of per diem must be suspended, since the voucher does not meet the requirements of FTR para. 1-11.5a, which specifies that the taking of leave and the exact hour of departure from and return to duty status be recorded. 56 Comp. Gen. 104 (1976).

An employee requested reimbursement for costs claimed to have been incurred for taxicab service in traveling to, and returning from, the airport. The employee refused to provide his residence address, contending that the agency had no authority to request such information. The FTR required that the employee provide his residence address with his travel voucher. Since the employee refused to provide this information, we concluded that the agency could properly deny reimbursement for the item. Robert P. Trent, B-211688, October 13, 1983.

On a reclaim voucher, an employee requested reimbursement for nine meals prepared at his lodging which had been listed as no charge items on his original voucher. Where the inconsistent items are due to a lack of understanding of the standards governing reimbursement, rather than fraud or dishonesty, and there is no other basis for questioning the accuracy or validity of the reclaim items, those items may be paid. John V. Lovell, B-215287, September 12, 1985.

Compliance with FTR para. 1-11.5a, which specifies voucher requirements, is not waived by FTR para. 2-2.3d(2), which fixes maximum allowable per diem on the basis of a minimum driving distance of 300 miles per day, since the latter provision is for application when it appears from a properly executed and documented voucher that the traveler failed to maintain the prescribed minimum mileage. 56 Comp. Gen. 104 (1976).

Agencies may administratively correct a travel voucher with underclaims not exceeding $30. Overclaims in any amount may be administratively reduced. 57 Comp. Gen. 298 (1978).

E. Suspension of Charges

FTR para. 1-11.7 provides that items in travel vouchers which are not stated in accordance with those regulations shall be suspended,

and requires full itemization of all such items which are reclaimed. 56 Comp. Gen. 104 (1976) and B-147476, November 19, 1974.

F. Settlement of Vouchers

Claims amounting to less than $25 should normally be handled by certifying and disbursing officers under the procedures authorized, allowing them to rely upon written advice from the official designated by the head of each department or agency, and such claims need not be submitted to the Comptroller General for a decision. B-192246, January 8, 1979.

G. Waiver of Overpayments

An employee, not in the Foreign Service, who was stationed in a foreign area, requests waiver of an erroneous payment of travel expenses which arose when he was authorized emergency round-trip travel to the United States through use of a Government Travel Request (GTR). There is no indication that the employee was aware he was not entitled to emergency travel at government expense or that he had any reason to question Mission and Embassy personnel who advised him and obtained the airline tickets at government expense. Therefore, we conclude that that erroneous payment of his round-trip airfare in the amount of $848.60 may be waived under 5 U.S.C. § 5584, as amended. Ronald Bartell, B-225977, April 14, 1988.

An employee seeks reimbursement of money collected from him for a travel overpayment. The overpayment was caused by the agency's failure to deduct a travel advance from the amount claimed by the employee at the time of voucher settlement. The employee claims, among other things, that he never received the money. We find no basis to allow the employee's claim based upon the written record, and this Office does not conduct adversary hearings. Further, since the overpayment was made prior to December 28, 1985, the effective date of waiver coverage of travel and the transportation expenses, waiver is not available in this case. Frank A. Barone, B-229439, May 25, 1988.

Expenses Connected With Deaths of Employees and Their Dependents

A. Authorities

See 5 U.S.C. §§ 5724, 5722, 5742, and 8134; FTR Chapter 3; and 2 JTR paras. C6050 through C6065. See also, CPLM Title III, Chapter 13, Subchapter I, L. Death of Foreign Service Officers, Employees, and Family Members.

B. Death of Employee While in the U.S.

1. Remains

a. Employee dies while stationed in Alaska

The preparation and transportation of the remains of an employee who dies while stationed in Alaska are not authorized under 5 U.S.C. § 5742(b), unless the employee was in a travel status. Furthermore, 5 U.S.C. § 5722, which prescribes travel and transportation expenses in connection with a transfer to and from a duty station outside the continental limitations of the U.S., does not authorize the transportation of the remains of an employee stationed in Alaska. 53 Comp. Gen. 120 (1973).

b. Employee dies while on leave

An employee who dies at a place of leave en route to his new duty station may be regarded as having been in a travel status during the period of leave within the meaning of 5 U.S.C. § 5742(b), even though for travel reimbursement purposes, the period of leave interrupted his travel status. 43 Comp. Gen. 128 (1963).

c. Employee dies while AWOL from TDY station

The preparation and transportation of the remains of an employee who was AWOL from his TDY station is authorized under 5 U.S.C. § 5742(b). 52 Comp. Gen. 493 (1973).

d. Employee dies while on TDY

A civilian employee who died at a place to which he had been ordered for "temporary duty," under orders precluding the payment of per diem in lieu of subsistence, may be considered as having been in a "travel status" at the time of his death within the meaning of 5 U.S.C. § 5742(b). 21 Comp. Gen. 591 (1941).

e. TDY expenses incurred before death

An employee of GSA died while on TDY for which he was authorized a per diem allowance. The payment of per diem in these circumstances is subject to the same rule which governs the payment of compensation to a deceased employee; namely, payment may be made to one legally entitled to the payment of the per diem allowance due to a deceased employee of the U.S. up to, and including, the entire date of his death, regardless of the time during the day that the death occurs, but such payment may not be made for any date later than the date of death. 60 Comp. Gen. 53 (1980). However, where the application of the above rule precludes reimbursement for the authorized expenses actually incurred by an employee, and definitely intended for coverage by the per diem entitlement, the agency may find that the employee's death comes within the scope of our decision in 59 Comp. Gen. 609. Accordingly, prepaid expenses incurred by a deceased employee could be reimbursed by his agency to the same extent as if the TDY had been cancelled or curtailed. 60 Comp. Gen. 53 (1980).

2. Transportation of dependents and household effects of deceased employees

a. Generally

A claimant paid towing and storage charges on the POV owned by a deceased employee. At the time of his death, the employee was on TDY, returning from a training session. The claimant also drove the automobile to the employee's last duty station. The claim for towing and the storage charges may not be allowed, since an automobile is not "baggage" within the meaning of FTR para. 3-2.7. Further, the claim for mileage is not allowable, since there is no authority to return a deceased employee's POV to his residence at his last official station. B-189826, April 7, 1978.

b. Death of employee en route to new duty station

Although an employee who takes sick while en route with his dependents to a new duty station, (the transfer was between duty points within the U.S.), would be entitled to mileage and per diem to the place of leave, and per diem during the period of hospitalization not in excess of 14 days, the death of the employee at the place of leave, before reporting to the new duty station, terminates any

rights to the further transportation of his dependents and household effects, so that his widow may not be reimbursed for their travel beyond the place of death, or for the expenses of having her household effects returned from the new duty station. 43 Comp. Gen. 128 (1963).

c. Shipment of HHG made after death

Where a GBL had been issued to cover the shipment of the household effects of a civilian employee (now deceased) to his new official station to which he previously had reported under change of station orders authorizing the transportation of his household effects, but the shipment was not accomplished until after his death, the right under the regulations to the reimbursement of the cost of the shipment did not cease with the employee's death, so that the collection from his estate of the cost, within allowable limits, was not required. 24 Comp. Gen. 319 (1944).

d. Employee who dies while in Alaska or Hawaii

The transportation of the dependents, and the household and personal effects, of a deceased employee stationed outside the continental U.S., while not authorized under 5 U.S.C. § 5742(b), is authorized under 5 U.S.C. § 5722, provided the employee has completed his agreed period of service. The basis for authorization is that the right to such transportation vested prior to the employee's death. In case the employee has not completed the agreed period of service at the time of his death, if the department or agency regards the situation as being a separation for reasons beyond the control of the employee, such transportation expenses are allowable. 40 Comp. Gen. 196 (1960).

C. Death of Employee While Traveling or Assigned Outside the U.S.

1. Remains

a. Death of employee assigned overseas while on leave in U.S.

Where a civilian employee died while on leave in the U.S. from his post of duty in a foreign country, the preparation of his remains at

government expense is authorized under 5 U.S.C. § 5742(b). 21 Comp. Gen. 1100 (1942).

b. Foreign employees

Where a Filipino was hired in the Philippines for overseas duty in the Marianas-Bonis Command, and died while in Guam, the cost of the preparation and encasement of the remains could be borne by the government under the Act of July 8, 1940, 5 U.S.C. § 5742(b). B-104496, B-104497, September 21, 1951.

2. Transportation of dependents and household effects of deceased employees

a. Transportation of automobile

The transportation of the automobile of a decedent who was stationed outside the U.S. is authorized under 5 U.S.C. § 5722, only if it is determined that it is in the interest of the government for the employee to have a POV. See, 2 JTR para. C6061. B-169032, May 19, 1970.

b. Transportation to location outside the U.S.

The transportation of a decedent's dependents and household and personal effects to a location outside the U.S. is authorized under 5 U.S.C. § 5722(a)(2), if the location constitutes the employee's actual residence prior to his assignment. B-171877.08, June 12, 1975.

D. Death of Dependent

1. Transportation of remains

a. More than 6 years after death

An Army civilian employee stationed overseas was given erroneous information that he was not entitled to have his deceased wife's remains transported to the U.S. at government expense, and, therefore, he buried her overseas. Seven years later, the employee learned of the mistake and requested the transportation of her remains to the U.S. The request for transportation was not a money claim, and was not barred by 31 U.S.C. § 3702 as untimely filed. B-195730, January 11, 1980.

b. Employee travel between overseas station and United States

An employee, not in the Foreign Service, stationed in a foreign area, performed emergency round-trip travel to the United States incident to a death in his family. His claim for reimbursement for the cost of that travel is denied. Travel entitlements of non-Foreign Service employees stationed in foreign areas are governed by the Federal Travel Regulations which do not authorize reimbursement for such personal travel. Ronald Bartell, B-225977, April 28, 1987.

Training

A. Authorities

1. Statutory authority

The authority for paying the expenses of training is found in 5 U.S.C. § 4109, which provides that the head of an agency may authorize the payment of all or a part of the necessary costs of travel and per diem to persons undergoing training. In the alternative, the cost of the transportation of the employee's immediate family, HHG and personal effects; packing, crating, temporarily storing, draying, and unpacking; are authorized to be paid, but only when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training. It has been the position of this Office that the travel expenses payable in connection with training assignments are limited strictly to those expenses specifically stated in the training statute. 58 Comp. Gen. 253 (1979). Reconsideration was denied in B-193197, January 10, 1980, where we held that agencies may not authorize reimbursement to an employee transferred overseas on a 2-year training assignment for the nontemporary storage of HHG and the expenses of shipping a POV, since the legislative history of 5 U.S.C. § 4109 indicates the congressional intent was not to include such authority. The payment of such items requires new legislation. See generally, 60 Comp. Gen. 478 (1981).

Reference should be made to Chapter 1, Title IV and Chapter 3, Title III of the CPLM.

2. Regulatory provisions

The regulations concerning contributions or payments incident to training by donor organizations under 5 U.S.C. § 4111, are contained at section 4-2.1 of the FTR.

3. Employees covered

Employees who may be paid the expenses of training in accordance with 5 U.S.C. § 4109 are those specified in 5 U.S.C. § 4101 and include employees of (1) executive departments, (2) independent establishments, (3) government corporations subject to 31 U.S.C., Chapter 91, (1982), (4) the Library of Congress, (5) the Government Printing Office, and (6) the government of the District of Columbia, as well as (7) commissioned officers of the Environmental Science Services Administration.

a. Competent orders

Where an agency is sending employees on training assignments, before the agency decides to pay for the transportation of an employee's dependents and HHG, cost comparisons, on an individual basis, are required by 5 U.S.C. § 4109 and the applicable agency regulations. Since proper cost comparisons were not made prior to issuing the orders authorizing the payment for the transportation of the employee's dependents and HHG, such orders were not competent, and could be retroactively modified to implement a Grievance Examiner's recommendations to allow the payment of per diem. B-193813, July 22, 1980.

4. Employees not covered

As noted in 5 U.S.C. § 4102, the Government Employees Training Act, as codified at 5 U.S.C., Chapter 41, does not apply to (1) a corporation supervised by the Farm Credit Administration (2) the TVA, or (3) an individual who is a member of a uniformed service during a period in which he is entitled to pay under 37 U.S.C. § 204, (except a commissioned officer of the National Oceanic and Atmospheric Administration); and does not apply, (except for 5 U.S.C. §§ 4110 and 4111), to (4) the Foreign Service of the U.S., and (5) an individual appointed by the President, unless specifically designated by the President for training under 5 U.S.C. Chapter 41.

a. Presidential appointees

Funds appropriated to the National Transportation Safety Board could not be used to pay for the cost of pilot training leading to a private pilot license for a member of the Board who is a Presidential appointee, and who has not been designated by the President to participate in a program authorized by the Government Employees Training Act, 5 U.S.C. Chapter 41. B-166117, March 17, 1969.

B. Relocation Expenses or Per Diem

1. Generally

An employee who was paid per diem while participating in a 9-month Congressional Fellowship could not be reimbursed for transporting his family and HHG under the provisions of 5 U.S.C. § 4109, applicable to training, because that statute authorizes reimbursing an employee for necessary expenses of training, including, either

travel and per diem; or the transportation of an employee's family, HHG, and personal effects, when the estimated costs of the transportation are less than the estimated aggregate per diem payments for the period of training, and it was administratively determined that the employee should be paid per diem. B-169555, July 2, 1970.

An employee of the Army attended a training course, and was issued a travel order which authorized the shipment of HHG as being advantageous to the government: His claim for per diem for a 180-day period while attending the training course was disallowed, since 5 U.S.C. § 4109 provides that if the estimated aggregate per diem for the entire period of training is greater than the estimated costs of the transportation of the employee's family and HHG, the Department could authorize such transportation, (as was done in this case), rather than the payment of per diem during an extensive period of training. B-157616, February 21, 1968.

An employee assigned to long-term training may receive temporary duty allowances or permanent change-of-station allowances but not both. When an employee is authorized only temporary duty allowances, the issuance of a government bill of lading for the transportation of the employee's household goods in itself does not provide a basis for finding the agency intended to authorize permanent change-of-station allowances contrary to the terms of the travel order.

An employee who received per diem incident to a training assignment and, thus, could not have been authorized transportation of household goods for the same assignment, must reimburse the government to the extent the General Services Administration certifies payment, by the government, of a carrier's bills for transportation of her household goods performed under an erroneously issued government bill of lading. Rosemarie E. Naguski, B-212335, February 28, 1984.

2. Agency discretion

An employee, authorized travel for purposes of graduate studies, received per diem for his traveltime. He was not entitled to per diem for the period of his studies, nor to his moving expenses, as 5 U.S.C. § 4109 delegates to the agency head the discretion as to whether to pay all or part of the costs of travel and per diem; or, for the transportation of the immediate family, HHG, and personal

effects, when the transportation and related costs are less than the estimated per diem payments incurred during the training period. The policy of the employee's office to pay only for traveling to and from the training was a valid exercise of discretion under the statute. B-164864, November 19, 1968.

An employee of DOD was not authorized per diem during a period of training prior to reporting to his first official duty station, because of an agreement between agency personnel and finance officers not to pay per diem to employees whose residences were less than 50 miles from their training site. The subject employee resided 18 miles from the training location. The decision not to authorize per diem was a proper exercise of agency discretion, in light of a continuing policy that per diem be paid only where necessary to cover increases in the expenses of employees arising from TDY. B-185374, July 29, 1976.

An employee received a PCS, with long-term training at an intermediate location en route. The employee claimed travel and relocation expenses to the training location under 5 U.S.C. §§ 5724 and 5724a. Although PCS expense reimbursements are governed by sections 5724 and 5724a, travel and transportation rights for long-term training are specifically governed by 5 U.S.C. § 4109. Hence, an employee's entitlements for travel to a training location are limited by those provisions. Since an agency is authorized to limit reimbursement under section 4109, where the employee was informed before being accepted into the training program that all travel and transportation expenses to the training site would have to be borne by him as a condition of acceptance, and all trainees were treated equally, his travel and transportation expenses to the training location could not be certified for payment. John E. Wright, 64 Comp. Gen. 268 (1985).

3. Election by employee

An agency, by regulation, may permit an employee selected for training under the Government Employees Training Act, 5 U.S.C. Chapter 41, to elect to receive the transportation of his HHG, rather than per diem, whenever the transportation costs are determined to be less than the estimated per diem for the period of training. See, 39 Comp. Gen. 140 (1959).

C. Actual Subsistence Expenses in Lieu of Per Diem

The payment of actual subsistence expenses, instead of per diem in lieu of subsistence, to federal employees who participate in training away from their official stations, when in unusual circumstances the per diem provided is insufficient to cover the expenses, is not precluded by 5 U.S.C. § 4109, which authorizes reimbursement for various expenses of training, including the cost of necessary "travel and per diem instead of subsistence." Nothing in the legislative history of the Government Employees Training Act, 5 U.S.C. Chapter 41, indicates an intent to restrict employees undergoing training to reimbursement on a per diem basis as opposed to their actual subsistence expenses. Furthermore, 5 U.S.C. § 5702(c) provides for the payment of actual subsistence expenses in unusual circumstances, when authorized per diem is insufficient. 52 Comp. Gen. 684 (1973).

D. Expenses Allowed Upon Return to Headquarters

See also, CPLM Title III, Chapter 6.

1. During school recess

An employee who was paid per diem while pursuing a training course at Syracuse, New York, was later charged annual leave for periods when he returned to his headquarters during school recesses, and was required to refund the per diem paid for such periods. His claim for his travel costs between his headquarters and the TDY station, and per diem en route, not to exceed the per diem in lieu of subsistence which would have been allowable had he remained at the TDY station, was allowed. B-166469, October 29, 1969.

An employee who was authorized travel by a POV from Washington, D.C., to Boston, Massachusetts, to attend a university under orders providing for the payment of per diem at a rate of $16 for the first 30 days, and $11 thereafter, alleged that his return trips to Washington during school recess periods started new 30-day periods for purposes of per diem payments. No basis for the payment of additional per diem was presented, since his travel orders clearly stated that the employee would return to Washington during recess periods, and that he was entitled to the $16 rate for 30 days only. B-160985, March 17, 1967.

2. On official business

An employee moved his family and HHG to his training site at government expense based on a determination made under 5 U.S.C. § 4109(a)(2)(B) that the costs of such transportation were less than the estimated aggregate per diem payments for the period of training, and thus forfeited his right to per diem, while at the training site. In view thereof, the employee was entitled to his transportation costs and per diem, when required to travel on official business away from his training site, even while performing official duties at a location which would otherwise be his official station. For the purpose of the regulations, which prohibit the payment of per diem at one's PDY station, the training site could be considered the employee's PDY station, thus entitling him to per diem while temporarily assigned official duties away from the training site. 48 Comp. Gen. 313 (1968).

3. As part of training program

An employee, headquartered at Denver, but temporarily assigned to Washington, D.C., as a participant in a 10-month manager development program, as part of the program, returned to Denver for some 10 days. The FTR disallows per diem to an employee at his official duty station. However, since the subject employee's room and meal expenses, incurred at the official duty station, could reasonably be viewed as necessary training expenses incident to the program involved, reimbursement for out-of-pocket expenses could be made on an actual expense basis, not to exceed the per diem rate limitation. B-140417, June 20, 1972.

E. Travel and Miscellaneous Expenses

1. Thesis preparation costs

Defense Logistics Agency civilian employee requests reimbursement for the cost of typing and copying a thesis prepared in association with a long-term training program. Agency has broad discretion to pay all or part of the expenses of training, including all or part of thesis preparation costs. In employee's travel orders, agency limited reimbursement to $200, and stated that it was agency policy to so limit reimbursement unless orders specified differently. Based on the record before us, we will not overrule the agency's denial of reimbursement for these expenses. However, it is clear that the agency has authority to pay these expenses and we

would have no objection if the agency chooses to do so. Margaret J. Janes, B-212362, June 28, 1984.

2. Parking fees

An employee was authorized travel by a POV from Washington, D.C., to Boston, Massachusetts, to attend a university. Inasmuch as travel by a POV was to the advantage of the U.S. and since a $20 parking fee was required to park on the campus, the parking fee could be allowed. B-160985, March 17, 1967.

3. Travel from place of residence

An employee may be reimbursed for his mileage expenses incurred during six round-trips by a POV from his residence in Vienna, Virginia, to Washington, D.C., in connection with approved training, since 5 U.S.C. § 4109 provides that an employee may be reimbursed for all or part of the necessary expenses of training, including the costs of travel under 5 U.S.C. § 5704, which authorizes the use of POVs, when determined to be more advantageous to the government. The decision in 36 Comp. Gen. 618 (1957), requiring an employee to bear the cost of travel between his residence and place of duty was modified by 36 Comp. Gen. 795 (1957) to permit the payment of mileage from an employee's residence to his TDY station, with no deduction for the mileage normally traveled between the employee's residence and his headquarters. B-163852, April 25, 1968.

4. Unusual expenses

Concerning unusual expenses of personnel training at Harvard University and the University of Pittsburgh, there is no statutory basis for authorizing travel at government expense or per diem allowances for wives of civilian personnel in connection with "Graduation (Wives) Week." Parking fees are allowable, when mandatory, but telephone installation and service charges are not allowable when for personal convenience. Expenses for alcoholic beverages are not allowable. Moreover, "Cape Cod Weekend Expenses," "Can Group" dinner expenses, and a pro rata share for entertainment of faculty and students may not be considered to be the extraordinary costs of banquets incident to official business addressed in 42 Comp. Gen. 549 (1963). Neither could such expenses

be considered in determining the level of per diem, since the purpose of per diem is to offset the necessary subsistence costs of travel. B-174464, February 28, 1972.

5. Cost of storing HHG

An employee who will be permanently assigned to a new duty station upon completion of a training assignment, and who, upon entering training, was forced to vacate his government-owned residence, may not be reimbursed for the cost of storing his HHG. The applicable statute, (5 U.S.C. § 4109), contemplates that when paid per diem, employees bear their storage expenses. Payments made for packing and moving household effects to storage are proper; however, because where an employee's HHG are moved to or from government quarters for the government's convenience, the expenses of moving may be considered as part of the administrative costs of operating the installation. B-169893, July 29, 1970.

6. Day care

A Foreign Service Reserve Officer claimed reimbursement for dependent child care expenses incurred incident to his wife attending orientation and language training courses. Although an authorization act provided the Secretary of State with the discretionary authority to make grants to family members of officers and employees attending language and orientation programs of the Foreign Service Institute, the regulations implementing the grants were not issued until the expenses were incurred. The effective date of grant entitlements is the effective date of the regulations, and not the earlier effective date of the authorization act. B-197802, July 15, 1981.

F. Training Duty Prior to Reporting to First Duty Station

An employee who traveled at his own expense from his home in Houston, Texas, to Oxford, Wisconsin, for an interview with the Bureau of Prisons was sworn in on the day of the interview, and told to report to Dallas for 2 weeks of training prior to his entrance on duty in Wisconsin. He returned to Houston, and then attended orientation training in Dallas while en route to Wisconsin. He was not entitled to reimbursement for the expense of his round-trip travel between Oxford, Wisconsin, and Dallas, Texas, but only to the additional cost incurred by him because of the travel, via Dallas, while en route from Houston to Oxford. This employee, like

most prospective employees, was required to bear the expense of traveling to and from the place of his interview, and of reporting to his first duty station. B-182876, September 17, 1975.

Notwithstanding that a newly appointed employee was prevented from establishing a residence at his designated official duty station because of a temporary training assignment prior to his entrance on duty, his entitlement, incident to his travel to and from his TDY station, was limited to his travel from the official station to the temporary station, and return. Disallowance of his claim for travel expenses from his residence to the temporary station and return was proper. The general rule is that an employee must bear the expenses of his travel to his first PDY station, in the absence of a statute to the contrary. Therefore, when a new employee, incident to his travel to his first duty station, is assigned TDY away from his PDY station, the reimbursement of his travel expenses is limited to the additional costs of his travel related to the TDY assignment. 53 Comp. Gen. 313 (1973).

A resident of Syracuse, New York, who at the time of his hiring by the IRS, was assigned 30 days of temporary training duty in Philadelphia, Pennsylvania, thus preventing him from establishing a residence at his designated official station in Newburgh, New York, was entitled, incident to his voluntary return to Syracuse over four weekends, to have Syracuse considered as his residence for the purpose of para. 1-7.5(c) of the FTR, and to be reimbursed in an amount that did not exceed the per diem and other expenses that would have been allowed, had he remained at his TDY station. However, inasmuch as the employee was not in a subsistence status on weekends, the 8 nights involved could not be included in the average lodging cost computation. 53 Comp. Gen. 313 (1973).

See also, CPLM Title III, Chapter 2, Subchapter I, Prospective Employees.

G. Training Duty Prior to Change of PDY Station

An employee who upon completion of her Alaskan tour of duty, was authorized to travel with her husband to attend a training course at the University of Pennsylvania in Philadelphia, and was reimbursed for the constructive air travel cost for herself, per diem, and her husband's transportation, and paid on an actual expense basis for the movement of her household effects, was required under 5 U.S.C. § 4108 to execute a continued service agreement, if

the payment was to be considered proper, as incident to training. Furthermore, the activity authorizing the training had to approve the transportation of her husband and her household effects as incident to the training assignment. The subsequent transportation of her effects to Gallup, New Mexico, could be regarded as incident to her change of official station from Mt. Edgecumbe, Alaska, to Gallup, New Mexico, and the payment could be made on a commuted basis. B-162915, February 1, 1968.

H. Expenses Assumed By, and Reimbursed To, Contractor

The Bureau of Indian Affairs, which is authorized under 5 U.S.C. § 4109 to pay the necessary expenses of training employees pursuant to 5 U.S.C. § 4105, could, in negotiating a fixed-price contract with a university to design and coordinate educational workshops and to perform all administrative functions of the program, provide for the contractor to pay the transportation costs and per diem of Bureau participants in workshops. However, the amounts payable to the contractor for the travel expenses and per diem could not exceed the amounts that would be directly payable to the employees under 5 U.S.C. § 4109(a), and the reimbursement to the contractor should be on an actual expense basis. 47 Comp. Gen. 662 (1968).

I. Post Differentials

Under 5 U.S.C. § 4109, an employee who is authorized to receive training at an overseas location where a post differential is payable may, in the discretion of the head of the department, be paid all or part of the post differential, which is additional compensation payable under 5 U.S.C. § 5941, and also receive a per diem allowance, during the period of the detail, provided that such employee would be eligible for the post differential, if the detail or assignment was in connection with the official duties of his position, as distinguished from training. 39 Comp. Gen. 140 (1959).

J. Service Agreement Requirement

Under 5 C.F.R. § 410.509, the head of an agency or his designee is authorized to waive recovery of training costs extended under 5 U.S.C. § 4108, when an employee transfers to another agency or organization in any branch of the government prior to the completion of an agreed period of service, and gives notice of at least 10 workdays of his intent to transfer, and the losing agency determines that the collection of the training costs would be against equity and good conscience, or not in the public interest. 51 Comp. Gen. 419 (1972).

An employee's request for the payment of training expenses for a training program of 45 hours at a non-government facility did not receive final administrative approval until after the course commenced. Since 5 C.F.R. § 410.508(c) provides that the head of an agency may except training in non-government facility of 80 hours or less from the requirement for the advance execution of a service agreement, training within the scope of that exception is not required to be authorized in advance, but may be approved after-the-fact. B-201425, February 26, 1981.

The claim of an employee for training expenses at non-government facilities when the training request was approved, but lost, prior to any final administrative action, could be allowed, since the service agreement, signed prior to entering upon training, is not required for any training program that does not exceed 80 hours. B-187215, July 7, 1977.

An employee completed a course of instruction during his off-duty time at the University of Guam, a non-government facility, which culminated in his receiving an M.B.A. His claim for reimbursement was disallowed since the training exceeded 80 hours in a single program for which a continued service agreement under 5 U.S.C. § 4108(a) is required, and in order for the expenses to be eligible for government reimbursement, authorization in advance of the commencement of the training by an appropriate administrative official must be obtained. B-193641, August 22, 1979.

K. Shared Lodgings

The Food and Drug Administration reduced the per diem rate authorized for a group of employees performing official travel to attend a training course, based on an agency policy of arranging for shared hotel accommodations to be made available to groups of employees when they are attending training courses, as a means of reducing their lodging expenses. There is nothing inherently objectionable about this policy under the applicable laws and regulations, and the reduction of authorized per diem is consistent with the requirement of the Federal Travel Regulations that per diem rates be reduced when lodgings are available at a reduced cost. Hence, an employee who elected to have single accommodations as a matter of personal preference may not be allowed per diem at a higher rate on the basis of a theory that the shared lodgings policy is invalid.

Federal agencies are not required by law to establish identical maximum expense reimbursement rates for different employees performing the same or similar travel assignments, but reimbursement rates should be reasonably fixed under uniform policies applicable to all employees. Under this standard the Food and Drug Administration properly adopted a uniform policy of reducing per diem rates for employees on group training assignments when they are able to reduce their lodging expenses by sharing hotel accommodations, and of granting exemptions when room sharing is unavailable for a particular employee or would be unreasonable because of a medical problem or other factors. Laurie S. Meade, Jr., 67 Comp. Gen. 540 (1988).

L. Miscellaneous

1. Attendants for handicapped employees

See, Chapter 2—Applicability and General Rules, Subchapter I—Applicability, B. Specific Classes of Persons Covered, Private Parties, (2) Escorts and attendants, (a) Attendants for handicapped employees.

2. Meals and lodgings at headquarters

ACTION employees who train VISTA volunteers at their headquarters are frequently required to take meals with the volunteers and to remain at their headquarters overnight. Meals constitute an intrinsic part of the training sessions, and the Director, ACTION, has determined that round-the-clock supervision is required for the training. Since the agency head is authorized by 49 U.S.C. § 4955 to train VISTA volunteers and to provide supervision, technical assistance, and other support, the necessary expenses incurred for meals and lodgings at headquarters by employees who train VISTA volunteers may be reimbursed. B-193034, July 31, 1979.

3. Per diem versus station allowances

Under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, federal employees temporarily assigned to state and local governments and institutions of higher education are not entitled to both per diem and change of station allowances for the same assignment, even though 5 U.S.C. § 3375 permits the payment of both the benefits associated with a PCS and those normally associated with a TDY

status, since nothing in the statute, or its legislative history, suggests that both types of benefits may be paid incident to the same assignment. Therefore, on the basis of the interpretation of similar provisions in the Government Employees Training Act, 5 U.S.C. Chapter 41, an agency should determine, taking cost to the government into consideration, whether to authorize PCS allowances or per diem in lieu of subsistence under 5 U.S.C. Chapter 57, Subchapter I, to employees on an intergovernmental assignment. 53 Comp. Gen. 81 (1973) and 39 Comp. Gen. 140 (1959).

4. Official duty away from training site

An employee, who incident to moving his family residence to a training site under the authority in 5 U.S.C. § 4109(a)(2) (B) forfeits his right to per diem, is entitled to transportation costs and per diem when required to travel on official business away from the training site, even while performing official duties at the location which would otherwise be his official station. For the purpose of what is now FTR para. 1-7.6a, which prohibits the payment of per diem at a PDY station, the training site may be considered to be the employee's PDY station, thus entitling him or her to per diem while temporarily assigned official duties away from the training site. 48 Comp. Gen. 313 (1968) and 52 Comp. Gen. 834 (1973).

Special Classes

Subchapter I—Foreign Service Travel

A. Authorities and Applicability

1. Statutes

While the travel and relocation expenses of most civilian employees are governed by 5 U.S.C. Chapter 57 and the FTR, the Foreign Service Act of 1946, 22 U.S.C. §§ 1136 and 1138, gave the Secretary of State the authority to prescribe regulations for the payment of specified relocation expenses for Foreign Service Officers.

Effective February 15, 1981, the Foreign Service Act of 1980 repealed these provisions; Pub. L. No. 96-465, § 2205(1), 94 Stat. 2071, 2160 (1980); replacing them with essentially similar provisions; Pub. L. No. 96-465, § 901, 94 Stat. 2071, 2124: codified at 22 U.S.C. § 4081.

2. Regulations

The regulations implementing 22 U.S.C. § 4081 are the Foreign Service Travel Regulations published in Volume 6, Foreign Affairs Manual (6 FAM). That volume covers travel and relocation expenses for all Foreign Service Officers and employees, and Foreign Service Reserve Officers of State, AID, and USIA. Its provisions extend to certain other employees authorized allowances and benefits similar to those authorized by the Foreign Service Act of 1980, 22 U.S.C. § 4081.

3. Relationship to other allowances

a. FTR allowances

Generally, employees entitled to the payment of relocation expenses under 6 FAM are not entitled to payment under the FTR. 6 FAM § 112 and FTR para. 2-1.2b.

Reference should be made to CPLM Title IV, Chapters 12 and 13.

B. TDY Travel

1. Per diem

a. Extended TDY

An AID employee who spent 11-1/2 out of 15 months on TDY at different locations while stationed in Nigeria need not have his per diem reduced after 60 calendar days or eliminated after 90 days, as required by the regulations, since that limitation applies only when an employee is on TDY at one particular place. Even if the limitation were applicable, the Executive Officer's approval of the voucher would constitute an administrative determination approving the continuation beyond the prescribed period. B-162553, October 16, 1967.

b. Mixed with actual expenses

Employees of State performing travel under actual subsistence reimbursement authority should have the same rule applied as that contained in what is now FTR para. 1-8.2, and they may be reimbursed expenses up to the applicable daily maximum, even though fractional days are involved. However, when they are entitled to fixed per diem for part of a day, and the reimbursement of actual expenses for another part of the day, per diem should be paid until the end of the quarter day when the employees qualify for reimbursement of actual subsistence expenses, but the total should not exceed the maximum allowable for the reimbursement of actual expenses. If two maximum rates are involved for the same day, the higher rate should limit the reimbursement allowable for the full day. B-164055, May 17, 1968.

c. Retroactive adjustment

(1) Contra to regulations—Volume 6, section 113 of FAM provides that State may authorize or approve any emergency, unusual, or additional payment which is necessary or expedient, if allowable under existing authority, whether or not specifically provided for by the regulations. However, a "Certificate of Approval" dated April 10, 1967, was not effective to amend travel orders issued to Foreign Service employees in the 1965 fiscal year, and approve retroactively per diem payments erroneously made in excess of the rates authorized by what is now 6 FAM § 154.3c for new appointees without dependents. Travel orders may not be amended retroactively to increase or decrease employees' vested rights. Moreover,

the use of a "Certificate of Approval" is inconsistent with the regulations in effect when the erroneous payments were made. B-161749, August 4, 1967.

(2) By unauthorized official—An AID employee whose travel orders to Ceylon authorized per diem at a rate of $20 per day—the rate specified in the manual—and who was later advised by the AID Affairs Officer that his per diem would be retroactively reduced, on the basis of a notice of the Embassy in Ceylon authorizing lower rates for the travel of its employees outside Colombo, was entitled to per diem at the rate of $20. The AID Mission Director in India who had authority to authorize the employee's travel in Ceylon, and whose duty it was to set the rate, issued the travel authorization for the maximum rate, and the regulations made no provision for the reduction of per diem by any official other than the authorizing officer. B-162794, January 9, 1968.

d. Long-term training

A Foreign Service Officer stationed in Warsaw, and ineligible for home leave, who was placed on LWOP in order to accompany her Foreign Service Officer husband to the U.S. as a dependent, and who returned to active duty in Washington, D.C., incident to continuing long-term training, could not consider Washington, D.C., her official duty station, for the purpose of giving her TDY for long-term training available only to employees assigned in the U.S. B-193311, April 3, 1977.

e. TDY station becomes permanent

(1) Date of termination—An employee detailed from the Bureau of Land Management to AID on February 5, 1965, for TDY in Brazil, was separated from his domestic position on April 10, 1965, and was appointed to a Foreign Service position on April 11, 1965. He claimed per diem in lieu of subsistence until May 1, 1965, the date of his temporary return to Washington, D.C., on the basis that he was not officially notified of the change in station until June 4, 1965. He was not entitled to per diem in lieu of subsistence subsequent to April 11, 1965, the date the administrative agency alleged that he was officially notified of the transfer. B-162063, August 15, 1967.

(2) Reassignment delayed—An employee stationed in Liberia was authorized travel for home leave and consultation in Washington, D.C. At that time, his permanent transfer to the Republic of Cameroon was under consideration, but not effective. While in Washington for consultation, his transfer to the Republic of Cameroon became doubtful, and he was, therefore, assigned to various TDY positions in Washington. After approximately 2 months, he was permanently transferred to Washington, D.C. Although his original travel orders did not authorize per diem for the full 2-month period, his orders could be amended to permit the payment of per diem up until the effective date of his permanent transfer to Washington, since it appeared that he was on TDY in Washington prior to that date. B-173271, September 9, 1971.

f. At designated residence following separation

A Foreign Service Officer's services at his foreign duty post were terminated prior to his departure for his place of residence in the U.S.—Washington, D.C.—for retirement, and his orders authorized traveling expenses and per diem to that point. He could not be considered as having been in a travel status away from his foreign duty station during a period of consultation at Washington, D.C., prior to the effective date of his retirement at his designated place of residence, so as to be entitled under the Foreign Service Regulations to per diem for such period. 29 Comp. Gen. 453 (1950) and B-153664, March 26, 1964.

g. Family travel

State has the authority to pay family travel expenses to the TDY station when home leave follows TDY. Since the consultation or training incident to the TDY is generally essential to a new assignment, the authorization of home leave subsequent to the TDY should not be viewed as contravening what was the "en route" requirement of former 22 U.S.C. § 1136(10). B-192085, July 6, 1978. The "en route" requirement is not present in the current provisions found at 22 U.S.C. § 4081.

h. Travel to appeal separation

An employee of State who traveled from overseas to Washington to appeal his proposed separation could be reimbursed for his travel expenses in connection therewith. B-187989, August 18, 1977.

C. Home Leave Travel

1. Entitlement

Persons who were employed outside the continental U.S. under the former Act for International Development, former 22 U.S.C. §§ 1557 to 1557k, and the former China Aid Act of 1948, former 22 U.S.C. § 1546, were not entitled to the home leave authorized by what is now 5 U.S.C. § 6305, and were excluded from the operation of what is now 22 U.S.C. § 4081, which provides for the payment of traveling expenses to the U.S. for leave purposes. 33 Comp. Gen. 105 (1953).

2. Chief of mission

An ambassador who traveled on home leave from Accra, Ghana, using economy-class accommodations to London, (his wife traveled to Paris), and first-class air accommodations to New York City, was entitled to first-class accommodations between London and New York City. Although 6 FAM § 131.3-2 limits the reimbursement for the costs incurred in travel by an indirect route to the cost of less-than-first-class air accommodations on the usually traveled route, State considers travel by way of Europe as the usually traveled route in returning to the U.S. from Ghana; and what is now 6 FAM § 146.3a authorizes first-class air accommodations for a chief of mission, and his spouse, when such accommodations are used. B-168060, December 10, 1969.

3. Delay en route for personal reasons

a. Per diem

An employee who, upon her return to her overseas station following home leave in the U.S., took leave en route at a point at which a strike on the airline on which the employee was scheduled to travel was in progress was not entitled to per diem while awaiting onward transportation after the period of leave, if, but for the interruption to take her leave, the employee could have obtained a flight on to her overseas stations shortly after her arrival at the intermediate point; however, if the flight which the employee was scheduled to use after the period of leave was the first available flight after her arrival at the intermediate point, then per diem was payable for the delay irrespective of the intervening leave of absence. 41 Comp. Gen. 196 (1961).

b. Transportation costs

An employee of State who, while on authorized travel from Iran to the U.S. on home leave, stopped over in Italy on annual leave, thereby increasing her travel expenses, because the fare on a different ship was higher than it would have been on through-travel, was not entitled to the reimbursement for the extra fare, since the interruption of the travel was for her personal convenience, notwithstanding a purported authorization from the Embassy in Iran. B-127878, July 30, 1956.

4. Dependents

a. Delay en route

An employee of State, incident to travel from Germany to California for home leave, and upon arrival in New York, being unable to secure through-rail reservations to California for his dependents, had them accompany him to Washington, D.C., where he performed TDY. He was not entitled to additional per diem in lieu of subsistence and the reimbursement of the baggage charges resulting from his dependents' 5-day delay en route, since he was entitled only to the actual and necessary expenses incurred in the performance of his official travel, and there is no indication in the record that the delay of his dependents in Washington was caused by reasons beyond his control, or that the delay was reasonably necessary. B-156592, May 13, 1965.

b. Travel further than employee

An employee, transferring from Brussels, Belgium, to Saigon, Vietnam, was authorized home leave in Seattle, Washington, and a temporary training period in Washington, D.C., prior to reporting to Saigon. His family accompanied him directly from Brussels to Washington, D.C., and elected to remain in Washington, D.C., during the employee's Saigon tour of duty. The family could not travel at government expense from Washington, D.C., to Seattle for home leave after the children finished the school term, since it was not established that the employee spent time in Seattle. Although such travel would be within the time limitation prescribed in 6 FAM § 132.2-1, there was no authority under which the family could travel to any further point than that to which the employee traveled for the purpose of home leave. B-164442, June 12, 1968.

c. Separate travel

The Foreign Service and CIA laws and regulations which authorize the payment of travel expenses of dependents when accompanying an employee on home leave do not require the joint travel of the dependents and the employee, but only that the dependents travel after the issuance of travel orders, and after the date that the employee becomes eligible for home leave. 36 Comp. Gen. 116 (1956).

d. No reasonable connection

Under what is now 22 U.S.C. § 4081(2), authorizing the payment of transportation and subsistence expenses of Foreign Service Officers and their immediate families in traveling from their overseas posts to the U.S. and return on statutory leave, such expenses were not payable in the case of an officer's immediate family who, because of illness, traveled to the U.S., and returned to the officer's overseas post subsequent to the date the officer completed the travel incident to his statutory leave—such travel having had no reasonable connection with the statutory leave previously taken and completed. 26 Comp. Gen. 864 (1947).

5. Illness and medical service

a. Illness

An overseas employee who becomes ill or incapacitated during a period of home leave may not be regarded as being in a travel status after arrival at the home leave point, so as to come within the purview of what is now FTR para. 1-7.5b(1). This section permits a continuation of per diem for travelers who take leave because of illness or injury, provided that they are, in fact, in an official travel or TDY status away from, or en route to, an official station. Therefore, the employee's travel status having terminated on arrival at the home leave point, he was not entitled to per diem for a subsequent period of illness, and his travel status did not commence again until he began travel to the TDY point for consultation duty. 39 Comp. Gen. 446 (1959).

b. Operation

An overseas employee who used a taxi for trips to a hospital incident to an operation, which she had undergone while on home leave

in the U.S., was not entitled to reimbursement for the taxi fares under what is now 22 U.S.C. § 4081(5), which restricts the payment of travel expenses incident to hospitalization authorized while the employee is stationed abroad in a locality where there is no facility to provide necessary care. 41 Comp. Gen. 196 (1961).

c. Physical examination

A Bureau of Mines employee, upon his return to the U.S. on home leave from an overseas assignment with the ICA, reported to a medical unit of State, Washington, D.C., for a required physical examination and then to the PHS Hospital, Baltimore, Maryland, for further examinations and treatment prior to resuming his travel for home leave. He was not entitled to his travel expenses between Washington, D.C., and Baltimore, or per diem while waiting in Washington between outpatient visits to the hospital. His admission to the hospital was not due to an emergency illness, and no authority exists for the allowance of travel expenses to determine an employee's physical qualifications as a prerequisite to his return to his overseas duty post. B-144637, January 18, 1961.

d. Medically disqualified

A Foreign Service employee who was authorized round-trip travel from Buenos Aires to New York for home leave returned to Buenos Aires, despite the fact that he was denied medical clearance for further overseas assignment when given a physical examination in the U.S., as required by Foreign Service regulations. He could not be reimbursed for the cost of the return transportation. Although his travel orders were not formally modified to cancel his return travel to Buenos Aires until after he had returned, the employee was aware that he had been determined to be medically unfit to return to his former overseas post of duty. B-154450, July 9, 1964.

6. Residence

a. Change

A Foreign Service employee's original home leave orders were supplemented by later orders to authorize the resumption of home leave travel, in accordance with the earlier orders, which had been

interrupted by official duties. He was entitled to per diem and traveling expenses only to his home of record at the time of the issuance of the earlier orders, notwithstanding his contention that the later orders superseded the former orders, and the fact that State was notified of a change in his residence in the U.S. prior to the issuance of the later orders. The Foreign Service Regulations provide that an employee's residence for the purpose of home leave is the place designated by the employee on the most recent form on file with State as of the date of the issuance of the travel orders, and State has reported that the later orders did not supersede the original orders. B-130544, March 5, 1957. For a general case study on "actual residence" determinations, see B-197205, May 16, 1980 and B-197205, February 16, 1982.

b. Alternate point

An employee who was authorized to travel from his official station in the Canal Zone to his residence in the Virgin Islands and return, for home leave, traveled, instead, to the continental U.S. Under the pertinent law and regulations, an employee residing in one U.S. territory or possession, whose official station is in another, is entitled to his expenses for home leave travel to the continental U.S. or any other territory, but not in excess of the amount which would be allowable for such travel from his official station to his actual place of residence. B-173226, August 2, 1971.

7. Shipment of POV

An employee who, incident to home leave in the U.S. from Beirut during 1956, shipped a foreign automobile from Cannes, France, to the U.S. could not be reimbursed for the shipping costs on the basis of orders dated June 2, 1960, which authorized the shipment of an automobile from Beirut to Chevy Chase, Maryland, incident to the employee's separation. There is no authority to pay the cost of transporting an automobile from overseas to the U.S. for use during home leave. B-148529, May 18, 1962.

8. Unaccompanied baggage distinguished from household effects

The cost to a civilian employee of transporting a "Hi Fi System" incident to his return to his overseas duty station from home leave was not reimbursable under orders that authorized the shipment of baggage. "Baggage" consists of those articles a traveler "bags up"

and "lugs along," or has carried for him on his journey for his comfort or convenience during the journey or upon arrival at his destination. A "Hi Fi System" is not "baggage," but a part of one's household effects comparable to other instruments which are used for residential or social amusement and entertainment. Therefore, the cost of its transportation could not be allowed on the basis that it was unaccompanied baggage. 47 Comp. Gen. 572 (1968).

D. Medical Travel

1. Attendants

An employee's claim for the reimbursement of the travel expenses from Frankfurt, Germany, to Beirut, Lebanon, incurred by his wife, in connection with his hospitalization, was properly disallowed. The travel of medical attendants is limited to accompanying the employee, too ill to travel alone, being evacuated to a location where suitable medical care can be obtained, and since the employee did not require a medical attendant during the evacuation flight, there was no authority for his wife's travel at a later time for visitation purposes, nor does the employee's case satisfy the criteria of either imminent death or great personal hardship requiring emergency visitation travel. B-178529, June 22, 1973.

2. Use of foreign flag vessels

The transportation of officers and employees to approved hospitals, under what is now 22 U.S.C. § 4081(5) and 6 FAM § 125.3 is of an emergency nature, and ships of foreign registry may be used, if required by the exigencies. B-106864, February 1, 1952.

3. Home leave

See, 41 Comp. Gen. 196 (1961), cited in this subchapter in Section C, Home Leave Travel, Illness and medical service, Operation.

E. Educational Travel

See, CPLM Title III, Chapter 8.

F. Separation Travel

1. Postponement of return to U.S.

A Foreign Service employee who retired overseas delayed his return travel for more than 7 years, even though the travel regulations of State required that such travel must begin not later than 18 months after the separation. The regulation of State which permitted granting exceptions to travel regulations in some cases where allowances are exceeded or excess costs are incurred did not provide any basis for granting exceptions to the time limitation on return travel. Therefore, the former employee could not be granted any further time extensions. 57 Comp. Gen. 387 (1978).

2. Erroneous separation and reinstatement

An employee of State who was erroneously separated and returned to his home of record could, upon reinstatement, having returned to his duty station, be transferred from there to his new post of duty. The Back Pay Act, 5 U.S.C. § 5596, does not authorize travel expenses; however, travel entitlements, there, could be granted the employee under what is now 22 U.S.C. § 4081. B-187989, August 18, 1977.

G. Rest and Recuperation Travel

1. Entitlement

The wife of a Foreign Service Reserve Officer who, after evacuation to the U.S. from the officer's foreign post for medical reasons, returned at her own expense following the denial of a medical clearance was not ineligible for medical, home leave, transfer, or R&R travel. Nor was the officer ineligible to receive a post allowance at the "with family" rate, in the absence of a showing that the officer participated in his wife's unauthorized return. However, travel must be administratively authorized or approved in accordance with the regulations, and the agency has the discretion to grant or deny separate R&R travel for the wife. B-152371, November 1, 1963.

2. Alternate R&R point

a. Fly America Act

In view of the instruction of State that an alternate R&R point is to be regarded as an employee's primary R&R point for the purposes of 49

U.S.C. § 1517 and the application of the Fly America Act Guidelines, an employee's choice of an alternate R&R location not serviced by certificated U.S. air carriers will be scrutinized to assure that it meets the purpose of R&R, and was not selected for the purpose of avoiding the requirement for the use of certificated U.S. air carriers. 56 Comp. Gen. 209 (1977).

b. Rest and recuperation outside United States

A Foreign Service Officer stationed in Nepal was authorized rest and recuperation travel to Los Angeles, California, instead of Hong Kong, the designated relief area for employees in Nepal. He traveled by a circuitous route to Los Angeles where he stayed for just over a day before beginning his return travel to Nepal. Since he did not spend his rest and recuperation time in the continental United States as contemplated, he may be reimbursed only for the constructive cost of travel to Hong Kong, the designated relief area. John M. Ryan, B-214549, October 5, 1984.

H. Visitation Travel

1. Authority

The expenditure of government funds for visitation travel is specifically authorized by what is now 22 U.S.C. § 4081(8). 5 U.S.C. § 5924(3), providing for a separate maintenance allowance, does not authorize payment for such travel. B-160574, December 29, 1966.

2. Entitlement

a. Nonemergency

(1) Wife—The wife of the Budget Officer, U.S. Embassy, Saigon, was permitted to accompany him to Saigon, but their two minor sons were not. The employee was authorized visitation travel under 3 FAM § 699, which implements what is now 22 U.S.C. § 4081(8), but his wife, who accompanied him, was not authorized to travel at government expense. The wife's travel was not reimbursable, since there is nothing in the statute's legislative history to indicate that Congress intended to provide visitation travel to other than officers and employees, except in emergency situations involving personal hardship. B-176471, September 5, 1972.

(2) Children of divorced officer—A Foreign Service Officer who considers as unfair the government's failure to pay for the visitation travel of a divorced officer's dependents when he lacks legal custody, but supports them, misinterpreted GAO decisions. 5 U.S.C. § 5924, as implemented by the S.R., authorizes travel and educational allowances for family members residing at the officer's post, but makes no provision for "visitation travel" to the employee's post by his dependents residing elsewhere. B-129962, November 17, 1976.

(3) Breach in domestic relations—An AID employee is not disqualified for visitation travel because of a "breach of domestic relations," if there has been no legal action instituted for divorce or legal separation. B-178490, July 2, 1975.

b. Emergency

(1) For visits during recuperation—An employee's claim for the reimbursement of his travel expenses from Frankfurt, Germany, to Beruit, Lebanon, incurred by his wife, subsequent to his travel incident to his hospitalization, to visit with him during his recuperation, was properly disallowed. Such travel does not meet the criteria specified for emergency visitation travel in 3 FAM § 699.5. B-178529, June 22, 1973.

(2) Other agencies—An overseas employee of IRS claimed reimbursement for emergency visitation travel expenses incurred by his wife. The claim was based upon a Treasury Bulletin. This bulletin adopted as guidelines the regulations of State, which were promulgated to carry out the provisions of what is now 22 U.S.C. § 4081(8). This law and these regulations apply only to State, AID, and USIA employees, and are not applicable to IRS employees, in the absence of authorizing legislation. B-185277, February 5, 1976. See also, 53 Comp. Gen. 230 (1973).

I. Representational Travel

1. Wives

Civil departments and agencies of the government do not usually pay travel and subsistence expenses for employees' wives traveling with their husbands on official business, except when such travel expenses are specifically authorized by law, such as when the

travel of a Foreign Service Officer's wife is for representational purposes. 22 U.S.C. § 4081(4) and B-155823, July 23, 1965.

J. Circuitous Route

1. Constructive cost

a. Total actual expenses

The constructive travel cost limitation in the Foreign Service Travel Regulations, which fixes the amount due when official travel is interrupted or performed by circuitous routes for personal reasons on the basis of the total of transportation costs, plus per diem, is inconsistent with the comparable provisions of what is now the FTR, applicable to the travel of government employees generally, which require that transportation costs and per diem be considered separately. However, the provisions of the Foreign Service Travel Regulations do not contravene the express statutory provisions, and they are within the authority vested in the Secretary of State under statute. Therefore, payments made to Foreign Service personnel on the basis of a comparison of the total actual expenses, (travel expenses, per diem, and incidental expenses), with the constructive cost of direct travel over the usually traveled route; and the payment of the lesser of the two amounts will not be questioned. 40 Comp. Gen. 65 (1960).

b. Less-than-first-class air accommodations

An employee of State who traveled by a POV by an indirect route claimed additional travel expenses based on the constructive cost of POV travel via the direct route. His claim was disallowed, since, under 6 FAM § 131.3-2, he was only entitled to reimbursement on the basis of the constructive total cost that would have been allowable, if he had traveled by less-than-first-class air accommodations over the usually traveled route. B-166107, March 18, 1969.

c. Fly America Act

An employee of State elected not to use American flag airline service between Beirut and London, and, instead, traveled via Vienna, Austria, with a 3-day stopover, could not be allowed reimbursement for the foreign airline fare, since there was no schedule change, nor other circumstances beyond his control. Moreover, he could not be allowed reimbursement for per diem expenses in excess of the

amount allowable for travel by direct air services on available American flag aircraft from Beirut to London. B-171678, April 27, 1971.

See also, CPLM Title III, Chapter 4, Subchapter I.

d. American flag vessels

Proposed routes of travel from points in the U.S. to Panama by American flag passenger vessels, and thence by air to points in Central America; and from points in the U.S. to Jamaica by American flag passenger vessels, and thence by air to British Honduras; are not direct routes and the cost of such travel, utilizing the modes indicated, is greatly in excess of the cost of the direct air transportation between the points in question. In view of the cost and of the limited service on American ships between the U.S. and Panama or Jamaica, it would not be proper to regard travel by the indirect routes suggested as travel by the usually traveled route. B-152381, December 15, 1969.

See also, the GAO Transportation Law Manual.

K. Use of Government Vehicles Between Home and Work

See, CPLM Title III, Chapter 4, Subchapter II.

L. Death of Foreign Service Officers, Employees, and Family Members

1. Statutory authority

What is now 22 U.S.C. § 4081(10) provides the authority to transport the remains of a Foreign Service Officer or employee or a family member who may die outside the U.S. or while in a travel status.

2. Regulatory authority

See, 6 FAM § 126.5.

M. Fly America Act

See, CPLM Title III, Chapter 4, Subchapter I.

Subchapter II—Other Special Classes

A. Congress

1. Authorities

Members and employees of the Congress are excluded from the coverage of Subchapter I of Chapter 57, Title 5, U.S.C., (Travel and Subsistence Expenses; Mileage Allowances), by 5 U.S.C. § 5701. Consequently, the travel of these individuals is not governed by the FTR, which implements that Subchapter pursuant to 5 U.S.C. § 5707. For authorities pertaining to their travel, see generally, Title 2, U.S.C., and the rules of the House of Representatives and the Senate.

2. Travel to congressional districts

Payments from the contingent fund to a Member of the House of Representatives for round-trips on official business between Washington, D.C., and his district, the number of which each year may not exceed the number of months Congress is in session, 2 U.S.C. § 43b, and payments from the contingent fund for two employee round-trips per year to the Member's district, 2 U.S.C. § 127a, should be computed on the basis of the 365-day period commencing January 1 and ending December 31, rather than the period from the beginning of one session to the beginning of the next. The legislative history of the provision indicates that the term "year" as used in 2 U.S.C. § 43b clearly means "calendar year," and the use of the term "calendar year" in 2 U.S.C. § 127a clearly denotes this intended meaning. B-163423, February 23, 1968.

3. Use of counterpart funds

a. Authorized for specific committees

In the absence of a specific authorization in an appropriation act, 22 U.S.C. § 1754(b) is the sole authority making counterpart funds, (foreign currencies), available to members and employees of congressional committees in connection with overseas travel. Under this provision, such funds are available only to specific committees, not including the House Select Committee on Aging, and to committees performing functions under 2 U.S.C. § 190(d), which refers to

"standing" committees, but not "select" committees. Accordingly, members and employees of the House Select Committee on Aging are not authorized to use counterpart funds. 55 Comp. Gen. 537 (1975).

b. Purchase prohibited

No authority exists for the practice of purchasing foreign currencies using dollars of Treasury's miscellaneous receipts and the Commodity Credit Corporation's revolving fund, for congressional travel under 22 U.S.C. § 1754(b) in instances where no foreign currency of the particular country is owned by the U.S. Where foreign currency is owned by the U.S., up to $75 per day per person, exclusive of any transportation costs, in foreign currency, is available for congressional travel under 22 U.S.C. § 1754(b), even though there may be insufficient foreign currency for dollar-appropriated programs. B-129650, May 11, 1977.

4. Travel after the expiration of congressional term

Travel by members of the House Subcommittee on Labor Standards, after the expiration of the congressional term, to study and investigate matters within the Subcommittee's oversight jurisdiction, could not be authorized. Both a House rule and a House resolution authorizing expenditures for travel by the House Committee on Education and Labor limit expenditures to the year for which the resolution was approved, and no statutory appropriation for travel expenses of the Subcommittee exists. The House may not empower the Committee to sit beyond the House's constitutional term, although the Committee may function under a statute constituting it as a commission by law. B-143248, November 15, 1976.

5. Funded by foreign governments

a. Individuals

Since the government of South Africa provides most of the financing for the University of South Africa, must approve all University directives and regulations, and retains other administrative and financial control, GAO believes that the University must be deemed an agency or representative of the government for the purposes of the constitutional prohibition against U.S. officials accepting gifts or emoluments from foreign governments without the consent of

Congress. Accordingly, GAO believed that a Member of Congress could not properly accept an invitation to visit South Africa, as a guest of the University, to study mineral developments, without the consent of Congress. B-180472, August 16, 1974.

b. Delegations representing U.S.

The question was raised as to whether a visit to the People's Republic of China by a delegation of Members of the House of Representatives, at the invitation of the Chinese government, would be in accord with Article I, Section 9, Clause 8 of the U.S. Constitution and 5 U.S.C. § 7342, which prohibit the acceptance of gifts by Members of Congress from foreign governments, unless consent is granted by Congress. GAO believed that the acceptance of this invitation would not contravene the above provisions. Under the circumstances, the benefits had, in reality, been extended to the U.S., not to the recipients as individuals, and acceptance would be on behalf of the U.S. B-171961, December 22, 1975.

Certain officials of the U.S. government, (the Speaker and the Minority Leader), together with their wives and certain staff members, had been invited by the government of the People's Republic of China to visit the People's Republic. The visit has the concurrence of the President and was in the nature of a Presidential diplomatic mission. Acceptance of the invitation did not appear to contravene Article I, Section 9, Clause 8 of the Constitution. Because of the diplomatic essence of the visit and the nature of the relationship with the host government, it appeared that the benefits were actually extended to the U.S., and not to the individuals. B-180472, March 12, 1975.

6. Funded by state government and Congress jointly

Where the House Committee on Education and Labor seeks to authorize a staff member's travel on official Committee business to investigate certain federal education programs in Oregon, this Office saw no objection from the federal standpoint to the arrangement for the payment of his transportation expenses by the state of Oregon, and the payment of a subsistence allowance by the Committee, since the programs involved appeared to be ones in which there was a joint interest of the federal government and the state of Oregon. Moreover, the Oregon state officials who proposed such an arrangement should have been able to determine the propriety of

the expenditure from Oregon state funds. B-143248, September 29, 1972.

7. Official committee business

a. Inspection and investigation

The authorization to travel, requested by an individual congressman, for a proposed inspection and investigation tour of various facilities in the territory of Guam, the Philippines, South Vietnam, and the Crown Colony of Hong Kong could not be granted under a House rule. However, if within the jurisdiction of the House Committee on Education and Labor, the proposal could be undertaken as a committee project. B-129650, B-171961, August 3, 1973.

b. International organization meetings

Concerning the requested travel authorization for a staff member of the House Committee on Education and Labor to travel to Hong Kong to attend a regional meeting of the U.S. Committee of the International Council on Social Welfare, Inc., GAO found no prohibitions in any statute or House rule that would preclude authorizing the staff member's travel. This Office reviewed the correspondence and concluded that the conference was of the type contemplated by a House rule. Therefore, the Committee could legally authorize the travel outside the U.S. to attend the conference, if it was determined that the conference involved a subject matter which was under the general jurisdiction of the Committee. B-129650, B-171961, July 30, 1975.

8. Retroactive authorization

A member of the Committee on Education and Labor, U.S. House of Representatives, was orally authorized by the Committee Chairman to travel to England to conduct labor relations studies as part of another trip to Switzerland for which written authorization had been given. Oral arrangements were made with State to utilize counterpart funds to defray his travel expenses. The chairman stated that he was willing to issue a written authorization retrospectively, with the approval of the full committee. In view of the prior oral authorization, GAO did not object to the proposed action by the chairman. B-129650, November 29, 1977.

Concerning the propriety and legality of field investigations and hearings by the House Committee on Education and Labor, prior to the official organization of the Committee, and the approval of the investigating and funding resolution, GAO advised that a certain House resolution provided retroactive authorization for the payment of the domestic travel. However, since the necessary authority for investigations and funding are within the jurisdiction of the Committees on Rules and House Administration, respectively, it was suggested that those committees be contacted. B-171961, March 2, 1971.

B. Intergovernmental Personnel Act

1. Authority

The payment of the travel expenses of employees of federal, state, and local governments, institutions of higher education and any other organizations in connection with IPA assignments is specifically authorized by 5 U.S.C. § 3375. Payment is to be made in accordance with the provisions of Chapter 57 of Title 5, U.S.C.

2. No entitlement to both per diem and change of station allowances

Under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, federal employees who are temporarily assigned to state and local governments, and institutions of higher education, are not entitled to both per diem and change of station allowances for the same assignment. Even though 5 U.S.C. § 3375 permits the payment of both benefits associated with a PCS and those normally associated with a TDY status, nothing in the statute or its legislative history suggests that both types of benefits may be paid incident to the same assignment. Therefore, on the basis of GAO's interpretation of similar provisions in the Government Employees Training Act, 5 U.S.C. Chapter 41, an agency should determine, taking cost to the government into consideration, whether to authorize PCS allowances, or per diem in lieu of subsistence under 5 U.S.C. Chapter 57, Subchapter I, to employees on intergovernmental assignment. 53 Comp. Gen. 81 (1973). See also, B-195393, August 10, 1979.

An employee may not elect to receive per diem for the duration of an IPA assignment where his agency's determination to authorize PCS allowances is reflected in his travel orders and his IPA agreement. Under 5 U.S.C. § 3375, an agency may authorize PCS allowances or per diem, but not both, and we have held that per diem would

ordinarily be inappropriate for IPA assignments of 2 years. Ronald C. Briggs, 64 Comp. Gen. 665 (1985).

3. Per diem at headquarters to supplement salary prohibited

A state government employee detailed under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, to an executive agency was authorized per diem by his Assignment Agreement while not traveling, purportedly to bring his salary to a level comparable with federal employees. Title 5, section 3374(c)(1), U.S.C. formerly stated that a state or local government employee detailed to an executive agency was "not entitled to pay from the agency." Thus, that portion of the Assignment Agreement purporting to grant per diem for the purpose of supplementing salary was without legal effect. (Currently, 5 U.S.C. § 3374 (c)(1) provides for pay from an agency to the extent that the pay received from the state or local government is less than the appropriate rate of pay which the duties would warrant under the applicable federal authorities.) Moreover, the travel expenses for state or local government employees detailed to an executive agency under 5 U.S.C. § 3375 must be paid in accordance with the usual rules which apply to federal employees traveling on training assignments or on official business. Since this employee's duty station prior to, and during, his detail was in Boston, Massachusetts, he could not be allowed per diem while stationed at his headquarters. B-185496, August 26, 1976.

4. Relocation expenses on completion of assignment

Under 5 U.S.C. § 3375, a Western Carolina University employee who completed an assignment with the federal government under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, could be reimbursed the cost of moving his HHG and his dependent's travel from his post of duty under the IPA assignment to Cleveland State University, not to exceed the constructive cost of such travel and transportation to Western Carolina University. The employee's own travel costs could be reimbursed to the same extent, since he was not required by any regulation or the terms of his IPA agreement to return to Western Carolina University. 59 Comp. Gen. 105 (1979).

The PCS allowances authorized by 5 U.S.C. § 3375 are payable upon relocation to, as well as return from, an IPA assignment. The fact that an employee's family was residing at the location of his assignment, and that the full range of allowances, therefore, was not

authorized when the employee reported to the university, does not preclude payment of any or all of those allowances incident to the employee's return following completion of the assignment. There is no statutory or regulatory requirement that the employee be authorized or incur specific expenses in reporting to the IPA assignment as a condition to paying those expenses upon its termination. Ronald C. Briggs, 64 Comp. Gen. 665 (1985).

5. Travel between IPA station and PDY station or residence during assignment

a. Daily

An employee assigned under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, to Bethesda, Maryland, on TDY, who desires to commute each day to Bethesda from his original PDY station, could be paid travel expenses, including a per diem allowance and mileage for the use of his automobile in accordance with the FTR. Concerning per diem, note the 10-hour restriction in FTR para. 107.6d(1). B-178759, March 12, 1975.

b. Weekly

An employee stationed in New York who was assigned to Washington, D.C., under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, on a temporary basis for a 4-day period each week could be paid his travel expenses and per diem en route for weekly round-trips between New York and Washington, so long as the payment did not exceed the per diem that would have been paid had the employee stayed in Washington for the 3 nonworkdays. Per diem payments for the 4 workdays in Washington would also be permissible. B-178759, March 12, 1975.

c. For consultation

A federal employee on detail to a state government under the Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3376, could be reimbursed from federal funds for travel expenses while away from his place of assignment, when the head of his federal agency considers the travel "in the interest of the U.S." B-182697, June 9, 1975.

C. Jurors (Government Employees in State Courts)

1. Travel expenses distinguished from fees for services

a. Statute

"An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period." 5 U.S.C. § 5515.

b. Local law authorizes fees for services, not travel expenses

A voucher covering a federal employee's mileage expenses when commuting between his Silver Spring residence and the Court House in Rockville, Maryland, while serving on jury duty in Montgomery County, Maryland, could not be certified for payment, and no part of his jury duty fee could be retained by him for transportation expenses. Mileage and related allowances are authorized by 5 U.S.C. § 5704(a), only when a federal employee is engaged on official business for the U.S. When serving as a juror, the claimant was engaged on Montgomery County official business, and no part of his juror's pay was specifically designated as travel or mileage expense reimbursement. B-119969, September 14, 1973.

A government employee who served on a county grand jury, and who was required to travel by public transportation to and from the courthouse, could not retain a portion of the fee paid by the state government for jury duty as reimbursement for his transportation expenses. Where a government employee is entitled to jury duty leave, the amount received from a state government as a juror's fee must be credited, absent evidence that the state government intended a portion of the fee as travel expenses, against the amount of compensation payable to the employee by the government for the period in question. Also, the employee was not entitled to government reimbursement for his travel expenses, since the travel was not incident to official government business. B-176863, October 4, 1972.

Jury fees obtained in a state court by a government employee who was required to return to work when the court was not in session, had to be credited against his pay, without set-off for his out-of-pocket travel expenses. 5 U.S.C. § 5515 makes no provision for the payment of the traveling expenses of an employee incident to his service as a juror in a state court. Neither does it permit any reduction in the amount of his jury fees to be credited against the employee's pay to provide for his expenses of travel in connection with such duty, merely because the state law makes no provision for the payment of his travel expenses. B-165205, October 1, 1968.

An employee serving as a juror in the Knox County Court, Tennessee, was not entitled to his travel expenses claimed, either in the form of a reduction or off-set against the remuneration paid over to the government under 5 U.S.C. § 5515, or as travel allowances, since the expenses claimed were incident to his duty as a citizen of a state, and not as an employee of the U.S. B-192043, August 11, 1978.

c. Local law authorizes travel expenses

When jury services are performed in the courts of Calvert, Charles, Prince George's, and St. Mary's counties, in the state of Maryland, by federal employees who are granted court leave pursuant to 5 U.S.C. § 6322(a), and who are required under 5 U.S.C. § 5515 to turn over their jury fees for credit against their salary payments for the periods of court leave, the expense money received, as authorized by Maryland law, could be retained by such employees on the basis that the moneys received are traveling expenses within the contemplation of Maryland law, rather than jury fees. Payments for traveling expenses are not within the purview of 5 U.S.C. § 5515. 52 Comp. Gen. 325 (1972).

Where a Kentucky statute provides for an expense allowance for jurors in an amount of $7.50 per day, a civilian employee of the Army could retain the $45 received for an expense allowance incident to his jury service. GAO will not look beyond the prima facie intent of the statute, and the payments for the expenses are not within the purview of 5 U.S.C. § 5515. B-183711, August 23, 1977.

Since Georgia law, effective July 1, 1974, provided that jurors in state courts are to receive expenses, instead of compensation, in connection with their services, we held in B-183711, October 21,

1975, that federal employees who served as jurors in Georgia state courts could retain the moneys received. Accordingly, employees who served as jurors in Georgia state courts on or after July 1, 1974, and who have turned in the moneys received to their agencies, are entitled to refunds from the appropriations into which such moneys were deposited. B-183711, October 6, 1976.

D. Witnesses (Other Than Government Employees Testifying in Their Official Capacities)

See also, CPLM Title III, Chapter 2, Subchapter I, B. Specific Classes of Persons Covered, Witnesses, for those paid travel expenses under Chapter 57, Subchapter I of Title 5, U.S.C.

1. Authority

The authority for the payment of the travel expenses of a witness, other than a government employee testifying in his official capacity, attending in any court of the U.S. or before a U.S. Magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the U.S. is contained in 28 U.S.C. § 1821. See also, 5 U.S.C. § 503(b), relating to witnesses in administrative, as well as judicial, proceedings; and 5 U.S.C. § 5703 relating to individuals serving without pay. (For the authorization of the travel expenses of government employees testifying in their official capacities, see 5 U.S.C. § 5751.)

2. Administrative proceedings

a. Not limited to formal hearings

Judicial precedent having established a basis for the payment of mileage and fees to witnesses appearing at administrative proceedings, persons summoned for testimony pursuant to 26 U.S.C. § 7602 (reenacted, still as 26 U.S.C. § 7602, with only new internal designations, by the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, § 333, 96 Stat. 324, 622 (1982)), to enable the IRS to determine the tax liability of a taxpayer could be paid the fees and mileage provided by 5 U.S.C. § 503(b), whether the witness is the person liable for the tax or is a person whose testimony is relevant or material to the inquiry involving the taxpayer. 48 Comp. Gen. 97 (1968).

b. Business organization summoned

The word "person" as used in 26 U.S.C. § 7602, (reenacted, still as 26 U.S.C. § 7602, with only new internal designations, by the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, § 333, 96 Stat. 324, 622 (1982)), which authorizes the issuance of a summons incident to an inquiry into the "liability of any person for any internal revenue tax," means, as defined in 26 U.S.C. § 7701(a)(1), "an individual, a trust, estate, partnership, association, company or corporation." Therefore, when a summons is directed to a corporation or an unincorporated association to compel attendance as a witness at a hearing before an internal revenue officer, the witness fees and allowances authorized in 5 U.S.C. § 503(b) for appearances at agency hearings, and prescribed in 28 U.S.C. § 1821, to compensate persons appearing as witnesses, are payable directly to the business organization; and not to the individual appearing on its behalf. The organization incurs the same costs to comply with a summons as does a natural person. 49 Comp. Gen. 666 (1970).

3. Separated government employees

An individual who was separated through a reduction-in-force prior to the expiration of her term appointment in March 1982, appealed the separation in hearings before the Merit Systems Protection Board in May 1982. The appellant prevailed, was awarded backpay for the unexpired period of her appointment, and now claims travel expenses for her attendance at the hearings. The appellant may not be allowed travel expenses authorized for a government employee under 5 U.S.C. §§ 5702 and 5704, since she traveled to the hearings after the expiration of her term appointment. Furthermore, she is not eligible for travel expenses payable to nonemployee witnesses under 5 U.S.C. § 5703, since she was a party to the proceeding. Gracie Mittelsted, B-212292, October 12, 1984.

4. Suspended government employee

Federal employees who were requested by a U.S. Attorney to give testimony before a federal grand jury, and in the trial of criminal cases, while suspended from their positions, were not placed in a pay or duty status by reason of the request, even though the testimony before the grand jury was in regard to their official duties. Therefore, these employees were not entitled to any salary or travel expenses as government employees under 5 U.S.C. § 5751 for

the period of time they spent testifying. They could, however, be paid and retain any witness fees and travel expenses that would be payable under 28 U.S.C. § 1821 to non-government employees appearing as witnesses in such proceedings. 53 Comp. Gen. 515 (1974).

5. Expenses limited by 28 U.S.C. § 1821 and actual cost

A claimant who traveled from San Francisco, California, to Hawaii to serve as a witness for the U.S. and was paid per diem of $4, plus an additional subsistence allowance of $8 per day, was not entitled to additional "out of pocket" expenses, since the amount paid are the maximum daily reimbursement set by 28 U.S.C. § 1821. Moreover, notwithstanding that the cited law provides that witnesses required to travel to and from the continental U.S. shall be entitled to the actual expenses of travel at the lowest first-class rate available at the time of the reservation for passage, neither GAO, nor Justice, interprets this as authorizing the payment to a witness of more than his actual cost for his transportation outside the continental U.S., even though it is less than the minimum first-class rate. B-126888, October 22, 1963.

6. Military proceedings

Witnesses, (other than government employees and members of the uniformed services), who are required to appear before military courts are entitled to the same mileage payments as witnesses in U.S. courts, (28 U.S.C. § 1821); and the uniform table of distances designated by the Attorney General, which at present is the Rand McNally Standard Highway Mileage Guide, should be used in the computation of mileage payments. 36 Comp. Gen. 777 (1957).

E. Meritorious Claims Act

GAO will no longer follow its general policy of not referring erroneous advice cases to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d). Instead, each such case will be considered for submission based on its individual merits. Accordingly, GAO submits to Congress claim of new appointee to a manpower-shortage position who was erroneously issued travel orders authorizing reimbursement for temporary quarters subsistence expenses, real estate expenses, and miscellaneous expenses where the appointee reasonably relied on this erroneous authorization and incurred substantial costs. John H. Teele, 65 Comp. Gen. 679 (1986).

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