

Mr. Roney

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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-201096 (CFR)

June 16, 1981

Mr. Raymond R. Garza  
CERCOM-LAT, EER  
P.O. Box 5160  
Fort Hood, Texas 76544

~~Do not make available to public reading~~

Dear Mr. Garza:

This is in response to your letter of October 30, 1980, concerning the [rate of per diem applicable where Government quarters are not occupied].

Section 752 of the Department of Defense Appropriation Act, 1981, Pub. L. No. 96-527, December 15, 1980, 94 Stat. 3068, has continued the prohibition established in the 1978 DOD Appropriation Act against the payment of lodging expenses of Department of Defense personnel when adequate Government quarters are available. The Department of Defense has issued implementing regulations which are found in Volume 2 of the Joint Travel Regulations, at paragraph C1055. Those regulations clearly provide that unless nonavailability can be determined by a publication issued by one of the Uniformed Services, it will be assumed that Government quarters were available in the absence of a certificate of nonavailability. Because of the change in the DOD Appropriations Acts beginning in the 1978 Act, the prior GAO decisions are no longer applicable. Your first question is answered accordingly.

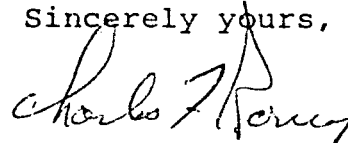
Your second question concerning what per diem rate would be payable is too general for us to respond to with specificity. However, we may state, generally, that if a certificate of nonavailability has been obtained, per diem would be computed by the method authorized in the traveler's orders. If a certificate has not been obtained the traveler would not be entitled to the lodgings portion of authorized per diem or actual subsistence expenses.

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We are enclosing a copy of the 1980 Supplement to our Civilian Personnel Law Manual.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Charles F. Roney".

Charles F. Roney  
Attorney-Adviser

Enclosure