



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

B-177752

May 17, 1973

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Mr. William S. Downey
Acting Authorized Certifying Officer
Bureau of Land Management
United States Department of the Interior

Dear Mr. Downey:

This refers to your letter of January 5, 1973, reference 1386 (520), and enclosures, requesting an advance decision whether you may certify for payment the reclaim voucher submitted therewith in favor of Mr. Fred R. McBride for per diem in lieu of subsistence in the amount of \$132.00. The amount reclaimed was administratively disallowed in most part for the reason that per diem was computed on the basis of occupancy of other than Government quarters during a period of training under which quarters and meals were to be furnished by the Government.

You say that the Bureau of Land Management operates the Boise Inter-agency Fire Center (BIFC) located adjacent to the Boise, Idaho airport. The facility is equipped to serve as a training center and staging area for firefighters and fire suppression supplies and equipment. Living accommodations at BIFC, while considered to be adequate, do not contain all the conveniences of most of the hotels and motels in the Boise area. The rooms do not have bath facilities but bathrooms with showers are convenient to each room. The dining facilities are located in the same building as the rooms for lodging and offer cafeteria type services. Generally the employees attending the training sessions are furnished breakfast and lunch and, in order to provide temporary but controlled relief from the training sessions, transportation to downtown Boise is provided for the evening meal. Recognizing that the normal training session or meeting is greatly enhanced by the discussion and exchange of ideas by the participants outside the regular duty hours and to assure timely attendance at the formal sessions, an administrative determination was made that the participants would be required to stay at BIFC. That determination was set forth in Instruction Memorandum 72-327, and provides as follows:

Participants in training sessions or other formal meetings, conferences or workshops at BIFC will be furnished lodging

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by the Government. A per diem rate of \$12 is authorized to cover the cost of food and incidentals. A deduction of 20%, 20% and 40% (\$2.40, \$2.40 and \$4.80) shall be shown by the respective employee when breakfast, lunch, and dinner are available at the BIFC dining facilities. This is not optional with the employee and transportation off base to utilize commercial lodging or meals will be a personal expense. No per diem allowance for meals or lodging under these circumstances is authorized.

When selected meals and/or lodging is not available at BIFC, normal per diem policy will apply for those employees involved. Transportation will usually be furnished by BIFC.

It appears that Mr. McBride, rather than occupy the Government quarters, obtained a motel room in Boise, and submitted his original travel voucher on such basis.

Mr. McBride alleges that the action taken in requiring occupancy of Government quarters and a reduction of per diem for available meals and lodging was in violation of section 5 of Public Law 88-459, approved August 20, 1964, 5 U.S.C. 5911(e) and decisions of our Office, 44 Comp. Gen. 626 (1965); 49 Comp. Gen. 815 (1970); 50 Comp. Gen. 388 (1970); and B-170618, October 15, 1970.

5 U.S.C. 5911(c) provides:

- (e) The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis unless the agency head determines that necessary service cannot be rendered, or the property of the Government cannot adequately be protected, otherwise.

Our decisions cited by Mr. McBride concern the above law and recognize that employees ordinarily may not be paid lower per diem rates on the basis of required use of Government quarters. The decisions also recognized, however, that required use of Government quarters with consequent lowering of per diem rates is permissible where an appropriate

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administrative determination has been made that the use of Government quarters is essential to successful completion of training involved. The claims in those cases were allowed, but only because proper administrative determinations had not been made.

The record establishes in the instant case that the use of Government quarters was essential to successful completion of the training and the administrative determination to that effect by the issuance of Instruction Memorandum 72-327 meets the requirement of the cited law. Accordingly, there is no basis for allowance of Mr. McBride's claim and the voucher with attachments is returned herewith and may not be certified for payment.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States