



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

B-191571

JAN 5 1979

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget

Dear Mr. Frey:

We refer to your letter of March 30, 1978, requesting our views concerning the most appropriate method of dealing with the question of [liability of Federal employees for overpayments of travel and transportation allowances].

When the general waiver authority statutes were passed, covering both civilian employees and military personnel, we took the position that, being essentially one-time payments, employees would readily be able to determine whether or not they had been overpaid. We are no longer convinced that that is the case. It may still be true for short, uncomplicated trips with transportation expenses covered by a Government Travel Request and all per diem at one rate, but not all travel is that simple.

Enclosed is a copy of one of our recent decisions, Matter of Long Beach Naval Shipyard, B-199014, August 30, 1978, which illustrates one way in which employees can become overpaid without being aware of it. The overpayments here range \$191.41 to \$2,352.01. These overpayments arose because the employees, all on long-term temporary duty assignments for training, relied on the officials who were allegedly expert in travel matters. The only relief available here was to send the matter to Congress as a meritorious claim under 31 U.S.C. § 236 (1976). Also enclosed is a copy of our decision Matter of William J. Elder and Stephen M. Owen, 56 Comp. Gen. 85 (1978). Again, the overpayments arose because the employees relied on allegedly knowledgeable officials. This matter was also submitted as a meritorious claim, and was enacted as Private Law 95-55, September 30, 1978. No other relief was possible in either situation, but in both cases, if waiver had been available it probably would have been granted.

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We are also enclosing a copy of our letter report B-189711, January 27, 1978, to the Honorable John Sparkman, Chairman, Senate Committee on Foreign Relations. At the Chairman's request, we reviewed problems that have been encountered in the operation of section 5 of the International Air Transportation Fair Competitive Practices Act of 1975, Pub. L. 93-623, 88 Stat. 2104 (49 U.S.C. § 1517), commonly referred to as the Fly America Act. The report details many of the difficulties that have arisen during the implementation of this Act, but we especially direct your attention to section IV "Penalties," which begins on page 13. The ultimate responsibility for an improper use of an uncertificated carrier will fall on the employee, no matter who was responsible.

With the enactment of the Fly America Act, employees who travel outside the United States now must be familiar with all the statutes, regulations, decisions, and the Official Airline Guide. It may be that a frequent traveler can gain an understanding of most of these sources, but an infrequent traveler must rely upon travel clerks and other allegedly knowledgeable officials.

The entire body of laws, regulations, and decisions relating to travel, transportation, and relocation expenses has become so complex that it is no longer reasonable to believe that employees not directly involved in the daily use of these materials can gain sufficient expertise to protect themselves from inadvertent overpayments. Also, our experience in handling requests for waiver indicates that consideration of waivers relating to travel and transportation overpayments could be incorporated into the existing system without the need for fundamental changes in the procedures now in force.

We would therefore strongly support a recommendation to Congress that the waiver provisions be amended to include travel and transportation allowances. In our view, those amendments could appropriately include proposed amendments we have already submitted to the Congress to raise the limit on the waiver authority granted to agency heads. This proposal was embodied in H.R. 9721, 95th Cong., 1st Sess. However, the measure was not enacted. Under that bill the limit on the waiver authority of agency heads would have been changed from \$500 to "not in excess of amounts prescribed by the Comptroller General from time to time."

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We would like to work with your Office to coordinate our efforts on this matter.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar  
General Counsel

**Enclosures**

bc: Director, FPCD  
Director, OP  
Director, Claims  
Director, Personnel  
Director, GS & C