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*Richard*

**DECISION**



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

**FILE:** B-187921

**DATE:** November 18, 1977

**MATTER OF:** Howard W. Ticknor - Per Diem - Rates En Route  
Outside Conterminous United States

**DIGEST:** NOAA employee traveled more than 6 hours in Government aircraft en route from Miami to Bermuda because he was engaged in hurricane research and reconnaissance of tropical storm. Direct flight time between these points is less than 6 hours. Employee may not exclude from traveltime the time spent working in the storm to qualify for the higher per diem rate for trips of less than 6 hours. Actual elapsed traveltime is to be used to determine the proper en route rate of per diem authorized by FTR 1-7.4 for travel by airplane outside the conterminous United States.

By letter dated October 26, 1976, Ms. Kathryn M. Toney, authorized certifying officer, Miami Field Finance Office, National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce, requests a decision on the claim of Mr. Howard W. Ticknor, an employee of NOAA's Research Facilities Center, for per diem involving rates en route from Miami to points outside conterminous United States. These rates are governed by section 1-7.4 of the Federal Travel Regulations (FTR), FPMR 101-7, M, 1973, which provides in pertinent part as follows:

"a. Duty point. As used in 1-7.4 the term 'duty point' means the official station outside the conterminous United States. any other place outside the conterminous United States at which official travel begins or ends, or the point of exit or entry in the conterminous United States.

"b. Rates and conditions. For travel on official business beyond the limits of the conterminous United States by airplane, train, or boat (regardless of whether commercially or Government-owned), whether en route between the conterminous United States and a locality beyond or between such localities, including stopovers of less than 6 hours, the maximum per diem that may be authorized or approved (except for the provision in 1-7.6d(1)) is as follows:

B-187921

\* \* \* \* \*

"(2) En route less than 6 hours. For trips other than those described in (1), above, the maximum per diem rate allowable between duty points shall be that of the destination duty point when the travel time between a duty point in the conterminous United States and a duty point in a locality beyond the limits of the conterminous United States or between a duty point in one such locality and a duty point in another is less than 6 hours.

"(3) En route 6 hours or more. When, in instances described in (2), above, the travel time between the duty points is 6 hours or more, the per diem rate applicable outside the conterminous United States is \$6; provided:

\* \* \* \* \*

"(b) When either of such rates prescribed herein is not commensurate with a traveler's subsistence expenses, a different rate may be authorized or approved in an amount not in excess of the maximum rate applicable to the destination duty point or, with respect to boat travel, not in excess of \$9.

"c. Travel beginning or ending in the United States. When travel covered by 1-7.4 begins or ends at a place in the conterminous United States, the maximum per diem rate allowable for the portion of the travel between such place and the place of entry or exit in the conterminous United States shall be the maximum per diem rate applicable within the conterminous United States."

The certifying officer's letter reads in pertinent part as follows:

B-187921

"Employees of Research Facilities Center \* \* \* have a mission, as stated on their orders, to 'travel to coordinate the various activities of the Research Facilities Center including flight operations to participate in hurricanes, severe storms, tropical storms and meteorological research projects and monitoring of the various RFC contracts as necessary'. Their laboratory to accomplish the mission is in the aircraft which is flown from Miami, Florida to wherever the turbulence is located. \* \* \*

"\* \* \* Employees of RFC are in flight more than six hours because they fly to the storm area, their duty point begins upon contact with the storm or hurricane and after hours of research they fly on to a destination point for refueling and lodging.

"My question is: can the point of contact with the storms be deemed 'official station' per se, and flight time figured from the exit point of the United States to the storm and then from the storm to the destination point and per diem computed on flight of less than six hours?"

Our answer to this question is no. In our view, the term "official station" or "official duty station" as used in Part 7 of chapter 1 of the Federal Travel Regulations means "official headquarters" or "permanent duty station" and may not be construed to include the point of contact with a storm. See FTR 1-7.3c; 1-7.5a(2), b(4), and c; and 1-7.6a, c(1) and d(1). Nor may such point of contact be otherwise construed to be a "duty point" within the meaning of FTR 1-7.4a since it is not a place where travel begins or ends or a point of exit or entry. Moreover we can find no authority for excluding from "en route" time the time spent flying and working in a storm. Actual elapsed traveltime is to be used to determine the rate of per diem authorized by FTR 1-7.4. 39 Comp. Gen. 728 (1960).

The specific case presented involves travel from Miami to Bermuda to participate in hurricane research and reconnaissance of tropical storm Gloria. According to the voucher submitted,

B-187921

Mr. Ticknor departed his residence at 5:30 a.m. EDT on September 28, 1976. The time he arrived at Miami, the point of exit, is not shown, but he departed Miami at 8:00 a.m. EDT and arrived at Bermuda at 7:25 p.m. AST. Thus, the total elapsed traveltime from Miami to Bermuda was more than 6 hours although the direct flight time between those points is less than 6 hours. Mr. Ticknor remained in Bermuda until 2:35 p.m. AST on October 1, 1976, when he departed for Miami. He reached Miami, the point of entry, at 5:10 p.m. EDT and arrived at his residence at 6:45 p.m. EDT.

For this trip Mr. Ticknor has claimed  $3\frac{1}{2}$  days per diem at \$62 per day, the rate authorized for Bermuda by the Standard Regulations (Government Civilians, Foreign Areas) at the time in question, and  $\frac{1}{2}$  day at \$33 per day, the maximum rate authorized by FTR 1-7.2a for travel within the limits of the conterminous United States at the time in question, for a total of \$233.50. While the voucher does not specify precisely how these figures were arrived at, it appears that he is claiming the first per diem quarter on September 28 and the last quarter on October 1 at the \$33 rate, and the remaining time in travel status at the \$62 rate. The travel order and trip authorization supporting the voucher authorize per diem in accordance with the IAW NOAA Travel Handbook, which, we assume, authorizes maximum rates.

It is our opinion, based on the foregoing and the record before this Office, that Mr. Ticknor's entitlement to per diem for this trip should be as follows: September 28 - no per diem for the first quarter since departure was within 30 minutes prior to the end of a quarter and there is no statement of official necessity (FTR 1-7.6e), second quarter at the United States rate of \$33 (FTR 1-7.4c, 1-7.6d(2)), and the last two quarters at the "en route 6 hours or more" rate of \$6 (FTR 1-7.4b(3)); September 29 and 30 - each day at the Bermuda rate of \$62; October 1 - first three quarters at the Bermuda rate of \$62, and the last quarter at the United States rate of \$33 (FTR 1-7.4c).

In view of the fact that the purpose of per diem is not to supplement pay but to reimburse employees for expenses incurred because of travel, the result here does not seem to be unreasonable under the circumstances. Nevertheless, if it should be administratively determined in future cases that the rate prescribed by FTR 1-7.4b(3) is not commensurate with the traveler's subsistence expenses, a different rate may be authorized in accordance with

B-187921

the provisions of FTR 1-7.4b(3)(b). However such authorization may be applied prospectively only. It may not be given retroactive effect. 55 Comp. Gen. 1241, 1242 (1976).

The voucher may be certified for payment in accordance with the foregoing if otherwise proper.

*R. M. K. 1/12*  
Deputy Comptroller General  
of the United States