



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Defense Security Institute Instructors -
Compensatory Time - Travel to Course Location
and Setting Up for Course

File: B-245417

Date: February 10, 1992

DIGEST

Employees who traveled away from their official duty stations on Sunday in order to teach agency training courses beginning Monday morning may not be allowed overtime pay or compensatory time for their travel under 5 U.S.C. § 5542(b)(2)(B)(i) or (iv) which require that for travel-time to be compensable, work must be performed while traveling or the travel must result from an event which could not be scheduled or controlled administratively. Here, the employees did not work while traveling and the event was scheduled and controlled by the employees' agency. However, time spent on Sunday after arrival at the training site setting up for the course is compensable work time if it is officially ordered and approved.

DECISION

This action is in response to a request from the Defense Investigative Service on behalf of the Department of Defense Security Institute (DDSI) for a decision as to whether DDSI instructors are entitled to overtime or compensatory time for travel outside normal work hours to the place where they are to present a training course and then to set up for the course.¹ For the reasons set forth below, we hold that in the circumstances presented here, the instructors are not entitled to overtime compensation or compensatory time for the time spent traveling but they may be entitled to overtime compensation or compensatory time for the time spent setting up for the course.

¹The request was submitted by Michael G. Newman, Deputy Director (Resources), Defense Investigative Service.

BACKGROUND

The DDSI offers an extension course entitled "Industrial Security Management", which since its inception in the 1950s has been a four and one-half day course, commencing on Monday and concluding on Friday at noon. Therefore, the agency reports that the course instructors must travel on Sundays to the location where the course is to be presented, and upon arrival set up the facilities required for the course, unpack boxes of course material, check audio-visual equipment, and perform related activities so that instruction may begin Monday morning. We have been advised that the seven instructors involved are routinely required to provide time on Sundays for this purpose a minimum of eight to ten times a year.

The agency concedes that it would be possible for it to shorten the length of the course and thus ensure travel and setup time within normal working hours. However, DDSI notes that the four and one-half day length was planned carefully as the minimum time required to accomplish the training objectives, and it contends that shortening the course would jeopardize these objectives. Therefore, it is the position of the agency that instructors traveling and setting up training locations on Sunday in connection with the training course should be provided compensatory time since the time spent is an inherent part of the work the instructors are performing.

We have been advised that the General Schedule positions of the instructors, Industrial Security Specialist (series 080), are not covered by the Fair Labor Standards Act. Therefore, their entitlement to overtime pay or compensatory time in lieu thereof, if any, depends on whether the time spent traveling away from their official duty stations is considered hours of employment under the provisions of 5 U.S.C. § 5542(b)(2)(B) (1988).

OPINION

The general rule regarding overtime pay is that employees may not be compensated for time spent on official travel outside their scheduled duty hours. See 5 U.S.C. § 5542(b)(2); 55 Comp. Gen. 629, 632 (1976). Section 5542(b)(2)(B) of title 5, United States Code (1988), provides, however, that time spent in travel status away from the official-duty station of an employee may be hours of employment if the travel:

"(i) involves the performance of work while traveling, . . . or

"(iv) results from an event which could not be scheduled or controlled administratively, including travel by an employee from such event to his or her official-duty station."

Generally, where the travel does not require the performance of work and serves no purpose other than to transport the employee from one place to another, such traveltime would not be compensable hours of work. See Barth v. United States, 568 F.2d 1329 (Ct. Cl. 1978); William L. Lamb, 61 Comp. Gen. 626 (1982). Despite the agency's claim that the travel of the instructors is an inherent part of their work, there is nothing in the record indicating that the instructors actually worked while traveling, e.g., reviewed the training program or otherwise prepared for the course, and that such work was officially ordered or approved. Nor was there a showing that the work could only be performed while the instructors were traveling. See Morris Norris, 69 Comp. Gen. 17, 19 (1989). Accordingly, since the time spent traveling served only to transport the instructors to the training site, such time would not be compensable hours of work under 5 U.S.C. § 5542(b)(2)(B)(i).

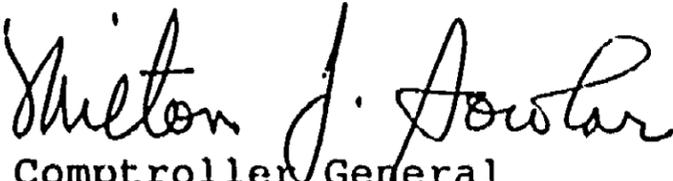
For an event to qualify as administratively uncontrollable under 5 U.S.C. § 5542(b)(2)(B)(iv), there must be a total lack of government control. Morris Norris, 69 Comp. Gen. at 20 (1989) and cases cited therein.² Here, the instructors traveled to teach a training course which was scheduled and conducted by and under the total control of the DDSI, the employing agency.³ This clearly precludes a finding of lack of government control, and thus the travel does not fall within the exception authorized by 5 U.S.C. § 5542(b)(2)(B)(iv). See also Golden and Wood, 66 Comp. Gen. 620 (1987).

Accordingly, the time spent traveling does not qualify for overtime compensation or compensatory time. As to the time the instructors are required to spend on Sunday at the training site to set up for the course, this appears to be compensable work time for which they may receive overtime pay or compensatory time if the overtime work is officially

²See also FPM Supp. 990-2, Book 550, Subchapter S1-3b (p. 550-11) (Inst. 68, Mar. 7, 1983).

³Compare William A. Lewis, et al., 69 Comp. Gen. 545 (1990) in which overtime compensation was allowed for employees in a travel status outside of regular working hours to attend training where the training was taken at a private institution and the government had no control over the content or the scheduling of the courses offered.

ordered and approved and otherwise meets the requirements of
5 U.S.C. §§ 5542 and 5543.

for 
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