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Diane G. Smith

Number: B-253338

Date: 1993-11-23

Matter of: Diane G. Smith File: B-253338 Date: November 23, 1993

APPROPRIATIONS/FINANCIAL MANAGEMENT Appropriation Availability Purpose availability Specific purpose restrictions Telephones At agency request, an employee used an agency modem to transmit data via telephone line from her home to her office while at home caring for an incapacitated child. As a result, the employee incurred long-distance telephone charges for which she seeks reimbursement. Under 31 U.S.C. Sec. 1348(b) (1988), the agency may use appropriated funds to pay for the long-distance telephone charges the employee incurred on her personal telephone line, provided the appropriate agency official determines that the calls were required for official business and certifies that they were necessary in the interest of the government.

DECISION

Ms. Smith, a Management Information Assistant, is the only computer specialist in the Nashville, Tennessee area office of EEOC, and is responsible, among other things, for the maintenance of all Charge Data System (CDS) entries in the district office computer information system. She lives outside the Nashville metropolitan area.

During the week of February 1-5, 1993, it was necessary for Ms. Smith to remain at home to care for her pre-school age son who was incapacitated. District management officials requested her to maintain the CDS while at home through the use of a modem. Ms. Smith was given the assignment so that the district office could remain current and accurate in its computer information system.

Ms. Smith, who lives outside the Nashville metropolitan area, took the modem home from the office and connected it to her personal telephone line, allowing her to access the district office computer. EEOC officials were not aware at that time that use of the modem would generate additional long-distance charges to Ms. Smith's telephone account. It is for these charges that Ms. Smith claims reimbursement.

Agency officials have advised us that Ms. Smith received no personal benefit from the installation of the modem on her personal telephone line and that the use of the modem was solely for the benefit of the EEOC. It was also reported that the claim is not for consideration under the Federal Flexiplace Program since Ms. Smith's district office does not participate in that program.[2]

Under 31 U.S.C. Sec. 1348(a)(1) (1988), generally the use of appropriated funds "for tolls or other charges" for telephone service from private residences is prohibited. However, an exception is provided for long-distance telephone calls,

as distinguished from other telephone service charges, under 31 U.S.C. Sec. 1348(b), which provides:

"Appropriations of an agency are available to pay charges for a long distance call if required for official business and the voucher to pay for the call is sworn to by the head of the agency. Appropriations of an executive agency are avail- able only if the head of the agency also certifies that the call is necessary in the interest of the Government."

Although the long-distance charges in the instant case apparently were incurred for computer data transmission rather than voice transmission, we see no reason why they would not be covered by the provisions of section 1348(b), provided the appropriate agency official determines, based on all of the facts involved, that the long-distance calls were required for official business and certifies that they were necessary in the interest of the government. See 41 C.F.R. Sec. 201-21.601 (1993); 35 Comp.Gen. 615 (1956); 56 Comp.Gen. 28 (1976); and Gerald S. Mathews, B-220104, Aug. 4, 1986.

If the appropriate determinations are made and certified as required by section 1348(b), Ms. Smith's claim for reimbursement of the long distance telephone charges, in the amount of $116.69, may be paid.

1. The request was submitted by Ms. Willie King, Director, Financial Management Division, EEOC.

2. Section 625 of the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1992, Pub. L. 102-141, 105 Stat. 873, provided that "any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated by this or any other act to install telephone lines, necessary equipment, and to pay monthly charges in any private residence . . ."