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B-69611 October 22, 1947

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Mr. P. J. Henning, Jr., Authorized Certifying Officer, Soil Conservation Service, Department of Agriculture, 4650 N. Fort Washington Road, Milwaukee 12, Wisconsin

Dear Mr. Henning:

Reference is made to your letter of September 4, 1947, as follows:

"There has been presented to me, as an Authorized Certifying Officer, the attached claim of Carl H. Stensland, Field Party Chief, Denison, Iowa, for per diem in the amount of $37.50, covering periods during the month of July, 1947 when the traveler remained at Carrell, Iowa, his temporary duty station, each night when he was only 27 miles from Denison, Iowa, his official headquarters.

"The Soil Conservation Service employs a number of soils technicians whose duties require travel from farm to farm, taking and analyzing soil samples to determine the capabilities of the land for a program of better land use. these men must carry a considerable amount of equipment for use in their work, and Government pick-up trucks are usually provided for transportation of the men and equipment between jobs.

"Due to the unavailability of a sufficient number of trained technical personnel, it is imperative that these employees remain on the job the full eight hours every day, Monday through Friday of each week, or until the work at each particular location is completed, if the purpose of our program is to be accomplished according to plan. It is, therefore, administratively desired that the eight hours of duty be performed in addition to driving time at the beginning and end of the day. This policy is predicated upon recognition of the fact that the work of the employees is done almost entirely in rural areas which necessitates commutation each morning and evening some distance from their temporary duty station where lodging is secured. If there is added to this the additional travel each morning and evening which would be necessitated by a return to official headquarters, it would frequently result in an unreasonable demand on the employee's personal time.

"From this it will be recognized that it must be left largely to the discretion of the employee, depending upon the point at which he concludes his day's work, as to he will return to his temporary duty station or to his official headquarters. The judgment such employees exercise in these matters, however, is subject to review by the employees' supervisor who recommends the travel vouchers for approval.

"It is a Bureau policy that travelers will not be allowed per diem unless overnight travel is involved, notwithstanding the provisions of Standardized Government Travel Regulation No. 51 which authorizes per diem for travel commencing before 8:00 A.M., or any travel ending after 6:00 P.M. Absence from official headquarters until after midnight is allowed by this Bureau to be regarded as 'overnight' travel for per diem purposes.

"It is also the administrative policy of this Region of the Soil Conservation Service that employees will return to headquarters on Friday evening of each week after completion of the regular hours of duty, unless the distance is such that the cost of return to headquarters is greater than the per diem which would be involved by reason of remaining at their temporary duty status, over the week-end. This is also providing, of course, that no other official benefit to the Government would result from their remaining in the field.

"Five cents per mile is the rate used by this office as a fair estimate of the cost of operating a Government vehicle. In the case here involved, the traveler made two official trips in a government vehicle between July 15 and July 30, 1947, during which he remained each night at Carroll, Iowa, his temporary duty station, a distance of only 27 miles from Denison Iowa, his official headquarters. The authorized per diem rate is $5.00 and the claim has been made for 6 days or $30.00.

"Had the traveler been required to return to headquarters each night after his day's work was completed, he would have driven an additional distance of 270 miles at an estimated cost to the Government of $13.50, based on the operation rate of five cents per mile. In considering the advantage to the Government, this would appear a proper offset against the per diem cost of $30.00 claimed by the traveler. Moreover, if travelers are required to return to headquarters each night, it can be expected, in many cases, that field personnel will take sufficient time from actual field work for driving back to headquarters at night and in returning to temporary duty stations on the following morning. In the instant case, this would mean an additional cost to the Government in time lost on the job at the rate of $1.69 per hour, the salary rate of this employee. The Government could easily have lost 1 1/3 hours of valuable field duty of the employee each day at the total cost of $13.52, in addition to the disruption of work schedules set up by Service representatives to expedite the accomplishment of Service objectives.

"In view of the policies of this Service, the nature of our field employees' work and the urgency of the program, certifying officers have not questioned too closely the necessity of return to headquarters at the end of each day; but, in view of recent exceptions by your office to vouchers certified for payment by this office, we feel that we must have an early reply in order to determine whether or not our administrative policies will be sanctioned by your office. We have offered administrative explanation to your exception, dated July 21, 1947, against D.O. Voucher No. 7-131840 paid September 1945 by C.D.O., G.F. Allen, Symbol No. 107, but, in view of the normal time required before we receive notification of clearance, we are submitting a current voucher for your early decision and our guidance in the cases that continually arise in our audit functions.

"In view of the facts in this case and the Bureau and administrative policies herein discussed, please advise me whether or not I may properly certify the voucher or any part of the claim for payment."

In decision of May 30, 1944, B-41653, to Mr. P.R. Redinger, Authorized Certifying Officer Farm Security Administration, Department of Agriculture, it was stated:

"Numerous decisions have been rendered by this office upon the question of allowing per diem at points within a short distance of the official station, and it has been held, generally, that the determination in such cases primarily is an administrative matter and that the responsibility is upon the administrative office to see to it that the per diem allowed is commensurate with the actual expenses of subsistence incurred over and above those which would have been incurred at headquarters -- emphasis having been placed upon the italicized portion of paragraph 45 of the Standardized government Travel Regulations. See 21 Comp. Gen. 697; 22 id. 62."

And in decision of August 27, 1946, B-59811, to Mr. Glenn W. Sitz, Authorized Certifying Officer, Federal Crop Insurance Corporation, Department of Agriculture, the statement was made:

"*** it appears impracticable to formulate, for general application, any rule as to whether a Government traveler, using a privately-owned vehicle, is or is not required to travel outside his regular daily tour of duty. therefore, the facts of a particular case should be examined in the light of the requirement prescribed in paragraph 1 of the Standardized government Travel Regulations that:

"'Employees traveling on official business *** are expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.'"

It is recognized by the General Accounting Office that an administrative office in performing the duties imposed upon it by the statutes which govern its operations must take into consideration all the factors involved in a particular situation and that an obvious saving resulting from the incurring of a smaller cost for traveling expense by virtue of a daily return to headquarters instead of a greater cost for per diem at a temporary post of duty is only one of such factors, which may be outweighed by the other circumstances existing in the case.

From the facts stated in your letter, especially the statement "that the work of the employees is done almost entirely in rural areas which necessitates communication each morning and evening some distance from their temporary duty station where lodging is secured," and the more expeditious handling of official business, it appears that the action of Mr. Stensland in remaining at his temporary station from July 15 to 18, and 28 to 30, 1947 was warranted, and that the administrative approval thereof -- assuming that the employee was put to additional expense -- was a reasonable exercise of the administrative discretion in the matter. Compare 21 Comp. Gen. 697; 24 id. 179.

You are advised, therefore, that voucher 3107, which is returned herewith, may be certified for payment in the amount claimed, if otherwise correct.

It may be stated, generally, for your information that an audit exception is in the nature of a challenge to the propriety of a certifying officer's action in certifying the voucher for payment; it is subject to review upon the presentation of an explanation and to withdrawal upon the submission of evidence

sufficient to establish the validity of the payment. Although such an exception imposes upon the officer a responsibility under the law to justify his action in certifying the voucher for payment or to make the Government whole in the matter, it does not constitute a definite determination as to the liability of the payee.

In cases such as the one covered by voucher 7-131840, referred to in your letter, where from the meager information on the voucher it is impossible to determine whether the failure to return to headquarters, and the attendant increased expense, is in the interest of the Government or for the personal convenience of pleasure of the traveler, this Office, in the exercise of its statutory duty, must develop the facts in each case, and the issuing of a notice of exception is a convenient method of obtaining the necessary information.

The replies to the exceptions against voucher 7-131840 and similar cases will be considered in the light of the principles set forth herein, and such action will be taken as is warranted by the facts in each case.

Respectfully,

Lindsay C. Warren Acting Comptroller General of the United States