UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 23, 2016

CBCA 4973-TRAV

In the Matter of INU K.C.

Inu K.C., Somersworth, NH, Claimant.

Scott A. Tiedt, Director, Transportation and Travel Management, Department of State, Washington, DC, appearing for Department of State.

WALTERS, Board Judge.

Claimant, Inu K.C., seeks reconsideration of the Board's decision, *Inu K.C.*, CBCA 4973-TRAV, 15-1 BCA ¶ 36,181, which affirmed the decision of her agency, the Department of State, to disallow reimbursement for a portion of her return travel in connection with her temporary duty (TDY) travel to New Delhi, India. In our decision, we found that the agency was correct in disallowing claimant reimbursement for the cost of a connecting flight from Dubai, United Arab Emirates (UAE), to Boston, Massachusetts. We did so because the flight was on a foreign airline, Emirates, in violation of the provisions of the Fly America Act, 49 U.S.C. § 40118 (2012), and did not fit within an exception specified under the applicable regulations. In response to the claim, the agency had determined that claimant could have purchased space on the very same flight from a United States flag carrier, Jet Blue, through an established code-share agreement, rather than from Emirates, and thus could have averted any delay or the need for any further layover.

In her request for reconsideration, claimant asserts that her purchase of a ticket on the Emirates flight came about only by reason of her reliance on misinformation from her agency's travel section:

> Please be advised that I was under the impression that I was following the Department of State's procedure by contacting them to make the flight reservation. However, I booked the ticket only when the travel section was unable to find any flight for the date I requested [necessary because of serious family health issues], and suggested us to go ahead and book a flight within the limited amount US$900.00 range. Therefore, the only flight available at that time with that price range was the Emirates. Had I known about buying the ticket on the US carrier side of the code share, I would have followed the procedure. I strongly believe that if the Fly America Act was violated, it was because of the misinformation and not negligence on my behalf.

It is indeed unfortunate that claimant's predicament was brought about by her reliance on incorrect advice furnished by her agency. Nevertheless, we cannot reverse our decision on this basis, since the Fly America Act still would not permit reimbursement. As we have repeatedly observed, even where an employee relies to his or her detriment upon the erroneous advice of agency officials, we cannot order payment, if payment would contravene the requirements of a statute or regulation. *Brian D. Zbydniewski*, CBCA 4951-TRAV, slip op. at 4 (Jan. 14, 2016); *Milton Brown*, CBCA 4998-RELO, 16-1 BCA ¶ 36,205, at 176,663-64 (2015); *Benjamin A. Knott*, CBCA 4579-RELO, 15-1 BCA ¶ 36,019, at 175,922; *James A. Kester*, CBCA 4411-RELO, 15-1 BCA ¶ 35,966, at 175,729-30; *Bruce Hidaka-Gordon*, GSBCA 16811-RELO, 06-1 BCA ¶ 33,255, at 164,834.

Decision

Reconsideration is denied.

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RICHARD C. WALTERS
Board Judge