



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 16, 2013

CBCA 3435-TRAV

In the Matter of MICHAEL A. BECKER

Michael A. Becker, Honolulu, HI, Claimant.

Debbie M. Uyeno, Financial Management Analyst, Headquarters, United States Army, Pacific, Fort Shafter, HI, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

Michael A. Becker requested authorization to be reimbursed for the actual expenses he incurred for lodging while on temporary duty for the Department of the Army in August 2012. We conclude that the Army's rationale for authorizing only the amount established as the government maximum rate is not soundly based. The Army must pay Mr. Becker the difference between that amount (which it has already paid) and the amount he actually incurred.

Background

On August 8, 2012, Mr. Becker was ordered to travel from Oahu to the Big Island of Hawaii from August 12 to 26 to support a site survey for construction of a training course. He immediately called all the hotels in the vicinity of the work site, hoping to find a room at or below the government maximum rate (\$180 per night) for lodging during the assignment. No such rooms were available; the lowest available rate quoted was \$239 per night. Mr. Becker's supervisor and two higher-level supervisors approved reimbursement of his actual lodging expenses, expecting that higher authority within the agency would authorize such payment.

As Mr. Becker learned upon returning from the assignment, the request was disapproved while he was away. The disapproval was based on the authorizing officer's application of a memorandum from the commanding general of the United States Army, Pacific and guidance from the chief of staff of the command.

The commanding general's memorandum urges careful management of funds. It states that an actual expense allowance (AEA) –

should only be [requested] in the rarest of occasions; requesting individuals must exhaust all avenues to find lodging within the allowed rate Acceptable reasoning for AEAs would be local embassies **directing** use of specific hotels above allowed per diem due to Force Protection circumstances. The use of AEAs due to convenience of location, i.e. co-located with conference site, is not acceptable. AEA submissions must be accompanied with a compelling cost-benefit analysis for why the situation would deem approval appropriate.

The chief of staff's guidance explains that requests for actual lodging expenses overseas and in Washington, D.C., will be subject to special scrutiny. The guidance concludes:

[T]he default answer should always be to find a hotel within the government rate. Only the most compelling of cases will be approved in the future. Please get the word out ASAP [as soon as possible], as we will be toeing the line in the future, and ignorance of our position is no excuse – exceeding the authorized allowance for lodging will simply cost our folks money, and none of [us] want that to happen.

In responding to the agency's position, Mr. Becker maintains that the memorandum and guidance do not preclude reimbursement of the actual lodging expenses he incurred. He explains, with confirming documentation:

The purpose of this [temporary duty] was to conduct a critical site survey to facilitate the timely analysis of target positions and terrain for the construction of the Infantry Platoon Battle Course (IPBC), a multi-million dollar Military Construction (MILCON) project that is particularly a Congressional Pullahead, which means that if the project fell behind schedule, there would be a strong likelihood the funding would be cut by [Department of the Army headquarters].

Mr. Becker explains further that given the short interval of time between his receipt of travel orders and the start of his assignment, he was unable to find lodging at lesser cost within a ninety-minute drive of the remote temporary duty location. The need for lodging near that location was especially important because Mr. Becker was working ten- to thirteen-hour days (including weekends) while on this assignment.

Discussion

Reimbursement of expenses actually incurred for lodging while an employee is traveling on government business is warranted in any of four situations, one of which is “[b]ecause of mission requirements.” 41 CFR 401-11.300 (2012).

We appreciate the Army command’s objective of carefully husbanding travel funds, as well as the command’s insistence on furthering this objective by restricting allowance of actual expenses, in lieu of the government maximum rates, for lodging of employee travelers. We find, however, that the circumstances in which the agency placed Mr. Becker cannot rationally be considered anything other than the “rarest of occasions” (or “the most compelling of cases”) in which an actual expense allowance is justified. Mission requirements compelled the granting of reimbursement of actual lodging expenses.

Mr. Becker’s supervisors directed this employee to travel on very short notice, to a remote location, to work long hours performing a function which was critical to advancing construction on a project that had to remain on schedule. The officials who sent the employee on this assignment understood that given the short time between issuance of the travel orders and inception of the temporary duty itself, no lodging was available at the government maximum rate. Those officials nevertheless determined that spending a little extra money to pay for the employee’s hotel room was a worthwhile investment in maintaining the viability of an important multi-million dollar project.

Decision

The Army’s decision to reimburse only the portion of Mr. Becker’s lodging costs which was within the government maximum rate was clearly erroneous. We direct the agency to pay Mr. Becker the entire amount which is in dispute.

STEPHEN M. DANIELS
Board Judge