

SECRET

Chief, CFB

23 May 1949

OGC Has Reviewed

Office of General Counsel

Personnel Transfer - [REDACTED]

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1. The basic memorandum from CFB (11 May 1949) and amplification from CFB (16 May 1949) indicate subject was transferred from Intelligence Officer, [REDACTED], to Intelligence Officer, Washington. While it is not explicitly stated, it appears this was a paper "transfer" and not physical. It is assumed for the facts that subject was recruited in Cedar Rapids, assigned overseas with TDY in Washington, and paid travel and per diem accordingly. When his particular proficiencies were evaluated in Washington, he was then reassigned to permanent duty in Washington prior to going overseas. Subject was reassigned on 28 April 1949; while the date of original assignment is not indicated, it is also assumed that Confidential Funds Regulations, dated 1 February 1949, were in effect.

2. Section 6.0 of the Confidential Funds Regulations, dated 1 February 1949, provides that:

"6.0 Travel

a. Except as otherwise specified in these regulations, travel expenses will be paid for staff employees who are paid from confidential funds, in the amount permitted by Public Law 600, 79th Congress, Second Session, approved 2 August 1946, the regulations issued thereunder, the Standardized Government Travel Regulations, and Bureau of the Budget Circular A-7."

Payment of a new appointee's transportation to his first post of duty overseas is authorized by § 7 of P.L. 600 (named above), and per diem is permitted by and within the limits of, § 6.1 d. of Confidential Funds Regulations. There is no question raised in regard to the propriety of paying travel and per diem under the original orders; it is simply a matter of requiring refund when the post overseas is changed to a post inside the continental United States.

3. The question of allowing per diem and transportation expenses in a similar situation was reviewed in a memorandum from this office to the Assistant Chief, Fiscal Section, dated 11, March 1947. In that case, a new employee was ordered from Washington to New York on TDY with per diem and transportation. When his official station was designated New York, prior to returning to Washington, the travel was considered for the convenience of the Government and not contrary to the general rule prohibiting payment of per diem and transportation to an employee reporting to his first point of duty. In another domestic case, the Comptroller General stated (14 Comp. 2051A, 146):

"...that conditions may sometimes arise necessitating the detail or assignment of an officer or employee for temporary duty at a place to which his regular duty station may thereafter be changed. And in such cases when facts are shown that the transaction was in good faith and that at the time the order for travel on temporary duty was issued there was no purpose to effect a transfer or change

SECRET

Page No. 2

in regular duty station, reimbursement of otherwise proper expenses incident to such travel is authorized.

The mere fact that the present employee was originally assigned overseas, rather than inside the U.S., does not alter our conclusion. Travel to a first post overseas from a point in the U.S. is authorized for new employees under P.L. 600 and per diem is permissible during an intervening period of training. The memorandum from Personnel to Confidential Funds, dated 16 May 1949, is credible proof of good faith on the Agency's part, and there does not appear to be any necessity to require a refund where payments were properly made under orders which were changed for the convenience of the Government. This is so, even though such payments could not have been authorized under original orders to the redesignated post.

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CWP/hw

cc: Subject
Legal Decision