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DATE: June 12, 2000

In Re:

[Redacted]

Claimant

Claims Case No. 00021415

CLAIMS APPEALS BOARD DECISION

DIGEST

A member who purchased airline tickets for temporary duty official travel did not purchase the tickets from a travel agency under government contract or other approved facility. Reimbursement of the member is not proper because paragraph U3120 of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120) requires that the member purchase tickets from one of the facilities described in 1 JFTR ¶ U3120-A unless under 1 JFTR ¶ U3120-B the order-issuing official authorized or later approved purchase from a non-authorized facility due to unusual circumstances when there was no alternative.

DECISION

The member appeals a decision by the Defense Finance and Accounting Service (DFAS) to deny his claim for reimbursement for airline tickets he purchased for temporary duty travel (TDY). DFAS denied reimbursement because the member procured his transportation from a source other than those provided in paragraph U3120-A of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120-A) and no exception applied. [\(U\)](#) The Claims Appeal Board settles this matter for purposes of administrative convenience.

Background

The record indicates that the member was ordered to travel from Nellis Air Force Base, Nevada, to Tyndall Air Force Base, Florida, to perform temporary duty (TDY) during the period September 10-17, 1999. The front side of the member's orders stated that the member was authorized to use commercial air travel when government air was not available. Item 2 of the standard order's instructions (reverse side) applied and directed the member to use a specified aircraft. The order also stated that Item 1 of the standard order applied, directing the member to use government-

procured transportation. However, the front side of the orders also indicated that the member was authorized to take leave from September 17, 1999, to October 2, 1999, and that the member was authorized to procure his own travel (up to \$350). While the record is not completely clear, it appears that the member traveled to Tyndall in the government aircraft specified, but he went on leave after completing his training there. Commercial tickets were required for return travel. The order-issuing official has not authorized or approved procurement from a non-authorized source on the basis that unusual circumstances existed indicating that the member had no alternative. It appears that the member is claiming \$350 for return travel. ⁽²⁾

The member states that he specifically asked a representative from "Travel Pay" at Nellis AFB whether he had to purchase his tickets from a certain travel office, and that the representative, who he cannot identify, advised him that he could purchase his tickets through any source and still be reimbursed. The member also points out that Item 3 on the reverse side did not apply, and that in part, Item 3 directs members to report to a contract travel office (CTO) to obtain tickets when a member is authorized to personally procure his tickets.

Discussion

There appear to be contradictions among some of the instructions in the orders (*e.g.*, Item 1 applied; yet the member was authorized to procure his own travel). For purposes of this claim, we will assume that the member was authorized to procure his own return travel. We will also assume that the member attempted to obtain correct information but that he was advised erroneously about the need to report to the CTO to arrange travel.

For travel claims, we must base our decisions on the law and implementing regulations applicable to the situation at hand--in this case, the relevant portions of the JFTR in effect at the time the member traveled. *See* DOHA Claims Case No. 96123013 (June 2, 1997). *See also* DOHA Claims Case No. 99101308 (May 5, 2000), a recent decision involving the same JFTR language in paragraph U3120 that controls the present claim. In the context of this regulation, we have held that the fact that the member was not advised to use an approved facility does not provide a basis for payment, since the government is not liable for the erroneous or negligent actions of its officers, agents, or employees. *See, for example*, the discussion in DOHA Claims Case No. 97041009 (July 30, 1997); DOHA Claims Case No. 97030601 (July 30, 1997); DOHA Claims Case No. 97041006 (August 26, 1997); and DOHA Claims Case No. 97031010 (September 16, 1997), all cited in DOHA Claims Case No. 99101308, *supra*. *See also* DOHA Claims Case No. 98051405 (May 20, 1998); and *Petty Officer John R. Blaylock, USN*, 60 Comp. Gen. 257 (1981).

As we explained in DOHA Claims Case No. 99101308, *supra*, the prohibition against disbursements not authorized by statute or regulation is so fundamental that even if an actual government official had specifically misinformed the member that he did not need to use a facility described in 1 JFTR ¶ U3120-A, the member still would not have had the right to reimbursement. The government is neither bound nor estopped by the erroneous or unauthorized acts of its officers, agents, or employees even though committed in the performance of their official duties, and it is a well-settled rule of law that the government is not bound by the erroneous advice of its officers or employees, when such advice contravenes existing regulations. *See* DOHA Claims Case No. 99092806 (February 4, 2000) citing *Joseph Pradarits*, 56 Comp. Gen. 131 (1976), and *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990), *reh'g denied* 497 U.S. 1046 (1990).

The service member here did not obtain authorization or approval from the order-issuing official indicating that there were unusual circumstances and that the member had no alternative.

Conclusion

The member's claim is disallowed.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Arthur A. Elkins

Arthur A. Elkins

Member, Claims Appeals Board

Signed: Jean E. Smallin

Jean E. Smallin

Member, Claims Appeals Board

1. At the time that the member traveled (JFTR updated through Change 153), 1 JFTR ¶ U3120-A1 provided that in arranging official travel, personnel are required to use a commercial travel office under government contract, an in-house travel office, or a General Services Administration Travel anagement Center. But, under 1 JFTR ¶ U3120-B, the order-issuing official may authorize/approve direct purchase from a non-contract travel agent or common carrier when unusual circumstances existed and there was no alternative. In a foreign country, a non-contract travel agent may be used when CTO services were not reasonably available and ticketing arrangements could not have been made through a branch office or general agent of an American-flag carrier. The exceptions in 1 JFTR ¶ U3120-B were prefaced with the following note: "When a non-contract CTO is used, the member must demonstrate that use of a contract CTO was

attempted. The last paragraph of 1 JFTR ¶ U3120-B contains the following payment limitation: "Reimbursement for transportation arranged through authorized/approved use of a non-contract travel agent or common carrier . . . is limited to the amount the member would have paid if the arrangements had been made directly through the carrier(s)."

2. To meet the requirements of his leave, the member traveled from Tyndall to New York, then from New York back to Nellis. The \$350 represents the government travel request cost from Tyndall to Nellis.