

**SUPPLEMENTAL REPORT RELATED
TO COTTON & COMPANY'S
AGREED-UPON PROCEDURES REPORT ON
SENSITIVE PAYMENTS**

AUDIT REPORT NUMBER 3-29

MAY 29, 2003

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**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20416**

AUDIT REPORT
Issue Date: May 29, 2003
Report Number: 3-29

To: Thomas A. Dumaresq
Chief Financial Officer

From: Robert G. Seabrooks Original signed [FOIA Ex. 6]
Assistant Inspector General for Auditing

Subject: Supplemental Report Related to Cotton & Company's (Cotton) Agreed-upon
Procedures Report on Sensitive Payments, Audit Report No. 1-20, Issued September
28, 2001

As a result of a complaint received from a former SBA Regional Administrator (RA) with respect to the finding entitled "SBA Paid Costs of Some Personal Travel by a Regional Administrator" on page two of the subject report, our office conducted a supplemental review of the RA's Fiscal Year (FY) 2000 travel. We found that the RA's travel expenses incurred during FY 2000 were appropriately reimbursed. Accordingly, this report amends the related finding in the subject report.

Background

In September 2001, the Office of Inspector General (OIG) issued the subject audit report with a finding which states that the RA submitted 31 travel vouchers during FY 2000 and, of these, 27 indicated that travel either originated or terminated in a location other than the RA's official duty station. The report concluded that at least \$1,500 in additional costs resulting from routing travel in this manner were personal costs that should not have been submitted to SBA for payment. Cotton relied solely on travel vouchers and information maintained by SBA's Denver Finance Center in conducting their review.

In December 2001, the RA contacted our office to request that the subject report be withdrawn and be amended to accurately reflect the RA's official and personal travel records. The RA believed that the report mischaracterized the nature of the RA's travel and implied that SBA paid for personal

travel to and from the RA's personal residence. In response to the RA's request, our office removed the report from our website and conducted a review of the RA's FY 2000 travel.

Objective and Scope

The objective of our review was to determine if the RA complied with SBA's policies and procedures and the Federal Travel Regulation (FTR) when performing official government travel and requesting reimbursement for related travel expenses. To accomplish the objective, we reviewed 30 travel vouchers for trips that occurred during FY 2000 and one amendment voucher to claim expenses previously denied. We reviewed the travel vouchers to determine if the RA's trips were properly authorized and completed in accordance with approved travel authorizations. We interviewed the RA, a former Associate Administrator for Field Operations (AA/FO), and officials in SBA's Denver Finance Center. Further, we reviewed SBA's travel policies and procedures, the FTR and relevant General Services Board of Contract Appeals (GSBCA) cases.

We conducted fieldwork from February 2002 to September 2002. Our review was conducted in accordance with Government Auditing Standards.

SUMMARY OF RESULTS

We concluded that the RA complied with SBA policies and procedures and the FTR in performing travel and requesting payment for travel expenses during FY 2000. Accordingly, the additional costs identified by Cotton of approximately \$1,500 associated with the RA's routing of travel were appropriate travel expenses. SBA's policies and procedures and the FTR do not adequately address situations where an employee originates and/or terminates travel from a location other than their official duty station. The absence of clear policies may allow for abuse. As a result, we are recommending that SBA implement appropriate policies and procedures.

RA Submitted Travel Expenses for Travel Incurred During FY 2000 in Accordance with Applicable Policies and Procedures

The RA relied on SBA's travel policies and procedures, the FTR, and informal guidance from the RA supervisors in authorizing and performing official travel during FY 2000. During FY 2000, the RA originated or terminated travel for 29 of 30 business trips from [FOIA Ex. 6] where the RA personal residence is located, instead of the RA official duty station in [FOIA Ex. 6]. As a result, approximately \$1,500 in additional costs were incurred by the RA and reimbursed by SBA.

Under Section 301-10.7 of the FTR, an employee traveling on official travel must travel to his or her destination by the usually traveled route unless the agency authorizes or approves a different route as officially necessary. For this reason, the FTR limits travel payment to the cost of travel by a direct route or on an uninterrupted basis. In reviewing the former RA's origination of travel from other than the RA official duty station, we examined prior cases involving similar travel. The GSBCA held *In the*

Matter of K. Wesley Davis, GSBCA No. 15623-TRAV October 17, 2001, that an agency can, in its discretion and for reasonable cause, authorize an employee to initiate and end travel from a location other than the employee's official duty station.

Further, GSBCA held that if such travel is authorized and the employee acts in reliance on that authorization, the agency cannot later refuse to reimburse the employee for the cost of that travel even if the cost is greater than the cost would have been if the travel had originated and ended at the employee's official duty station.

Some of the RA's 29 trips that originated and/or terminated in [FOIA Ex. 6] were authorized by the RA's supervisors, a former Associate Administrator for Field Operations (AA/FO) and acting AA/FO. The other trips were self authorized by the RA in accordance with SBA's policies at that time which allowed certain field officials to self authorize travel. Additionally, the former AA/FO stated that he informally granted his RAs the flexibility to originate and terminate travel anywhere within their region due to the nature of their jobs, which required them to travel many times on weekends and in the evenings on their own time. In addition, he authorized the RA to telecommute from the RA's residence in [FOIA Ex. 6]. For each of the 29 trips that originated or terminated in a location other than the RA's official duty station, the RA began and ended travel from the location authorized on the travel authorizations and in accordance with SBA's travel practices and policies. Further, the RA traveled from the authorized location to the temporary duty station and back by the most direct route and without delays for personal convenience.

Accordingly, although the RA's cost of travel was more than it would have been if the travel had originated and/or ended at the official duty station, the RA was authorized to initiate and terminate travel from/to a location other than the RA's official duty station. Additionally, as previously mentioned with respect to the GSBCA case, because the RA acted in reliance on such authorizations, SBA cannot later refuse to reimburse the RA for the cost of travel even if the cost is greater than it would have been if the employee originated or ended travel at his or her official duty station. Further, SBA does not have written policies or procedures that (1) specify when it is appropriate for employees to originate and/or terminate travel from other than their official duty station or (2) require authorizing officials to document the justification for such routing of travel. In the absence of a policy that limits the discretion of an authorizing official from authorizing such travel, we concluded that the authorizing officials acted within their authority. Based on the foregoing, we determined that the additional costs identified by Cotton were appropriate travel expenses. To clear up any confusion with respect to SBA's policies in these types of situations and reduce the potential for travel abuse, SBA should implement written policies and procedures that address items (1) and (2) above.

SBA policies regarding the self authorization of Regional Administrator travel have changed since the last trip that the RA self authorized. On September 1, 2000, SBA issued a policy notice that only allowed Regional Administrators to self authorize travel within their respective jurisdictions. The Office of Field Operations took the additional step of informally adopting a policy that required Regional Administrators to obtain authorization from the Associate Administrator for Field Operations prior to all of their travel. Additionally, on September 25, 2002, SBA issued a policy notice that required the Associate Administrator for Field Operations to authorize all Regional Administrator travel with the

exception of travel within the Regional Administrators' jurisdictions lasting less than 12 hours. While both notices have subsequently expired, the Office of Field Operations is currently following the policy contained in the latest policy notice and the Office of the Chief Financial Officer has indicated that the new travel standard operating procedures (SOP) will reflect this policy.

SBA's past practice, however, of permitting certain officials to self authorize travel could create an appearance, in situations such as these, that certain individuals were taking advantage of their self authorization authority for personal gain. This was especially true where appropriate justification was not documented with the official file copy of the travel voucher. This perception opens the door for public criticism of SBA's travel policies and practices. As a result, SBA should issue the new travel SOP containing the requirement that prohibits individuals from self authorizing travel that originates and/or terminates from a location other than his or her official duty station.

Recommendation:

1A. We recommend that the Chief Financial Officer implement policies and procedures that:

- Specify when it is appropriate for employees to originate and/or terminate travel from other than their official duty station for official government travel.
- Require authorizing officials to attach a written justification to the travel voucher when an employee is authorized to initiate or terminate travel from a location other than their official duty station.
- Prohibit individuals from self authorizing travel that originates and/or terminates from a location other than their official duty station.

Auditee's Response:

The comments provided by the RA indicate agreement with the finding, subject to specific editorial changes being made.

Office of Inspector General's Evaluation of Auditee's Response:

The report was revised as appropriate.

SBA Management's Response:

The comments provided by the Chief Financial Officer (CFO) indicate disagreement with the draft finding. The CFO stated that the OIG's conclusion that it is now permissible to reimburse the former Regional Administrator for what was previously deemed personal travel is not supported by the FTR and seems contrary to current travel policy. The CFO also stated that the OIG cites a GSBCA decision that seems to allow reimbursement for personal travel as long as it is authorized in advance. The CFO further stated that additional information and guidance from the GSBCA on this matter is appropriate and they will submit a request to GSA for an advisory opinion to determine if the former RA's payments for travel were permissible. Based on GSA's opinion, SBA will develop policy regarding alternate points of origination and destination for SBA employee travel.

In regard to the draft finding discussing the certifying officer signature on Standard Form 1012, the CFO disagreed with the finding and we subsequently deleted it.

SBA's response is included in its entirety as Attachment 1.

Office of Inspector General's Evaluation of SBA's Response:

We agree that the RA's FY 2000 travel arrangements do not appear to meet the intent of the FTR and SBA's travel policy. However, we continue to support our position that the RA's FY 2000 travel was properly reimbursed based on (1) precedent set by the GSBCA in applying the FTR rules, and (2) the absence of an SBA policy restricting employees from traveling from a location other than their official duty station and/or limiting reimbursement when an employee travels in such a manner.

In the aforementioned GSBCA case, the claimant, Mr. Davis, asked that GSA review a determination made by his agency that he was not entitled to full reimbursement for the cost of authorized travel from his personal residence to a temporary duty location. Mr. Davis' personal residence was in Shreveport, Louisiana, while his official duty station was in Dallas, Texas.

In the discussion section of the case, GSBCA states that it is correct, under FTR section 301-70.1, that an agency must limit payment of travel costs to that which is necessary to accomplish the mission in the most economical and efficient manner and in accordance with the rules stated throughout the FTR. For this reason, they acknowledged that the FTR expressly advises employees that reimbursement for the cost of travel is limited to the cost of travel by a direct route or on an uninterrupted basis.

Mr. Davis presented the argument that there were unique facts which distinguish his claim from the typical claim for reimbursement of costs associated with indirect travel. Specifically, he received a

signed travel order authorizing him to start travel from Shreveport. GSBCA found merit in his argument, especially because the order was issued after Mr. Davis had explained his situation and plans to agency officials. The agency's reply to this argument was that the travel authorization was incorrect and the office approving the authorization simply exceeded its legal authority. GSBCA disagreed and stated that they saw no reason why an agency cannot, in its discretion and for reasonable cause, authorize an employee to start and/or complete official travel at a point outside the employee's official duty station.

Additionally, GSBCA stated that they did not see the case as one involving indirect routing of travel because the claimant (1) sought and received authorization to start and complete travel from his personal residence instead of his official duty station, (2) did not expect to be reimbursed for travel back and forth from his residence to his official duty station, and (3) traveled from his personal residence to the temporary duty station by a direct route without delays for personal convenience. GSBCA commented that the agency's existing policy of limiting reimbursement of travel costs for employees with homes and families located outside their official duty stations may be a sound and prudent policy. However, GSBCA stated that it is well established that if it is within the discretion of an agency to make a specific authorization, and if it does so, that authorization cannot be withdrawn once the employee incurs expenses in reliance on it. The GSBCA case is included in its entirety as Attachment 2.

We believe that the circumstances related to the RA's travel are similar enough in nature to Davis' case that if you apply the fundamental principles set forth by GSBCA, the RA's travel would be found to be in compliance with the FTR. As in Davis' case, the RA had signed travel orders authorizing the RA to initiate and end travel from the RA's personal residence instead of the RA's official duty station. Although many of the trips were self authorized, as permitted by agency policy, the RA's usual travel plan of leaving from and returning to his/her personal residence when conducting official government travel was known and accepted by the RA's supervisors. Further, related travel costs were accepted and paid by SBA. Additionally, in applying the precedent set by GSBCA regarding indirect travel, the RA's routing of travel would not be considered indirect travel because it was authorized and there was no evidence that the route from the RA's personal residence to the temporary duty location was indirect or involved a delay for personal convenience. Accordingly, we believe that characterizing such travel as "personal travel" is inappropriate.

In the absence of an existing policy limiting reimbursement for employees with homes and families outside their official duty station or specifying when it is appropriate to originate and terminate travel from outside their official duty station, we determined that SBA properly reimbursed the RA for travel costs during FY 2000. While we encourage SBA officials to obtain an advisory opinion from GSA, as they see appropriate, we believe that the GSBCA case fits the circumstances of the RA's travel and recommend that SBA implement clear policies and procedures to address these types of situations.



The finding included in this report is the conclusion of the Office of Inspector General's Auditing Division. **The finding and recommendation are subject to review, management decision, and corrective action by your office in accordance with existing Agency procedures for audit follow-up and resolution.**

Please provide us your management decision for the recommendation within 30 days. Your management decision should be recorded on the attached SBA Form 1824, "Recommendation Action Sheet," and show either your proposed corrective action and target date for completion, or explanation of your disagreement with our recommendation.

Should you or your staff have any questions, please contact Robert G. Hultberg, Director, Business Development Programs Group at (202) 205-7577.

Attachments



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

MAY 6 2003

DATE:

TO: Robert G. Seabrooks,
Assistant IG for Auditing

FROM: Thomas A. Dumaresq, Chief Financial Officer Original Signed
FOIA Ex. 6

SUBJECT: Supplemental Report to Audit Report 1-20 on Cotton's Agreed-upon
Procedures Report on Sensitive Payments

This is in response to your letter dated April 16, 2003 regarding your supplemental review of Audit Report 1-20, originally issued in September 2001.

Recommendation 1A

We recommend that the Chief Financial Officer implement policies and procedures that:

- Specify when it is appropriate for employees to originate and/or terminate travel from other than their official duty station for official government travel.
- Require authorizing officials to attach a written justification to the travel voucher when an employee is authorized to initiate or terminate travel from a location other than their official duty station.
- Prohibit individuals from self authorizing travel that originates and/or terminates from a location other than official [or temporary] duty station.

Agency Response

The original report (1-20) resulted in a finding that the former regional administrator was improperly reimbursed for personal travel. From the section of the report titled "**SBA Paid Costs of Some Personal Travel by a Regional Administrator**," it states:

The FTR and SBA's travel policy allow SBA employees to combine personal travel with official travel. However, additional costs incurred for personal travel may not be paid with government funds, and government credit cards may not be used to pay for such travel. Further, reimbursement is limited to the cost of travel by a direct route or on an uninterrupted basis (FTR Section 301-10.8). The traveler is responsible for any additional costs.

The latest OIG finding, however, rules that it is now permissible to reimburse the former Regional Administrator for what was previously deemed personal travel. This decision,

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however, is not supportable by Federal Travel Regulations, and it seems contrary to current travel policy as we know it. As support, the OIG cites a General Services Board of Contract Appeals (GSBCA) decision (15623-TRAV) that seems to allow reimbursement for personal travel as long as it is authorized in advance. We find this decision confusing and contradictory to the vast majority of other decisions by the Board regarding Federal travel. We question whether this case applies in the specific circumstances of the original review.

We believe that additional information and guidance from GSA on this matter is appropriate. Therefore, we will submit this issue to GSBCA for an advisory opinion. Based on their response, we will develop policy regarding alternate points of origination and destination for SBA employee travel.

Regarding self-authorizations, the SBA modified its policy and greatly restricted the ability for self-authorization (and eliminated self-approval) of travel shortly after the original report was issued in September 2001. In addition, we have modified the draft travel SOP (in clearance) to prohibit self-authorization of travel involving alternate points of origination and destination. A notice will be published immediately to communicate this change to all employees prior to the new SOP being published.

Recommendation 1B

We recommend that the Chief Financial Officer provide guidance to the Denver Finance Center explaining the responsibility of the certifying officer with respect to Block 16 of Standard Form 1012.

Agency Response

Standard Form 1012 for travel reimbursement has not been revised since 1977. The electronic certification of payment files was developed by Treasury after the form's last revision. By virtue of the current electronic certification procedures required by Treasury that we follow, individual signatures in Block 16 have not been required for over a decade. Form 1012 is out of date and Block 16 is now a meaningless artifact of the days of manual certification. As a result, the OCFO procedure will continue to use the electronic certification requirements prescribed by Treasury.

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

October 17, 2001

GSBCA 15623-TRAV

In the Matter of K. WESLEY DAVIS

K. Wesley Davis, Dallas, TX, Claimant.

Paul J. Huffman, Director, Center for Materiel Resource, Social Security Administration, Dallas, TX, appearing for Social Security Administration.

NEILL, Board Judge.

Claimant, K. Wesley Davis, is an employee of the Social Security Administration. He asks that we review a determination made by his agency that he is not entitled to full reimbursement of the cost of air travel from his home in Shreveport, Louisiana, to a temporary duty (TDY) location in Columbia, South Carolina. For the reasons stated below, we conclude that Mr. Davis is entitled to the amount he seeks.

Background

Claimant's permanent duty station (PDS) is in Dallas, Texas. He has a residence in the area of his PDS from which he regularly commutes to work each day. On May 17, 2001, Mr. Davis was issued a travel authorization which provided for travel to Columbia, South Carolina, to attend communications training. The authorization was for departure on Sunday, June 3, and return on Friday, June 8. In the remarks column of the authorization is a note that the traveler was required to be in Shreveport to complete personal business. Consequently, the point of departure and return for the authorized travel is Shreveport and not Dallas.

Mr. Davis explains that his reason for being in Shreveport on June 3 was to visit with his family. Although he had previously established residence in Dallas, his family had remained in Shreveport. It was, therefore, his intention to spend the first part of his weekend of June 2/3 with his family and then, on Sunday June 3, to fly from Shreveport to Columbia in time for the start of his training course at 5 p.m. on the same day. He further explains that it was not possible for him to travel back to Dallas on June 3 and get a flight for Columbia which would have arrived at Columbia in time for the five o'clock start of his training course. Claimant made no secret of these travel plans. He states that he pre-coordinated this arrangement with the agency travel office and received prior approval. Mr. Davis' travel authorization signed on May 17 confirms this fact.

GSBCA 15623-TRAV

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Nevertheless, by letter dated June 26, 2001, the agency advised Mr. Davis that it would not reimburse him for the full cost of round-trip airfare from Shreveport to Columbia (\$697). Instead, it limited reimbursement to \$379, the cost of round-trip airfare from his PDS in Dallas to Columbia.

The agency asserts that the situation presented here is not unique and that there is a "prevalence of travelers who maintain a residence at their duty station but whose families actually reside in another city." When these employees leave on TDY from their weekend homes, it has been found that this can cost the Government substantially more than if they left from their PDS locations. In March 2000, the agency sought the guidance of an official in the General Services Administration (GSA) on a claim said to be similar to that of Mr. Davis. The GSA official referred the agency to a provision in the Federal Travel Regulation (FTR) which states that an agency must limit the authorization and payment of travel expenses to travel that is necessary to accomplish the agency's mission in the most economical and effective manner, in accordance with the rules stated in the applicable chapter of the FTR. See 41 CFR 301-70.1 (2000) (FTR 301-70.1).

After conferring with GSA, Mr. Davis' agency concluded that it would permit employees to travel to TDY assignments from locations outside their PDS areas but that, when and if they did so, they would be entitled to reimbursement of travel costs only up to what the cost of such travel would be if departure were from the employees' PDS areas. For this reason, the agency limited reimbursement for Mr. Davis' claim for \$697 in airfare to \$379.

Discussion

It is of course correct that, under the FTR, an agency must limit payment of travel costs to that which is necessary to accomplish the mission in the most economical and efficient manner and in accordance with the rules stated throughout the FTR. For this reason the FTR expressly advises employees that reimbursement for the cost of travel is limited to the cost of travel by a direct route or on an uninterrupted basis. See FTR 301-70.1. For the same reason, this Board on numerous occasions has upheld an employee's entitlement to reimbursement of travel costs up to, but not beyond, the constructive cost of direct travel when, for reasons of personal convenience, that individual traveled by an indirect route or interrupted travel by the direct route and, as a result, incurred extra expense. E.g., Peter J. Van Deusen, GSBCA 15366-TRAV, 01-1 BCA ¶ 31,371; Susan Reed, GSBCA 13993-TRAV, 97-2 BCA ¶ 29,303; Phyllis G. Thompson, GSBCA 13691-TRAV, 97-2 BCA ¶ 29,067; Lorrie L. Wood, GSBCA 13705-TRAV, 97-1 BCA ¶ 28,707 (1996).

In this case, Mr. Davis contends that there are unique facts which distinguish his claim from the typical claim for reimbursement of travel costs associated with indirect travel. He points to the fact that he received a signed travel order authorizing him to start TDY travel from Shreveport. We find merit in this argument, especially because the order was issued after Mr. Davis had explained his situation and plans to agency officials. The agency's reply to this argument is that the travel authorization was incorrect and the office approving the authorization simply exceeded its legal authority. We disagree. We see no reason why an

GSBCA 15623-TRAV

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agency cannot, in its discretion and for reasonable cause, authorize an employee to start and/or complete TDY travel at a point outside the employee's PDS area.

We do not view this case as one involving indirect routing of TDY travel. Neither does it appear that the agency viewed it in this manner when it issued Mr. Davis' travel authorization. Prior to this authorization, the claimant explained that he planned to be in Shreveport on Sunday June 3, the day on which he was to start his TDY travel. He likewise planned to be in Shreveport on the following weekend. He, therefore, sought and received authorization to start and complete his TDY travel from that point rather than from Dallas. Nothing in the record suggests that Mr. Davis expected to travel at Government expense from Dallas to Shreveport or, following his return from training, from Shreveport to Dallas. Rather, his authorized TDY travel was to begin and end in Shreveport. There is no suggestion that his route to Columbia from Shreveport was indirect or involved a delay for personal convenience.

It is well established that if it is within the discretion of an agency to make a specific authorization and the agency actually does so, that authorization cannot be withdrawn once the employee, on whose behalf the authorization was made, incurs expenses in reliance on it. Linda M. Conaway, GSBCA 15342-TRAV, 00-2 BCA ¶ 31,133. As already noted, we consider that it was most certainly within the discretion of the agency to authorize Mr. Davis to undertake TDY travel from a location outside his PDS area. The travel was authorized by the agency and completed by claimant. The authorization cannot now be withdrawn. Mr. Davis is, therefore, entitled to reimbursement for the full cost of his round-trip airfare from Shreveport to Columbia.

One should not conclude from what we say here that an agency may not, for reasonable cause, decline to pay the full TDY travel costs of an employee who plans to start and/or complete TDY travel at a point outside his or her PDS area. This is a matter which clearly remains within the discretion of the agency. The policy which the agency discusses in this case, of limiting reimbursement of TDY travel costs for employees with homes and families located outside their PDS areas, may well be a sound and prudent policy. We have no quarrel with that policy as such. We object to its application in this case, however, only because Mr. Davis was given and relied upon a valid authorization which clearly departed from that policy. For this reason, his claim is granted.

EDWIN B. NEILL
Board Judge

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