



September 21, 2004

FLSA2004-15NA

Dear *Name**,

This is in reply to your letter requesting an opinion concerning a travel time policy under the Fair Labor Standards Act (FLSA).

You represent an employer who sends crews of hourly, nonexempt employees out of town on projects that last two weeks or more. They work for ten straight days, and have four consecutive days off during which they are not required to do any work for the employer. The employer pays the employees' travel time to and from the out-of-town location at the beginning and end of the project; offers them a free plane ticket to return home, at their option, during their four days off; and does not require or expect them to work while they travel if they decide to travel home during this period.

You ask whether the employer is required under the FLSA to compensate its employees for the time they voluntarily spend traveling home and back to the job site during their four consecutive days off. Your further question, if the employee travels during working hours on one of his or her days off, must that employee be compensated for time spent traveling.

You note that the FLSA and 29 C.F.R. 785.39 do not address voluntary travel. The regulation does state, however, that travel away from the home community is worktime when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on non-working days. However, during the out-of-town job assignments of your client, the employee has the option of taking trips home. These interim trips are for personal and not for business reasons, and the employer furnishes free tickets for such transportation by commercial airline.

Travel at the employee's own option and for his or her sole convenience need not be considered hours worked under the FLSA. This would be true even though the interim travel was done during hours that were normally part of the employee's workday if, in fact, on the personal travel day the employee's workday had ended before the commencement of such interim transportation.

Accordingly, it is our opinion that the interim travel by the employee at his or her own option, and for his or her personal reasons, even though it is at the employer's expense, would not be working hours whether it takes place outside the employee's regular working hours or during regular working hours but after the conclusion of the employee's workday. See opinion letter dated October 6, 1965.

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein. You have represented that this opinion is not sought by a party to pending litigation concerning the issue addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.



We trust that this information is responsive to your inquiry.

Sincerely,

Barbara R. Relford
Office of Enforcement Policy
Fair Labor Standards Team

** Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).*