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*Office of Inspector General*

*Audit Report*

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**Home Leave and Post Differential Benefits  
for Overseas Employees**

**Department of Transportation**

**Report Number: FE-1999-009**

**Date Issued: October 14, 1998**





# Memorandum

**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation  
Office of Inspector General

Subject: ACTION: Report on Home Leave and Post  
Differential Benefits for Overseas Employees, DOT  
FE-1999-009

Date: October 14, 1998

From:

  
Lawrence H. Weinrob  
Assistant Inspector General for Auditing

Reply To Meche:x61496  
Attn Of:

To: Federal Aviation Administrator  
Federal Highway Administrator

This report presents the results of our review of home leave and post differential benefits for overseas employees. Home leave benefits provide overseas employees additional vacation time and travel benefits to return home to the United States or its territories or possessions. Post differential is additional compensation paid to overseas employees in locations where living conditions differ substantially from those in the continental United States, and is needed as a recruitment incentive.

Our objective was to determine if home leave and post differential benefits for employees stationed overseas were provided in accordance with applicable statutory and departmental regulations.

## **RESULTS-IN-BRIEF**

In the Department of Transportation (DOT), there are 802 employees with home leave balances. Of these, 778 are in the Federal Aviation Administration (FAA) and 17 in the Federal Highway Administration (FHWA). The remaining 7 employees were in the Office of the Secretary of Transportation (OST) and U.S. Coast Guard (Coast Guard). Also, 50 of these employees (48 in FAA and 2 in OST) were receiving post differential payments.

Our review of 38 employees who received home leave (19 of which were also paid post differential benefits) identified:

- 4 employees (2 in FAA<sup>1</sup> and 2 in FHWA) were not eligible for home leave.
- 1 FAA employee improperly used home leave.
- 3 of the 19 employees (all in FAA) improperly received post differential payments.

As a result, FAA has improperly paid or provided home leave and post differential benefits of about \$478,000. FAA and FHWA agreed with our recommendations.

## **BACKGROUND**

Home leave is authorized by Title 5, United States Code, Section 6305<sup>2</sup> as follows:

*After 24 months of continuous service outside the United States . . . , an employee may be granted leave of absence, under regulations prescribed by the President. . . .*

Employees who qualify for home leave earn 5 to 15 days per year, in addition to annual and sick leave, depending on the overseas location. Home leave can be taken after completing the agreed-upon tour of duty, but only if the employee agrees to an additional tour of duty. Employees also are eligible to receive allowances for travel and transportation expenses for the purpose of returning home between tours of duty.

Post differential allowance is additional compensation, ranging from 5 to 25 percent of base pay depending on the overseas location. Generally, post differential is authorized as an incentive to recruit people to work in areas where living conditions are substantially different from the United States. The Office of Personnel Management establishes post differentials in non-foreign areas, such as territories or possessions of the United States. The Secretary of State determines post differentials for foreign areas.

## **SCOPE AND METHODOLOGY**

As of January 31, 1998, the Consolidated Uniform Payroll System reflected a total of 802 DOT employees had home leave balances valued at about \$4.2 million. Of these employees, 50 were in locations where post differential allowances were

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<sup>1</sup> These two employees were also part of the three improperly receiving post differential payments.

<sup>2</sup> Section 347 of the 1996 Department of Transportation Appropriations Act exempted the FAA from most parts of Title 5, and authorized FAA to establish its own personnel system. FAA's current procedures, based on Title 5, remain in effect for home leave and post differential benefits.

authorized and received an estimated \$271,000 annually. We judgmentally selected and reviewed 38 of the 802 employees as follows:

- 32 FAA employees, from two regional offices, who either used home leave during this period or had home leave balances greater than 100 days. Of the 32 employees, 17 received post differential allowances.
- 4 FHWA employees who were assigned overseas and had home leave balances. These employees were not in locations for which a post differential allowance was authorized.
- 2 OST employees who were assigned overseas. Both were eligible for and received home leave and post differential allowances.

The review was conducted in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States. We reviewed the policies for home leave for FAA, FHWA, OST, and the Coast Guard. Our work was performed between March and June 1998, at the payroll office at Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma, and FAA's Western Pacific and Eastern Regional Offices located in Los Angeles, California, and Jamaica, New York, respectively, and at FHWA, OST, and Coast Guard offices in Washington, DC.

## **ANALYSES AND RECOMMENDATIONS**

### **Home Leave Eligibility**

Title 5, Code of Federal Regulations, Section 630.602 states an "employee who meets the requirements of section 6304(b) of title 5, United States Code, . . . may be granted home leave. . . ." In accordance with requirements of section 6304(b), the following individuals stationed outside the United States could be granted home leave:

*Individuals directly recruited or transferred by the government of the United States from the United States or its territories or possessions including the Commonwealth of Puerto Rico for employment outside area of recruitment or from which transferred.*

*Individuals employed locally but—(i) who were originally recruited from the United States . . . but outside area of employment; (ii) who have been in substantial continuous employment . . . of the United States . . .; and (iii) whose conditions of employment provide for their return transportation to the United States. . . .*

There are numerous Comptroller General decisions regarding the eligibility for home leave benefits. In a 1996 Comptroller General Decision, the Comptroller General noted that “the primary purpose of this statute, as evidenced by legislative history, is to bring the employee to the United States periodically for what has been termed re-Americanization leave.”

Comptroller General decisions have been based on the determination of actual residence at time of selection for the overseas assignment. When an employee is selected for an overseas assignment, he/she must designate a place of actual residence. The agency also must make this determination. The Federal Travel Regulations provide guidance for determining actual residence. The regulations state that although the place the employee physically resided at time of selection frequently constitutes place of actual residence, other factors also are to be considered. One such factor is presence in the individual’s work history of a representative amount of full time employment at or in the immediate geographic area.

FAA. Home leave policies for FAA are contained in FAA Order 3600.4. Home leave as described in the FAA Order is:

*...additional leave earned under the Leave Act by employees serving abroad for use in the United States, in the Commonwealth of Puerto Rico, or in possessions of the United States. The purpose of home leave is to allow employees an opportunity to return to their homeland after a tour of duty abroad to become reacquainted with its ideals and customs before returning for another overseas tour.*

We identified two FAA employees, both stationed in Guam, who were born, reared, and maintained all indication of residence there, who were receiving home leave benefits. Both employees were originally hired in Guam, and after working for the United States Government in Guam for over 10 years, subsequently transferred to FAA offices in the United States for about 2 years. The two employees then returned to Guam and began receiving home leave benefits. FAA regional representatives determined they were eligible for home leave because they transferred from the United States to an “authorized” overseas location.

In a 1982 Comptroller General Decision,<sup>3</sup> an FAA employee in Puerto Rico, with similar circumstances as the two employees in Guam, was denied home leave travel benefits. The Comptroller General stated:

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<sup>3</sup> Matter of Alexander Sambolin – Entitlement to Home Leave Travel – Place of Actual Residence, B-196466, December 2, 1982.

*... the General Accounting Office has consistently construed the entitlement provisions ... and the implementing regulations ... of the Federal Travel Regulations as placing the responsibility for determining actual residence of the employee on the employing administrative agency.*

*[Employee] is a native of Puerto Rico and was initially hired while living in Puerto Rico to work in Puerto Rico. In approximately 20 years of service with Federal Aviation Administration, about 15 of those years have been at a single duty station in San Juan, Puerto Rico.*

For the two Guam employees, both of their residences were in Guam where they were originally hired. One employee spent about 31 of 33 years of government service in Guam, and the other employee 33 of 35 years of government service in Guam. In the review of employees' personnel files, we did not find any indication that an analysis was performed which considered the Federal Travel Regulation's or FAA Order's guidance for determining actual residence. Details on the use of home leave by the two employees are described below:

- Since 1984, one employee took seven trips and used 190 home leave days and the other employee took four trips and used 106 home leave days valued at a total of \$55,500.
- In Fiscal Year 1997, these two employees were reimbursed a total of about \$8,100 for travel and transportation expenses for themselves and their families for home leave taken in the United States. One employee's place of residence when transferred to Guam was in New Jersey and his home leave trip was to Las Vegas, Nevada. The other employee returned to Maryland, the same area where he lived when in the United States. Each employee also was granted 3 days of administrative travel time valued at \$1,400.
- As of January 31, 1998, these two employees had home leave balances of 177 days valued at over \$45,000, available for future use.

The Office of Inspector General Legal Counsel opined the law permits employees to return to their "homeland" for purposes of reacquainting themselves with friends, relatives, and homeland customs. For that reason, the law defines homeland as the employee's place of residence. As evidenced by these two employees' work history, as well as being born, reared and educated in Guam, the two employees' "homeland" is Guam; therefore, they are not eligible for home leave benefits.

FHWA. Puerto Rico is the only overseas location for FHWA employees. The Puerto Rico office is part of FHWA's Regional Office in Albany, New York. We identified two FHWA employees, stationed in Puerto Rico who were born, reared,

and maintained all indication of residence there, who were receiving home leave benefits. One employee's employment history disclosed the employee worked for 15 years in Puerto Rico for the Commonwealth of Puerto Rico before being hired by FHWA in Albany, New York. Four years later, the employee transferred back to Puerto Rico and has remained there since 1980. The other employee was hired by FHWA in 1977 as a local hire and transferred to the United States in 1979. About 5 years later, the employee transferred back to Puerto Rico and has remained there since 1984. Both employees began receiving home leave benefits when they transferred from the United States back to Puerto Rico.

In 1989, this region's policy was to limit home leave trips for employees transferring from the United States to two trips per employee. This limitation also was included on all new job announcements for Puerto Rico.

In 1994, FHWA reviewed home leave requests for two employees and denied the employees' request because both employees were born, reared, and educated in Puerto Rico, and spent only a short period of time in the United States. FHWA considered the employees to be "local hires" and not eligible for home leave. FHWA also relied on two prior Comptroller General Decisions regarding FAA employees in Puerto Rico with similar situations, who were denied home leave benefits.

In 1995, FHWA requested a decision from the General Services Administration Board of Contract Appeals<sup>4</sup> (Board) regarding the eligibility of home leave for these two employees. FHWA included, in the information which was sent to the Board, memoranda from the Division Administrator in Puerto Rico and the employees. In the memoranda, it was disclosed that FHWA past practices since the 1970s was to provide home leave benefits to all employees who transferred from the United States and signed an overseas agreement. The Board judge ruled in favor of the employees, stating that the agency had not demonstrated any error in the earlier determination of the place of actual residence.

Our review of FHWA's current regional policy governing home leave disclosed it was not consistent with Federal regulations. On March 27, 1998, FHWA Region One in Albany, New York, issued a memorandum establishing regional policy on home leave. Although the policy allows all employees assigned from the United States to duty in Puerto Rico, under overseas contract, to earn home leave, the policy does not address the issue of "actual residence" determinations or provide

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<sup>4</sup> The request was originally sent to the Comptroller General, however in October 1996, the responsibility for providing decisions for these types of issues were transferred to the Office of Management and Budget who delegated the responsibility to the General Services Administration.

criteria, such as considering the employees work history, for determining actual place of residence as required by the Federal Travel Regulations.

### **Use of Home Leave**

Home leave as authorized by Title 5, United States Code, Section 6305(a)(1)...“is for use in the United States, or if the employee’s place of residence is outside area of employment, in its territories or possessions including the Commonwealth of Puerto Rico.” FAA Order 3600.4 provides that when travel expenses are paid by the Government, a minimum of 20 workdays of leave shall be taken. We identified one FAA employee who was improperly authorized home leave and travel allowances totaling \$17,700. The employee was authorized to begin home leave on or about October 13, 1997. A government transportation request, valued at about \$9,400, was issued to the employee for travel for himself and seven family members. However, the employee did not travel, but instead stayed home to care for an ailing relative. Three of the employee’s family members traveled about 1 month after the scheduled date.

Our review of payroll records showed the employee charged, and was granted, 46 days of home leave and 11 days of travel time—a total of 57 days valued at about \$8,300. Further, based on FAA policies regarding reimbursement of travel expenses, since the employee should not have been granted home leave, his family members were not eligible for transportation expense reimbursement. Therefore, FAA should seek reimbursement.

### **Post Differential Eligibility**

To be eligible to receive non-foreign post differential allowances, one of the requirements contained in Title 5, Code of Federal Regulations, Section 591.209 states:

*Any prior residence in the area must be because of employment by the United States or by U.S. firms, interests, or organizations.*

We found that 3 of the 17 FAA employees, who were receiving post differential allowances, were not eligible since they had prior residences in the location for which they were receiving the allowances. All three employees were born, reared, and lived in their current work area before being employed by the U.S. Government. (As discussed previously, two of the three employees also should not have been authorized home leave.) The three employees began receiving the allowances after transferring back to their homeland from the United States. In total, these three employees were improperly paid post differential benefits valued over \$350,200 for between 10 and 22 years.



## **Recommendations**

1. We recommend FAA:
  - a. Immediately cease home leave and post differential benefits for the employees identified in our review.
  - b. Review all other employees currently stationed overseas and validate whether each employee is eligible for home leave and post differential benefits.
  - c. Initiate collection action and/or credit annual leave for home leave, travel days, and family members' travel expenses for the employee who used home leave in violation of the Title 5, United States Code, Section 6305.
2. We recommend FHWA revise its policy guidance to ensure that the actual residence determinations are made in accordance with the Federal Travel Regulations.

## **Management Responses**

A draft of this report was provided to the FAA and FHWA Administrators on August 26, 1998. FAA and FHWA agreed with the recommendations. FAA advised its offices responsible for the administration of home leave and post differential benefits to initiate reviews within 10 days, and complete the reviews by November 1.

## **Action Required**

Please identify, within 30 days, specific actions taken. We request that FAA provide the results of its reviews. For FHWA, we request an estimated completion date for its revised policy.

We appreciate the courtesies and cooperation of FAA and FHWA representatives. If you have any questions, please call me at (202) 366-1992, or John Meche, Deputy Assistant Inspector General for Financial, Economic and Information Technology, at (202) 366-1496.

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