

Travel Problems

Written by Nick Sanders

Tuesday, 04 September 2018 00:00

Having recently returned from a higher-than-normal amount of travel, I believe this is a good time to rant (again) about the overall stupidity of the cost allowability rules that pertain to travel.

When I travel for work, I comply strictly with the FAR travel rules (FAR 31.205-46). Those rules are based (to a limited extent) on the Federal Travel Regulations (FTR) and Joint Travel Regulations (JTR) that apply to Federal government personnel. In other words, government contractors are (generally) required to travel within the same rule set as applies to Federal government employees—and that is simply not possible.

For example, it's very difficult—if not impossible—for contractors to get the “government employee” rates provided to Federal workers. If you book a reservation at that lowered rate, you will almost certainly be asked to show your Federal ID when you check in. If you don't have it (because you're not a Federal employee) then there are several possible outcomes. Maybe you'll get the rate anyway, because it's too much trouble to change the reservation. Maybe you'll have to pay the higher “room rate.” Maybe your reservation will be cancelled. Or maybe you'll be arrested and charged with attempting to defraud an innkeeper, which is a crime in many states. Rather than deal with those risks, you will probably opt to simply book the cheapest rate you can get, knowing that most “good” hotels are outside the GSA's lodging limits.

Of course—as any auditor will tell you—contractors certainly don't *have* to live within Federal per diem limits. They are free to spend whatever they wish; the limits simply pertain to the amount of travel costs that will be reimbursed in direct costs and in indirect cost calculations. In other words, the difference comes from profit. (In a future rant, we might explore how the DoD's “weighted guidelines” approach to setting profit objectives ignores this little factoid.) The problem is, that profit also funds other things, such as capital investments. Taking unallowable travel costs out of profit puts pressure on contractors' ability to invest in their business.

But the Federal travel rules and the FAR travel cost principle are stupid. They are stupid because they focus on the individual elements of travel and therefore don't lead to the lowest *overall* trip cost.

Scenario: The airport is 10 miles from the office where you will be meeting and working for the

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next five days. You need a hotel for four nights.

Example #1: There is a hotel right next to the office but it's \$5.00 over the local lodging ceiling, so your travel agency books a hotel that's 5 miles away—meaning it's 15 miles from the airport. You saved \$20.00 in unallowable lodging expense (\$5.00 x 4 nights) but you are now spending an extra \$100.00 in taxi fare. (The trip from the airport to the hotel is longer, and each day you need to take a taxi from the hotel to the office, and back again.) You saved \$20.00 but spent an extra \$100.00 transportation. *Nice.* That extra \$100.00 is fully allowable, of course.

Example #2: You are flying Monday thru Friday. The airfare is \$1,000.00. But if you were to return on Sunday, the airfare would only be \$600.00, because of the [Saturday night stay](#)

rule. You could save \$400.00 by extending your trip by two days. And the lodging is only \$130.00 per night; and the daily M&IE rate is only \$48.00! Doing the math, by spending an extra \$346.00 you save \$400 in airfare, for a net savings of \$54.00. Thus (all things being equal), it makes perfectly reasonable business sense to extend the business trip by the weekend. But good luck explaining all that to your boss, who thinks you are boondoggling. And good luck explaining all that to the people who process your expense report—and the auditors—who only see two days of unallowable “personal” travel tacked-on to the business trip.

Example #3: Same facts as Example #2, above. You can save \$400 in airfare by adding two days to your trip. But instead of asking the company to pay for two days of lodging and M&IE expense, you want to apply that \$400 towards an upgrade to Business Class. You'll cover the weekend hotel and meals on your own dime (perhaps by staying an Aunt Betsy' house and letting her cook for you), but you want to fly on that plane in a place where that teenage brat in the seat in front of you isn't going to cram her seat down on your knees. Plus, if you fly Business Class, you might be able to actually get some work done on the plane! It's a win-win, right?

No, it's not.

Because the FAR

[travel rules](#)

on

[airfare](#)

don't permit you to do this. Therefore, you must fly the “

[lowest available airfare](#)

” unless you can find some other reason for upgrading.

The fix for this seeming conundrum isn't hard, and the FAR already has a precedent that could be applicable.

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Looking at the compensation cost principle (31.205-6), we see the following language at (b), which discusses compensation reasonableness: “Compensation is reasonable if the aggregate of each measurable and allowable element sums to a reasonable total.” The regulation implies that offsets are allowed. In other words, if one compensation element is higher than would seem reasonable, another (lower cost) element can offset it. What’s important is the aggregate total, not the individual compensation elements.

DCAA audit guidance confirms this approach. The DCAA Contract Audit Manual (at 6-413.7) states “Offsets between individual compensation elements are implied in this concept. By using offsets, the contractor can provide proof that, in total, the cost of the compensation package is reasonable.” (We note that the offset calculation must be made between allowable elements of compensation.)

In order to address some of the concerns we’ve raised in this article, the FAR travel cost principle should be revised to add language such as the following—

Travel costs are reasonable and allowable if the aggregate cost of each trip is less than would it would have been, had each allowability rule provided below been followed exactly. Offsets between individual travel elements, including otherwise unallowable travel costs, may be used, where the result provides a demonstrable cost savings to the government.

How nice that flexibility would be, for travelers, for contractors, and for the taxpayers.