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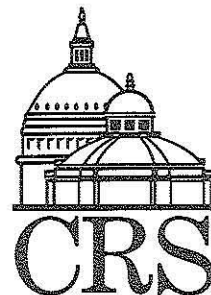
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Federal Travel: Frequent Traveler Policies and Programs

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Congressional Research Service • The Library of Congress



Federal Travel: Frequent Traveler Policies and Programs

SUMMARY

By law, frequent flyer bonus coupons received by executive and judicial branch employees as a result of official government travel are the property of the U.S. government. Comptroller General decisions, General Services Administration (GSA) regulations, Office of Government Ethics regulations, and Administrative Office of the United States Courts guidance implement the law. By law, frequent flyer bonus coupons received by a Member, officer, or employee of the Senate as a result of such travel are the property of the government. Senate Committee on Rules and Administration regulations implement the law. By regulation, Members or employees in the House of Representatives have discretion over using bonus coupons, but are encouraged to use them for official travel. Legislation has been introduced in the 105th Congress to ban personal use of officially accrued frequent flier mileage by a Member, officer, or employee of the House of Representatives.

The Senior Executives Association asked the Comptroller General of the United States to reconsider the policy in 1991. As part of that review, the General Services Administration prepared a discussion paper that, among other issues, examined whether frequent flyer benefits are government property or contract rights and whether frequent flyer points accrued during off-duty travel belong to the employee. The Comptroller General made no change in the policy.

Frequent flyer benefits may be used to upgrade airline accommodations for purposes of official travel. In the executive branch, the use of premium-class other than first-class airline accommodations may be authorized or approved when obtained as an accommodations upgrade through the redemption of frequent traveler benefits. "Premium-class other than first-class airline accommodations" is defined as any class of accommodations between coach-class and first-class, e.g., business-class. In the judicial branch, upgrade to business- or first-class accommodations may be authorized. The legislative branch does not specify the class of service.

A survey by GSA found that federal agencies are promoting frequent traveler programs, and some executive branch agencies are sharing travel savings with employees through incentive awards. Legislation passed by the House of Representatives would require the use of the federal travel charge card for payment of all travel expenses, to the maximum extent practicable, and would authorize up to 10 programs to test methods for paying travel and relocation expenses. The results of these programs will be measured to determine any future change in federal government travel policies.

CONTENTS

Introduction	1
Executive Branch Policy	1
Comptroller General Decisions	1
Law	2
General Services Administration Regulations	4
Office of Government Ethics Regulations	4
Department of Defense Regulations	5
Judicial Branch Policy	6
Legislative Branch Policy	6
Reconsideration of the Policy	8
Accommodations Upgrades	9
Frequent Traveler Programs	11
Executive Branch Agencies	11
General Accounting Office	13
JFMIP Recommendations	14
Travel and Transportation Reform Act of 1997	14
Conclusion	16

Federal Travel: Frequent Traveler Policies and Programs

Introduction

Generally, frequent flyer bonus coupons received by government employees as a result of official travel are the property of the U.S. government and must be submitted to the appropriate official. Use of frequent flyer benefits to upgrade airline accommodations for purposes of official travel is permitted. A survey by the General Services Administration (GSA) found that federal agencies are promoting frequent traveler programs, and some executive branch agencies are sharing travel savings with employees through incentive awards. This report discusses federal government policies governing frequent flyer bonus coupons and accommodations upgrades and frequent traveler programs in the federal government. It also discusses House-passed legislation requiring the use of the federal travel charge card for payment of all travel expenses to the maximum extent practicable, and authorizing up to 10 programs to test methods for paying travel and relocation expenses.

Executive Branch Policy

Frequent flyer bonus coupons became an issue in 1981. A Comptroller General decision in that year established the policy that such coupons, when acquired through official government travel, are the property of the government. This policy is still applicable today for most government employees.

Comptroller General Decisions

By law, the Comptroller General of the United States had authority to settle claims of or against the United States Government and to issue decisions requested by disbursing or certifying officials or heads of agencies.¹ As of June 30, 1996, the Comptroller General no longer decides claims as the Legislative Branch Appropriations Act, 1996 transferred this authority to the executive

¹ 31 U.S.C. 3702 and 31 U.S.C. 3529.

branch by P.L. 104-53.² The issue of frequent traveler benefits was first addressed in 1981 when the Comptroller General declared:

It is a fundamental rule of law that a Federal employee is obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty, and therefore an employee may not retain any "half-fare coupon," "bonus point," or similar item of value received from a commercial air carrier on the basis of the purchase of an airline ticket to be used for official travel.³

Decisions on companion tickets and commingling of tickets have also been issued. As to whether a free companion airline ticket may be used by an employee for personal use, the Comptroller General noted that existing GSA regulations do not permit this use. The Comptroller General would not object if GSA were to change its regulations to permit such use, provided the appropriate agency official decides that the ticket is of no use to the agency and the approval will not result in additional cost to the government.⁴ With respect to whether total mileage credits in frequent flyer accounts that are a mix of official government and personal travel become the sole property of the government agency, the Comptroller General advised that employees who participate in a frequent flyer program should maintain separate accounts for personal travel and official travel if the airline permits. In cases in which the airline permits only one account per customer, employees do not forfeit the right to use credits for personal travel, provided they keep adequate records separating personal from official travel.⁵

Law

The Comptroller General's decision was enacted as law in 1994: the Federal Acquisition Streamlining Act of 1994 (P.L. 103-355) required that any awards granted under a frequent traveler program accrued through official

² 109 Stat. 535; the committee report accompanying the legislation stated that the action was taken "because claims and judgment duties are not legislative activities and detract from the essential purposes of the agency. The Comptroller General is directed to work with the director of the Office of Management and Budget to ensure an appropriate transition." See: U.S. Congress, House Committee on Appropriations, *Legislative Branch Appropriations Bill, 1996*, report to accompany H.R. 1854, 104th Cong., 1st sess., H.Rept. 104-141 (Washington: GPO, 1995), p. 33. The provision was proposed in the House of Representatives, stricken by the Senate, and restored in the conference committee.

³ U.S. Comptroller General of the United States, *Gifts or Prizes Acquired in the Course of Official Travel Assignments*, B-199656 (Washington: July 15, 1981), 4 p. See also U.S. General Accounting Office, *Decisions of The Comptroller General of the United States*, vol. 63, October 1, 1983 to September 30, 1984 (Washington: GPO, 1984), pp. 229-235.

⁴ U.S. Comptroller General of the United States, *Southwest Airlines - Free Companion Ticket*, B-254858 (Washington: Nov. 22, 1995), 4 p.

⁵ U.S. Comptroller General of the United States, *Panama Canal Commission—Frequent Flyer Benefits—Commingling of Accounts*, B-257525 (Washington: Nov. 30, 1994), 5 p. (Hereafter cited as *Panama Canal Commission Decision*.)

travel must be used only for official travel.⁶ GSA was required to issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by federal employees. GSA issued these guidelines on November 1, 1995.⁷ Computer software and services to track frequent flyer mileage are mentioned in the guidelines.⁸

The frequent traveler programs provision was an amendment to S. 1587. Senator William Roth, who offered the amendment on behalf of Senator John McCain, said that, "taxpayers are losing millions of dollars per year by paying for tickets, lodging, and rental cars that could otherwise be obtained free of charge or at a discount if Federal employees would more fully participate in such programs."⁹ Senator John Glenn, in supporting the amendment, noted:

About three years ago, I think it was, we heard stories about some of the people who had retired from Government service, people who had been doing a lot of traveling on Government business. They had collected a lot of the frequent-flier miles and, upon retirement, had taken extensive trips on frequent-flier miles that they had built up during their Government service. That is not what was intended. What was intended was that frequent-flier miles or benefits to help people travel, accrued as part of Government travel, should be used for Government travel and nothing else.¹⁰

Both Senators Roth and Glenn agreed that the provision "would apply to everyone—Federal employees, Members of Congress, employees of Congress, Cabinet Members."¹¹

⁶ 108 Stat. 3367; the provision was a Senator McCain amendment (offered by Senator Roth) to S. 1587 which was agreed to by voice vote on June 8, 1994. For a discussion of the provision, see: *Congressional Record*, daily edition, vol. 140, June 8, 1994, pp. S6580-6581.

The House of Representatives passed S. 1587, amended, by voice vote on June 27, 1994. The Senate agreed to the conference report (H.Rept. 103-712) on August 23, 1994 by voice vote. The House agreed to the conference report by a roll call vote of 425 to 0 on September 20, 1994. See also: U.S. Congress, House of Representatives, *Federal Acquisition Streamlining Act of 1994*, report to accompany S. 1587, 103rd Cong., 2nd sess., H. Rept. 103-712 (Washington: GPO, 1994), p. 222. S. 1587, as passed by the House, did not include the provision, but the House receded to the Senate in conference.

⁷ U.S. General Services Administration, "Federal Travel Regulation; Promoting, Encouraging, and Facilitating the Use of Frequent Traveler Programs and Benefits," *Federal Register*, vol. 60, no. 211, Nov. 1, 1995, pp. 55583-55584.

⁸ Among the companies are: Fly Smart Software, Inc. (800-FLY-TRAX), Frequent Flyer Services (800-333-5937), Frequent Travel Management, Inc. (800-386-2878), and Travelware (800-892-5577). GSA cannot endorse or recommend any of the companies.

⁹ *Congressional Record*, daily edition, vol. 140, June 8, 1994, p. S6580.

¹⁰ *Ibid.* pp. S6580-S6581.

¹¹ *Ibid.* p. S6581.

General Services Administration Regulations

The Federal Property and Administrative Services Act of 1949 provided the GSA Administrator with authority to issue regulations. Heads of executive agencies were mandated to issue orders and directives to carry out these regulations.¹² Although frequent flyer issues date only from 1981, existing statutory authority is broad enough to allow GSA to issue regulations on frequent traveler benefits. These regulations provide that:

All promotional materials (e.g. bonus flights, reduced-fare coupons, cash, merchandise, gifts, and credits toward future free or reduced costs of services or goods) received by employees in connection with official travel or incident to the purchase of a ticket for official travel, or other services such as car rentals, are due the Government and may not be retained by the employee. When an employee receives promotional material from any commercial source incident to official travel, the employee shall accept the material on behalf of the Federal Government and relinquish it to an appropriately designated agency official.¹³

Regulations on redemption of frequent traveler benefits provide that:

Frequent traveler benefits earned in connection with official travel, such as mileage credits, points, etc. may be used only for official travel. Employees may not retain and use such benefits for personal travel. Since the Comptroller General has ruled that a frequent traveler benefit is the property of the Government if any part of it is earned through official travel, employees should maintain separate frequent traveler accounts for official and personal travel.¹⁴

Employees may be reimbursed for the cost to enter certain frequent traveler programs when entering the program is expected to result in a savings to the government. Reimbursement may not exceed the expected amount of the savings.¹⁵

Office of Government Ethics Regulations

Frequent traveler benefits are also addressed in Office of Government Ethics regulations. Under the regulations, "Anything which is paid for by the Government or secured by the Government under Government contract" is not covered by the definition for "gift." The regulations note:

¹² 63 Stat. 390. See also 40 U.S.C. 486(c).

¹³ 41 CFR 301-1.103(b). The regulations appeared in the *Federal Register* as follows. 48 FR 48232, October 18, 1983. 54 FR 20262-20363, May 10, 1989, as amended by 54 FR 47523-47524, November 15, 1989. Redesignated by 58 FR 58234-58244, October 29, 1993. The May 10, 1989 regulations codified the Federal Travel Regulation (FTR) in Title 41, Chapters 301-304 of the *Code of Federal Regulations*. The FTR was thus, superseded.

¹⁴ 41 CFR 301-1.103(f)(1).

¹⁵ 41 CFR 301-1.103(f)(2).

Some airlines encourage those purchasing tickets to join programs that award free flights and other benefits to frequent fliers. Any such benefit earned on the basis of Government-financed travel belongs to the agency rather than to the employee and may be accepted only insofar as provided under 41 CFR 301-1.103(b)(f).¹⁶

Department of Defense Regulations

The Department of Defense (DOD) has implemented the law with regulations covering both uniformed and civilian personnel. According to the regulations:

Frequent flyer credits earned on official travel are the property of the Federal Government and may not be used for personal travel. First priority should be given to using them for free airline tickets, hotel rooms, and rental cars. They may also be used for airline, hotel, and rental car upgrades, but they may not be used for upgrades to first-class airline accommodations. They may be used for upgrades to premium-class-less-than-first-class (e.g., business class). If there is no premium class other than first class, the credits may not be used for airline upgrades at all.¹⁷

DOD, in a November 12, 1996 memorandum, encouraged, but did not require, all DOD personnel to enroll in frequent traveler programs. Personnel are to redeem credits so that DOD receives maximum value for all credits received as a result of official travel. Credits may be used for subsequent official transportation tickets, hotel and motel rooms, and rental vehicles, including service upgrades. Credits earned through official travel may not be used for unofficial travel.¹⁸

¹⁶ 5 CFR 2635.203(b)(7). The regulations appeared in the *Federal Register*: 57 FR 35006-35067, August 7, 1992; 57 FR 48557, October 27, 1992. The pertinent comments and text of the regulation cited in this report are at 57 FR 35013-35014 and 35045.

¹⁷ U.S. Dept. of Defense, Office of the Undersecretary of Defense For Acquisition and Technology, *Defense Transportation Regulation Part I Passenger Movement*, DOD 4500.9-R (Washington: August 1995), p. 102-11. The regulations are restated in the Joint Federal Travel Regulations (JFTR) which cover the uniformed military and the Joint Travel Regulations (JTR) which cover DOD civilians. See: U.S. Dept. of Defense, Joint Federal Travel Regulations, Part D: Gifts, Gratuities and Other Benefits Received From Commercial Sources Incident to Performance of Official Travel, C1200 Requirements for Promotional Items to be Relinquished to Government (Washington: Oct. 1, 1995), p. C1D-1. U.S. Dept. of Defense, Joint Travel Regulations, Chapter 2 Administration and General Procedures, Part A: Travel Policy, U2010 Member's Responsibility (Washington: Aug. 1, 1995), p. U2A-1.

¹⁸ U.S. Dept. of Defense, Under Secretary of Defense, *Travel Reengineering Implementation Memorandum #13 - Department of Defense (DOD) Frequent Flyer Program Policy* (Washington: Nov. 12, 1996), 2 p.

Judicial Branch Policy

The Judicial Conference of the United States establishes judicial branch policy on frequent flyer bonus coupons. The Administrative Office of the United States Courts translates that policy into guidance which is followed by the Administrative Office, Federal Judicial Center, and Supreme Court. According to that guidance:

Bonuses such as free or upgraded tickets and lodging obtained by redemption of frequent flyer mileage and lodging points accrued on official travel may be used for other official travel with no restrictions. However, the Comptroller General has determined that such bonuses are government property and thus cannot be used for personal, unofficial (including spousal) travel or for upgrades associated with such travel. . . . If they are, the traveler is personally liable to the government for the value of the tickets, accommodations or other services received.¹⁹

Legislative Branch Policy

By law, any travel award that accrues by reason of official travel of a Member, officer, or employee of the Senate is considered the property of the office for which the travel was performed and may not be converted to personal use. "Travel award" is defined as any frequent flyer, free, or discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise. "Official travel" is defined as travel engaged in the course of official business of the Senate.²⁰ Regulations of the Senate Committee on Rules and Administration which implement the law provide that:

Discount coupons, "frequent flyer" miles or any other promotional materials earned as a result of trips paid for by Senate funds are the property of the government and may not be converted to personal use. The traveler must turn in all such materials to the office manager for use in defraying the cost of other official travel incurred by the office.²¹ These should be integrated into the office's plans for future official travel. Even in those instances when the coupons are non-transferable or carry an impending expiration date, and it appears that the office will not be able to use them, they are still Senate property and should not be converted to personal use.²²

The Senate regulations also permit Members, officers, and employees who are leaving the Senate to purchase their frequent flyer mileage. Permission to do so must be obtained from the Committee on Rules and Administration and

¹⁹ U.S. Administrative Office of the United States Courts, *Memorandum to All United States Judges Use of Frequent Flyer Bonuses and Other Discount Travel Options*, (Washington: Aug. 20, 1991), 4 p.

²⁰ 109 Stat. 43; 2 U.S.C. 1436.

²¹ U.S. Congress, Senate Committee on Rules and Administration, *U.S. Senate Handbook* (Washington: 1996), p. II-18. (Hereafter referred to as *Senate Handbook*.)

²² *Senate Handbook*, p. II-44.

Members, officers, or employees must reimburse the Senate a reasonable sum of money for all mileage they wish to use. The regulations provide that a "reasonable sum of money" be determined by the Committee based upon the number of tickets that may be obtained from the unused mileage and valuation of the tickets at the applicable government rate. Any funds received are deposited in the United States Treasury Miscellaneous Receipts Account.²³ Before the regulation was issued, the Office of General Counsel at the General Accounting Office had written letters to Senators Wendell Ford, Chairman, and Ted Stevens, Ranking Republican, Committee on Rules and Administration, stating it did not object.²⁴

Under the House of Representatives regulations:

Free travel, mileage, discounts, upgrades, coupons, etc., accrued to Members or their Clerk Hire employees as a result of official travel awarded at the sole discretion of the company as a promotional award may be used at the discretion of the Members or their Clerk Hire employees. The Committee on House Oversight encourages the official use of these travel promotional awards wherever practicable.²⁵

Legislation has been introduced in the 105th Congress to ban personal use of officially accrued frequent flier mileage by a Member, officer, or employee of the House of Representatives. H.R. 436 was introduced in the House of Representatives by Representative Mark Sanford on January 9, 1997 and referred to the Committee on House Oversight and in addition to the Committees on Government Reform and Oversight, Rules, Transportation and Infrastructure, and National Security. S. 205 was introduced in the Senate by Senator Bill Frist on January 28, 1997 and referred to the Committee on Governmental Affairs. Both bills are entitled Citizen Congress Act and would provide that "any travel award that accrues by reason of official travel of a Member, officer, or employee of the House of Representatives may be used only with respect to official travel." The Committee on House Oversight would prescribe regulations. "Travel award" means any frequent flier mileage, free travel, discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise. "Official travel" means travel performed for the conduct of official business of the House of Representatives.²⁶ Upon introducing the bill, Senator Frist remarked that, "At a time when everyone is tightening their belts to balance the Federal budget and restore confidence in our Government, it is only right that Members of Congress eliminate the perks

²³ *Senate Handbook*. p. II-55.

²⁴ U.S. General Accounting Office, Office of the General Counsel, Letters from James F. Hinchman, General Counsel to Senator Wendell Ford, Chairman, and Senator Ted Stevens, Ranking Republican, Committee on Rules and Administration, B-242607 (Washington: Feb. 5, 1991), 1 p.

²⁵ U.S. Congress, Committee on House Oversight, *Members' Congressional Handbook Regulations governing the Member's Representational Allowance of the U.S. House of Representatives*, 104th Congress (Washington: 1995), p. 52. (Hereafter referred to as *House Handbook*.)

²⁶ *Congressional Record*, daily edition, vol. 143, Jan. 28, 1997, p. S728.

and privileges that are not necessary to conduct congressional business."²⁷ Similar legislation was also introduced in the 104th Congress.

In addition, H.Res. 64 would require that travel awards accrued through official travel by a Member, official, or employee of the House be used only for official travel. The bill was introduced in the House by Representative Thomas Barrett on February 13, 1997, and referred to the Committee on House Oversight.

Reconsideration of the Policy

The Senior Executives Association (SEA) asked the Comptroller General in November 1991 to reconsider the executive branch policy on use of frequent flyer bonus coupons.²⁸ The Comptroller General made no change in the policy. The SEA Board decided not to pursue further action on the issue.²⁹

As background for that review, the General Services Administration (GSA) prepared a discussion paper on the use of frequent flyer mileage which examined five issues.³⁰ With regard to the first issue, whether frequent flyer benefits are government property or contract rights, GSA concluded that the coupons are contracts between the carrier and the employee. GSA cited the decision in *Transworld Airlines, Inc. v. American Coupon Exchange*, which held that frequent flyer coupons are rights in contract and that their use and transferability are subject to the contract's terms and conditions.³¹ As to the second question, "If frequent flyer points reflect contractual rights, can the Government influence the Federal employees exercise of those rights?" GSA noted that the government may have no enforceable rights under the contract if it is determined that frequent flyer coupons represent personal contracts between government employees and the airlines. A third question examined was whether a *de minimus* rule might apply to frequent flyer points. GSA questioned why gifts under \$25 do not violate the prohibition against supplementing an employee's salary while mileage points, likely worth less than \$20 per ticket, constitute an illegal augmentation of salary.

With regard to a fourth issue, GSA reasoned that frequent flyer points may belong to the employee if accrued incident to travel during off-duty hours. The agency cited the Comptroller General's advice in *Panama Canal Commission* that employees should maintain separate accounts for personal travel and

²⁷ *Ibid.*, p. S727.

²⁸ Memorandum to The Honorable Charles Bowsher, Comptroller General, from G. Jerry Shaw, General Counsel, Senior Executives Association (Washington: Nov. 18, 1991), 8 p.

²⁹ Telephone conversation on February 1, 1996 with Mr. Ted Karns, Issue Coordinator for the SEA.

³⁰ U.S. General Services Administration, Office of General Counsel, *Discussion Paper: Use of Frequent Flyer Mileage* (Washington: Mar. 1992), 6 p.

³¹ 913 F.2d 676 1990.

official travel, or adequate records of such distinction, so as to protect their right to use frequent flyer credits.³² The fifth issue GSA examined was whether frequent flyer points may be indistinguishable from other incidental travel benefits that employees may retain because GAO has decided they do not result directly from performing official business. GSA cited a 1990 Comptroller General decision that rebates issued for accumulated purchases on an employee's personal credit card are not directly related to official travel and can be retained by the employee.³³

Accommodations Upgrades

Frequent flyer benefits may be used to upgrade airline accommodations for purposes of official travel. This policy is implemented through Comptroller General decisions and executive and legislative branch regulations and judicial branch guidance.

In 1984, the Comptroller General ruled that there was no reason items such as free upgrade to first class, membership in executive clubs, and check-cashing privileges could or should be turned over to the government; employees, therefore, were allowed the use of such benefits because denying them such would serve no purpose.³⁴ An employee who enters a promotional program and receives a nontransferable free upgrade to first-class service may use such benefits since the Government has no use for such benefits.³⁵ Three years later this policy was clarified (discussed below).

A September 1986 General Accounting Office (GAO) report on the use of airline bonus awards by Agency for International Development (AID) employees found that AID employees had not acted improperly in redeeming mileage for accommodation upgrades without specific AID approval. GAO noted that "GSA may want to consider clarifying on a governmentwide basis the rules for redeeming accumulated mileage for benefits offered incident to frequent flier programs."³⁶

The Comptroller General clarified his earlier decision in 1987. He stated that the 1984 decision had dealt only with "free" accommodation upgrades and other promotional benefits which could have no value to the government and did not specifically address the redemption of mileage credits for program benefits

³² *Panama Canal Commission Decision.*

³³ U.S. Comptroller General of the United States, *Use of Discover Charge Cards*, B-236219 (Washington: May 4, 1990), 1 p.

³⁴ U.S. Comptroller General of the United States, *Matter of: Discount Coupons and Other Benefits Received in the Course of Official Travel*, 63 Comp Gen 229-235, B-210717 (Washington: Feb. 24, 1984).

³⁵ U.S. Comptroller General of the United States, *Matter of: Abraham Frydman—Bonus Travel Coupon*, B-212559, Unpublished (Washington: Feb. 24, 1984).

³⁶ U.S. General Accounting Office, *Frequent Fliers Use of Airline Bonus Awards by AID Employees*, GAO/NSIAD-86-217 (Washington: Sept. 1986), p. 17.

such as accommodation upgrades. He reiterated that the rule prohibiting government employees from converting airline promotional items earned on official travel to their personal use also applies where an accommodation upgrade is obtained in exchange for bonus mileage credits. The Comptroller further ruled that employees must account for all mileage credits and may not exchange them for accommodation upgrades or other benefits absent authorization or approval. He stated, however, that "GSA could amend its regulations to permit redemption of airline mileage credits to upgrade government purchased tickets to first class as part of a plan to maximize the integration of these incentive programs into agency travel plans."³⁷

Use of frequent traveler benefits to upgrade airline accommodations is permitted by GSA regulation.³⁸ The use of premium-class other than first-class airline accommodations may be authorized or approved when obtained as an accommodations upgrade through the redemption of frequent traveler benefits.³⁹ "Premium-class other than first-class airline accommodations" is defined as any class of accommodations between coach-class and first-class, e.g., business-class.⁴⁰ The Attorney General, however, has determined that Department of Justice employees must use frequent flyer benefits to offset travel costs and not for premium class upgrades.⁴¹

Frequent flyer credits may not be used for upgrades to first-class airline accommodations by Department of Defense personnel. They may be used for upgrades to premium-class-less-than-first-class (e.g., business class). If there is no premium class other than first class, the credits may not be used for airline upgrades at all.⁴²

³⁷ U.S. Comptroller General of the United States, *Matter of: Michael Farbman, et al.—Personal Use of Airline Promotional Material*, 67 Comp Gen 79-83, B-220542 (Washington: Nov. 16, 1987). Robert Heitzman, Senior Attorney at GAO, in a telephone conversation on February 12, 1996, said that the GSA regulations, cited above, were written to allow use of frequent traveler benefits to upgrade to premium-class other than first-class.

³⁸ In general, reimbursement for actual transportation expenses up to the lowest first-class rate (with certain exceptions) is allowed by 5 U.S.C. 5731.

³⁹ 41 CFR 301-3.3(d)(5)(vii).

⁴⁰ 41 CFR 301-3.3(d)(2)(ii)-(iv). The regulations define "Premium-class airline accommodations" as any class of accommodations above coach-class, e.g., first-class or business-class. "First-class airline accommodations" means the highest class of accommodations on a multiple-class commercial air carrier.

⁴¹ U.S. Dept. of Justice, Attorney General, Memorandum for Heads of Department Components, *Travel Management* (Washington: July 2, 1993).

⁴² U.S. Dept. of Defense, Office of the Undersecretary of Defense For Acquisition and Technology, *Defense Transportation Regulation Part I Passenger Movement*, DOD 4500.9-R (Washington: Aug. 1995), p. 102-11.

The regulations are restated in the Joint Federal Travel Regulations (JFTR) which cover the uniformed military and the Joint Travel Regulations (JTR) which cover DOD civilians. See: U.S. Dept. of Defense, Joint Federal Travel Regulations, Part D: Gifts, Gratuities and Other Benefits Received From Commercial Sources Incident to
(continued...)

As to judicial branch employees, frequent traveler benefits may be used to upgrade to business- or first-class accommodations. Bonuses such as free or upgraded tickets and lodging obtained by redemption of frequent flyer mileage and lodging points accrued on official travel may be used for other official travel with no restrictions. They cannot be used for personal, unofficial (including spousal) travel or for upgrades associated with such travel.⁴³ Free upgrade (where frequent flyer mileage account is not reduced) to first class, membership in executive clubs and check cashing privileges need not be turned over to the government and may, therefore, be used by the employee.⁴⁴

In the Senate, regulations prescribed by the Committee on Rules and Administration do not address accommodations upgrades except to state that "any other promotional materials earned as a result of trips paid for by Senate funds are the property of the government and may not be converted to personal use."⁴⁵ In the House of Representatives, Members or their Clerk Hire employees may use upgrades earned as a result of official travel at their discretion. However, "The Committee on House Oversight encourages the official use of these travel promotional awards wherever practicable."⁴⁶

Frequent Traveler Programs

Executive Branch Agencies

The General Services Administration has not tracked and has no effective method to track frequent flyer bonus miles throughout the U.S. government, and has not made any calculation as to the potential government-wide savings of frequent flyer bonus coupons.⁴⁷ GSA was required by P.L. 103-355 to report to Congress on efforts to promote the use of frequent traveler programs by federal employees and submitted its report in October 1995.⁴⁸ In letters

⁴²(...continued)

Performance of Official Travel, C1200 Requirements for Promotional Items to be Relinquished to Government (Washington: Oct. 1, 1995), p. C1D-1. U.S. Dept. of Defense, Joint Travel Regulations, Chapter 2 Administration and General Procedures, Part A: Travel Policy, U2010 Member's Responsibility (Washington: Aug. 1, 1995), p. U2A-1.

⁴³ U.S. Administrative Office of the United States Courts, *Memorandum to All United States Judges Use of Frequent Flyer Bonuses and Other Discount Travel Options*, (Washington: Aug. 20, 1991), 4 p.

⁴⁴ U.S. Administrative Office of the United States Courts, *Guide to Judiciary Policies and Procedures*, Volume I, Chapters I-VI, Section 4.4.

⁴⁵ *Senate Handbook*, p. II-18.

⁴⁶ *House Handbook*, p. 52.

⁴⁷ Telephone conversation with Gary Goode, GSA, January 8, 1997.

⁴⁸ U.S. General Services Administration, *Report to Congress on Federal Agency Frequent Flyer Programs*, (Washington: Oct. 13, 1995), 46 p. (Hereafter cited as *GSA Report*.)

submitted to the President of the Senate and the Speaker of the House of Representatives, GSA stated that "frequent traveler programs are being promoted in the Federal community." According to GSA:

Most agencies are utilizing Government-wide travel policies and/or their respective guidelines. Other agencies are more aggressively encouraging their employees with cash award incentives. In all the responses, agencies are making the Government travelers aware of the frequent traveler benefits and how important this program is in saving the individual agency and the overall Government critical travel dollars.⁴⁹

Ninety-eight federal agencies were surveyed by GSA, 67 of which responded. Procedures instructing and encouraging employees to utilize frequent traveler benefits were reported by 40 agencies. Twenty-seven agencies do not have their own procedures, but rely on GSA regulations. The Interstate Commerce Commission, Panama Canal Commission, U.S. Government Printing Office, and U.S. Merit Systems Protection Board reported to GSA that they were proposing procedures/incentive programs. Frequent flyer programs at five agencies were highlighted in the GSA report as follows.⁵⁰

- The Department of Education has a pilot program, Travel Savings Shared Benefit Program, under which employees are rewarded for saving the agency money, through their own efforts, while on official temporary duty travel. Employee participation is optional. The amount of an award to an employee is 50% of the savings on lodging expenses and the contract carrier airfare. The savings to the agency must be \$400 before an award can be granted. The minimum award that can be granted is \$200. Awards are processed semi-annually in March and September. The program will be evaluated to determine whether savings and benefits merit continuation.
- The Department of Justice has a gainsharing program under which employees receive cash awards for savings in official travel, achieved through their own initiative. The amount of an award to an employee is 50% of the total savings for both frequent flyer airfare and lodging. The savings to the agency must be \$200 before an award can be granted. The minimum award that can be granted is \$100 and the maximum annual award is \$1,000. The awards are paid once a year, at the end of the fiscal year in which the savings are earned.
- The General Services Administration has a Travel Savings Cash Awards Program under which employees are rewarded for saving the agency money, through their own efforts, while on official

⁴⁹ Letters to The Honorable Albert Gore, Jr., President of the Senate and The Honorable Newt Gingrich, Speaker of the House of Representatives transmitting the *GSA Report*, October 13, 1995.

⁵⁰ *GSA Report*, Enclosure one.

temporary duty travel. Employee participation is optional. The amount of an award to an employee is 50% of the savings on lodging expenses and the contract carrier airfare. The savings to the agency must be \$200 before an award can be granted. The minimum award that can be granted is \$100. Awards are paid at the end of the fiscal year.

- The National Transportation Safety Board has an employee incentive program under which "supervisors can recommend awards for employees who are particularly creative or effective in saving the Government funds through participation in" promotional programs which benefit the government.
- The Bonneville Power Administration has a Frequent Flyer Incentive Program under which employees are rewarded for saving the agency money while on temporary duty travel. Employee participation is optional. Employees who receive a free coach class ticket with frequent flyer benefits earned on official government travel or personal travel are eligible to receive 50% of the savings.

General Accounting Office

A division within the General Accounting Office (GAO) is participating in a pilot program which enrolls employees in airline frequent flyer programs. Any resulting benefits will be pooled for the use of all employees participating in the pilot project. GAO has a contract with American Express to manage the travel of its employees worldwide.⁵¹ GAO's Boston regional office, comprised of 71 employees, has used a frequent flyer program since 1991.⁵² Employees most frequently fly on Northwest Airlines and U.S. Air. In cooperation with these airlines, frequent flyer applications were completed by all employees. The address of the Boston regional office was entered onto the applications by GAO. All employees signed applications and were assigned frequent flyer numbers. GAO administrative staff provided the travel agency, American Express, with frequent flyer numbers for all employees. When American Express makes reservations for employees, it provides Northwest Airlines or U.S. Air with their frequent flyer numbers. Monthly summary statements are sent by the airlines to the office. Whenever a traveler has reached the 25,000 mile threshold required for a free ticket, Northwest Airlines issues an actual ticket and U.S. Air issues a notification. The GAO administrative staff keep these tickets or coupons in a secured area.

Tickets or coupons are used to pay for travel over \$400 on Northwest Airlines or U.S. Air flights, when available. Employees who earned the tickets or coupons endorse them, as required by the airlines, but other employees may actually use them. Northwest Airlines and U.S. Air permit the Boston office to

⁵¹ Telephone conversation with Ralph Bucksell, General Accounting Office, January 13, 1997.

⁵² Facsimile to CRS from Ellen Massarsky, Administrative Officer, GAO/Boston, January 8, 1997.

use the tickets in this manner. Tickets or coupons have expiration dates and they are used in chronological order. A GAO manager conducts a monthly review of 10% of the summary sheets to ensure that employees have not flown on official government business using their personal frequent flyer accounts. GAO attorneys reviewed the program which requires minimal administration before it began.

JFMIP Recommendations

The Joint Financial Management Improvement Program (JFMIP) published a report on federal travel management in December 1995.⁵³ None of the report's nine recommendations on temporary duty travel specifically addresses the issue of frequent flyer bonus coupons, but its recommendations on automating and auditing travel data could impact upon the issue. The JFMIP recommended that travel data be consolidated and automated; GSA would identify and define the standard data elements; and data collection and retention would be consolidated in a single automated repository. Cost savings of \$88.1 million were anticipated. The JFMIP report also recommended that auditing of travel data be done by statistical sampling: it noted that currently, numerous agencies audit 100% of all travel vouchers, an inefficient and costly procedure. GSA would modify its travel regulations to allow for statistical sampling. JFMIP observed that sampling techniques could be enhanced by integrating travel software with an agency's financial management system. Cost savings of \$28.4 million were anticipated.⁵⁴

An additional recommendation in the JFMIP report was that use of the government-issued charge card be required for all travel-related expenses. Cost savings of \$62 million dollars were anticipated.⁵⁵

Travel and Transportation Reform Act of 1997

H.R. 930, which addresses this recommendation, was passed by the House on April 16, 1997. The bill, introduced by Representative Stephen Horn, requires use of the federal travel charge card for payment of all official government travel expenses to the maximum extent practicable. It authorizes the government to collect the financial information needed to verify that charges on the card are business related. Employees whose charge payments are overdue will have the delinquent amounts deducted from their paychecks.

⁵³ U.S. General Accounting Office, Joint Financial Management Improvement Program, *Improving Travel Management Governmentwide* (Washington: Dec. 1995), 48 p. (Hereafter cited as *JFMIP Report*.)

⁵⁴ *JFMIP Report*, p. 19.

⁵⁵ *JFMIP Report*, pp. 6-7, 19. The report recommended required use of the government charge card for relocation travel as well. Cost savings of \$4.13 million were anticipated. (pp. 23, 43.)

The legislation also establishes requirements for prepayment audits of federal agency transportation expenses to verify that charges are correct. GSA estimates that this will save \$50 million per year. It authorizes reimbursement of federal employees for taxes incurred on travel or transportation reimbursements as a result of enactment in 1992 of P.L. 102-486, which limited the income tax deduction for business-related travel. Up to 10 programs testing methods for paying travel and relocation expenses would be authorized for up to 24 months by H.R. 930. GSA would submit proposals for the projects to the appropriate committees of Congress at least 30 days before their effective dates. The authority to conduct test programs would expire 7 years after the enactment date of the legislation.

In House debate prior to the passage of H.R. 930, Representative Horn stated that "administrative costs [for travel] are shockingly bloated. The cost of completing a travel voucher is about \$15 in the private sector, while it can run as high as \$123 for each voucher in the Federal Government."⁵⁶ Further, according to Mr. Horn, the legislation is needed because:

- "Agency managers simply do not have complete travel information available to them because of inconsistent payment methods. As a result, it is impossible to effectively analyze their travel budgets in order to locate waste and reduce costs."
- "Related agencies are often unable to verify that travel charges are business related. They need clear authority to obtain information regarding the credit cards issued to employees for official Government travel."
- Rebates due to the federal government will be increased and the processing of travel reimbursements will be expedited.
- Many federal employees were liable for a lump sum tax payment, including penalty and interest charges, in some cases exceeding \$1,000, as a result of the 1992 law. H.R. 930 would reimburse federal employees who paid the taxes in 1993 and 1994. The reimbursement would cost \$4 million on a one-time basis, according to GSA.
- "The sections of the U.S. Code relating to travel are extremely prescriptive and limit agency flexibility in developing improved benefit systems."⁵⁷

Representative Carolyn Maloney stated that she would like to see one of the pilot programs grant discretionary authority to an agency to fund employment assistance services for the spouse of an employee relocated to another duty station by the agency.⁵⁸ Such authority had been included in

⁵⁶ *Congressional Record*, daily edition, vol. 143, Apr. 16, 1997, p. H1574.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*, p. H1575.

H.R. 3637, which was marked up in the 104th Congress, but saw no further action. The JFMIP had also recommended that such assistance be provided. Costs of \$5.9 million were anticipated.⁵⁹

The Congressional Budget Office estimated that H.R. 930 would result in cost savings of \$105 million over the next 5 years, 1998-2002. The savings would be partially offset by the anticipated five million dollar cost to reimburse employees for tax payments. The \$105 million total is comprised of expected cost savings of \$65 million through pre-payment audits and \$40 million through required use of the government travel charge card. With respect to the latter, the money is expected to come from rebates. "GSA's current contract provides that American Express rebate back to the federal government an amount equal to 0.65% of the dollar value purchased with the travel card."⁶⁰

Conclusion

The frequent traveler programs highlighted in this report include procedures for measuring their results. Up to 10 programs to test federal travel and relocation payment practices would be authorized by H.R. 930. The findings of these various programs will help to determine the future directions of federal government travel policies.

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⁵⁹ *JFMIP Report*, pp. 39, 43.

⁶⁰ U.S. Congressional Budget Office, *Cost Estimate; H.R. 930 Travel and Transportation Reform Act of 1997* (Washington: Apr. 14, 1997), 7p.