



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN, TEXAS 78711

WAGGONER CARR  
ATTORNEY GENERAL

October 4, 1965

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Austin, Texas

Opinion No. C-521

Re: Rates of travel allowance  
under current General  
Appropriation Act.

Dear Mr. Calvert:

Your request for an opinion poses the following questions:

"Please advise me your opinion as the correct answers to the below submitted questions:

"1. Leave Austin for Dallas 1:00 p.m. Wednesday, and return 5:00 p.m. Friday. You have hotel receipt for Wednesday night, but none for Thursday. How much for each day, and the total for the entire period?

"2. Leave Austin for Dallas 1:00 p.m. Wednesday, and return 5:00 p.m. Friday. You have no receipt for Wednesday night, but you do have one for Thursday night. How much for each day and the total per diem for the entire time? Is the total the same as in the preceding?

"3. Leave Austin for Dallas 8:00 a.m. Monday and return 5:00 p.m. Friday and hotel receipts for Monday and Wednesday night, but none for Thursday or Tuesday. What is the daily breakdown and total?

"4. Leave Austin for Dallas 8:00 a.m. Monday and return 5:00 p.m. Friday, hotel receipt for Tuesday night and Thursday night, but none for Monday and Wednesday. Again, the breakdown and total.

"5. Leave Austin for El Paso at 6:00 p.m.  
Monday, checked into hotel 2:00 a.m. Tuesday.  
What is per diem allowance for Monday?"

Your questions arise by virtue of the fact that the Legislature, in subdivision b of Section 15 of Article V of the General Appropriation Act stated that in computing the rates of per diem the calendar day (midnight to midnight) will be the unit, and that the rate of per diem is dependent upon whether a hotel receipt is submitted with the travel voucher. A receipt for one night's lodging thus sets the rate for two units of per diem as defined by the Legislature, to wit: the first unit preceding the midnight of the night's lodging, and the second unit succeeding the midnight of the night's lodging. Attorney General's Opinion C-486 (1965).

Therefore, you are advised that the rate of per diem for travel is dependent upon whether a receipt evidencing lodging is attached to the travel voucher and the period of time is determined by the time the employee is away from headquarters on official business. Attorney General's Opinion C-486 (1965).

Applying the foregoing principles to the facts submitted, you are advised that, in answer to your first question the employee is entitled to \$23.25, computed as follows:

Wednesday	-	\$ 6.00	-	2 quarters	at	\$12.00	per diem rate
Thursday	-	12.00	-	4 quarters	at	\$12.00	per diem rate
Friday	-	5.25	-	3 quarters	at	\$ 7.00	per diem rate

In answer to your second question, the employee is entitled to \$24.50, computed as follows:

Wednesday	-	\$ 3.50	-	2 quarters	at	\$ 7.00	per diem rate
Thursday	-	12.00	-	4 quarters	at	\$12.00	per diem rate
Friday	-	9.00	-	3 quarters	at	\$12.00	per diem rate

In answer to your third question, the employee is entitled to \$50.25, computed as follows:

Monday	-	\$ 9.00	-	3 quarters	at	\$12.00	per diem rate
Tuesday	-	12.00	-	4 quarters	at	\$12.00	per diem rate
Wednesday	-	12.00	-	4 quarters	at	\$12.00	per diem rate

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Thursday - 12.00 - 4 quarters at \$12.00 per diem rate  
Friday - 5.25 - 3 quarters at \$ 7.00 per diem rate

In answer to your fourth question, the employee is entitled to \$50.25, computed as follows:

Monday - \$ 5.25 - 3 quarters at \$ 7.00 per diem rate  
Tuesday - 12.00 - 4 quarters at \$12.00 per diem rate  
Wednesday - 12.00 - 4 quarters at \$12.00 per diem rate  
Thursday - 12.00 - 4 quarters at \$12.00 per diem rate  
Friday - 9.00 - 3 quarters at \$12.00 per diem rate

In answer to your fifth question, the employee is entitled to one quarter Monday at the rate of \$12.00, or \$3.00 for Monday.

SUMMARY

In computing the rates of per diem for travel on official business by State employees, the calendar day (midnight to midnight) is the unit, and the rate of per diem is dependent upon whether a hotel receipt is submitted with the travel voucher. A receipt for one night's lodging sets the rate of two units of per diem.

Yours very truly,

WAGGONER CARR  
Attorney General

By:   
John Reeves  
Assistant

JR:ms:sj:ra

APPROVED:  
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL  
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