

A Review of U.S. Attorney Travel that Exceeded the Government Lodging Rate



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I. INTRODUCTION

This report summarizes the results of a review by the Department of Justice (Department or DOJ) Office of the Inspector General (OIG) concerning travel by United States Attorneys (U.S. Attorneys) that exceeded the federal government lodging rates. The OIG initiated this review in response to concerns that certain U.S. Attorneys may have expended excessive funds on government lodging. Our review sought to determine: (1) how often U.S. Attorneys received reimbursement for travel expenses in excess of the federal government lodging rates when on official travel during calendar years 2007-2009, and (2) whether U.S. Attorneys complied with Department policy when exceeding the government lodging rates.

During the period of our review many U.S. Attorneys or their subordinates approved their own travel and travel expenses. Despite the lack of effective oversight, the large majority of U.S. Attorneys rarely or never exceeded the government lodging rate.¹ However, a small number of U.S. Attorneys routinely exceeded the government rate, by large amounts, with insufficient, inaccurate, or no justification. As detailed below, we recommend that the Department clarify the relevant Department policies and procedures to ensure that there is independent and effective review of travel by U.S. Attorneys.

A. Scope and Methodology of this Review

To conduct this review, we examined DOJ travel policies, Executive Office for United States Attorneys (EOUSA) documents, Justice Management Division (JMD) Financial Management Information System (FMIS) records, and U.S. Attorneys' travel vouchers and related documentation. We also interviewed 48 witnesses about these travel issues, including officials from JMD and EOUSA, 9 former U.S. Attorneys who served in the position during calendar years 2007-2009, and U.S. Attorney's Office (USAO) employees who assisted those U.S. Attorneys with their travel plans and documentation.²

There are 93 U.S. Attorneys, and during the period of our review (2007-2009), 208 individuals served as U.S. Attorneys. At our request, JMD itemized

¹ For ease of reference, we refer to all of these individuals as "U.S. Attorney," although some served as court-appointed, interim, or acting U.S. Attorneys rather than as presidential appointees. Our review was limited to travel by U.S. Attorneys, and we excluded trips by U.S. Attorneys acting in other positions for DOJ entities. For example, we did not include travel paid for and on behalf of a U.S. Attorney in the capacity as Acting Director of another DOJ office.

² None of the U.S. Attorneys we contacted are currently serving as U.S. Attorney. Every U.S. Attorney we asked to interview consented to an interview except for two, as detailed below.

the travel costs that the Department reimbursed to these U.S. Attorneys. In addition, the USAOs provided the OIG with the U.S. Attorneys' travel documents which, among other items, included travel authorizations, vouchers, and receipts. We then calculated the percentage of vouchers with lodging that exceeded the government rate.

Based on the JMD data, we identified 16 U.S. Attorneys for closer examination due to the significant number or percentage of claims they submitted for reimbursement above the government rate. We conducted a detailed review of the lodging reimbursement claims made by these 16 U.S. Attorneys. Of these, we identified five U.S. Attorneys who exhibited a noteworthy pattern of exceeding the government rate and whose travel documentation provided insufficient, inaccurate, or no justification for the higher lodging rates. We also identified other U.S. Attorney travel practices that did not rise to the level of a pattern associated with a particular U.S. Attorney but that we found questionable.

B. Organization of this Report

In Part II of this report, we describe relevant Department travel policies in detail. In Part III, we describe our findings regarding lodging reimbursements paid to U.S. Attorneys. We also set forth our analysis of systemic issues contributing to problematic lodging reimbursements and recommendations for improvements in Part IV. We present our conclusions in Part V.

II. RELEVANT REGULATIONS AND POLICIES

The Federal Travel Regulation (FTR), codified at 41 Code of Federal Regulations (C.F.R.) Chapters 300 through 304, implements the federal statutory requirements and executive branch policies governing employee travel at government expense. Issued by the General Services Administration (GSA), the FTR contains the minimal requirements that DOJ and other federal entities subject to the FTR must implement.

The primary travel policy within the Department of Justice is the DOJ Travel Order, approved by the Office of the Deputy Attorney General. The DOJ Travel Order provides specific requirements for Department travel.

In addition, JMD issued a Travel Supplement with the policies and procedures necessary to implement the Travel Order. JMD also issues Bulletins that address specific travel issues, such as when travelers may exceed the government lodging rate, and Travel Guides, which synthesize the Department's travel policies in question and answer format.

Department travel policies and procedures are also discussed in the United States Attorneys' Manual, a reference manual of policies and procedures for U.S. Attorneys, Assistant U.S. Attorneys, and Department attorneys.³

The regulations and policies of particular relevance to this review are described in the subsections below. Briefly, government travel should be approved in advance through a "travel authorization" signed by a designated supervisor. The travel authorization must state the purpose of the travel and include the anticipated amounts for certain travel expenses, including lodging. Lodging costs in excess of prescribed per-night rates (which vary according to location and date), known generally as the "government rate," cannot be authorized or reimbursed except in specific circumstances.

³ The DOJ Travel Order is numbered as "DOJ 2200.11H" and can be found on the Department's Intranet under the link labeled "DOJ Travel." The current version of the Travel Order was approved on March 14, 2006, by the Acting Deputy Attorney General.

JMD provided the OIG with the DOJ Travel Supplement, which JMD is in the process of reissuing in a question/answer format. The Bulletins and the Travel Guides are available on the DOJ Intranet under the link labeled "DOJ Travel." While there are several Travel Guides, the Travel Guide relevant to this report is the Temporary Duty Travel Guide, which was most recently issued in June 2001.

The United States Attorneys' Manual is located on the DOJ Intranet. EOUSA coordinates the periodic revision of the Manual in consultation with the Attorney General, Deputy Attorney General, and Associate Attorney General. United States Attorneys' Manual § 1-1.200.

The traveler typically pays for the expenses of the trip, such as transportation and lodging, with a government-issued credit card. The traveler is responsible for paying all amounts charged to the card. The traveler obtains reimbursement for the costs of the trip by submitting a “travel voucher” itemizing the expenses of the travel and attaching receipts for authorized travel expenses.

A. Authorization in Advance

The FTR generally requires that all travel be authorized by the agency head or an official to whom such authority has been delegated. 41 C.F.R. § 301-71.104. The DOJ Travel Order requires that travel be authorized by someone in a “higher level position than the traveler.” As applied to U.S. Attorneys, the Travel Order requires the person in the higher level position to approve out-of-district travel by U.S. Attorneys but does not identify the position of this person. The Travel Order allows U.S. Attorneys to approve their own in-district travel. Among other things, the authorization requirement is designed to ensure that travel has a proper purpose in advancement of the agency’s mission.

Another function of the authorization requirement is to ensure compliance with rules regarding government lodging rates. The FTR states that a request for authorization for reimbursement in excess of the government rate should be made in advance of travel. 41 C.F.R. § 301-11.302. The traveler must state the anticipated lodging rates on the travel authorization, and the authorizing official can approve or deny a request to exceed the government rate.

During the period covered by our review, DOJ policies were inconsistent regarding who must authorize travel by U.S. Attorneys. Section 4(g) of the Travel Order stated that U.S. Attorneys may authorize their own travel, “**but only within their own districts or regions.**” (Emphasis in original.) In contrast, the JMD Travel Supplement permitted U.S. Attorneys to authorize their own travel whether in or out of their own districts. Similarly, the United States Attorneys’ Manual states that U.S. Attorneys “may authorize their own travel (except foreign and first class) as well as that of their subordinates **anywhere within the United States. . . .**” (Emphasis added.) Many of the U.S. Attorneys and USAO employees told us that they relied on the language of the United States Attorneys’ Manual when approving U.S. Attorney travel. We found that during the period of our review, most U.S. Attorney travel was authorized by the U.S. Attorneys themselves, or by their subordinates, including instances of authorizing lodging above the government rate.

In 2003, when there were a large number of interim U.S. Attorneys, EOUSA asked U.S. Attorneys to send their out-of district travel authorizations to an EOUSA e-mail box, where they were reviewed by the EOUSA Senior Advisor for Management and Operations. EOUSA told the U.S. Attorneys that

the procedure was necessary to comply with the Travel Order. During the period of our review, many U.S. Attorneys still sent their travel authorizations to EOUSA, but this practice was neither universal nor consistent. We also found that the Senior Advisor's review was limited and deferential. The Senior Advisor told us that the United States Attorneys' Manual gave U.S. Attorneys authority to approve their own travel and lodging over the government rate. He said that the EOUSA review was to ensure that the U.S. Attorneys' travel would not create appearance problems for the Department. The Senior Advisor said that because of the limited nature of the review, he did not examine whether the U.S. Attorney's lodging rate exceeded the government rate.

B. Circumstances Justifying Exceeding the Government Rate

As a general principle, the FTR requires that employees traveling on official business exercise "the same care in incurring expenses that a prudent person would exercise if traveling on personal business." 41 C.F.R. § 301-2.3. In addition, it states that excess costs which are unnecessary or unjustified in the performance of official business are not reimbursable. 41 C.F.R. § 301-2.4.

More specifically, the FTR sets forth government rates for the reimbursement of lodging costs. 41 C.F.R. §. 301-11.6.⁴ The government rate varies according to location and may further depend on the dates of travel. For example, the government rate for New York City in fiscal year 2009 ranged from \$360 per night between October 1 and December 31, 2008, to \$259 per night between July 1 and August 31, 2009. In contrast, the government rate for Peoria, Illinois, was \$70 per night for all of fiscal year 2009.

The FTR recognizes, however, that there are circumstances in which an employee would be justified in exceeding the government rate. Specifically, the FTR allows travelers to be reimbursed for lodging costs which exceed the government rate under four circumstances:

1. Lodging is procured at a prearranged place such as a hotel where a meeting, conference, or training session is held;
2. Costs have escalated because of special events (such as sporting events or conventions);
3. Because of "mission requirements"; or
4. Any other reason approved within the traveler's agency.

41 C.F.R. § 301-11.300.

⁴ The lodging rate for travel within the continental United States is determined by the General Services Administration. The rate for foreign travel is determined by the State Department. The rate for non-foreign travel outside the continental United States and to United States Territories is determined by the Defense Department. 41 C.F.R. §. 301-11.6.

Yet, even where the conditions for exceeding the government rate are satisfied, reimbursement may not exceed 300 percent of the per diem rate. 41 C.F.R. §§ 301-11.303, 305. Reimbursement for lodging costs in excess of the government rate is referred to as “actual expense reimbursement” or “actual subsistence.”

DOJ travel policies generally restate the FTR criteria for exceeding the government rate. These criteria are discussed in more detail below.

1. Conferences

The conference exception applies when the organizers of a conference, meeting, or training have secured a block of rooms for the attendees and the negotiated rate exceeds the government rate. JMD’s Actual Subsistence Bulletin and Travel Guide refer to the conference exemption, as does the U.S. Attorneys’ Manual.⁵ According to the JMD’s Assistant Director for Finance Policies and Requirements, the conference exception does not apply to a meeting or other event where rooms are not set aside for attendees.

The maximum reimbursement for lodging at conferences depends on whether the conference is sponsored by a government agency. The FTR limits reimbursement for lodging at agency-sponsored conferences to 125 percent of the government rate (called the “conference rate”). 41 CFR § 301-74.8 et seq. The FTR does not explicitly address the maximum rate for non-agency-sponsored conferences, but it limits reimbursement for any lodging to 300 percent of the government rate.⁶

2. Special Events

According to the FTR, a traveler may exceed the government rate when there is an unusual event such as “missile launching periods, sporting events, World’s Fair, conventions, natural disasters,” and lodging within prescribed limits is unavailable nearby. 41 CFR § 301-11.300(a). The FTR special event exception also requires that the added cost of commuting to and from the closest available room at the government rate would exceed the savings from utilizing such accommodations (the “commuting cost comparison”). The DOJ

⁵ See Actual Subsistence Reimbursement for Official Travel, Financial Management Policies and Procedures Bulletin No. 99-24, August 1999; Travel Guide at p. 25-26; and United States Attorneys’ Manual § 3-8.700.

⁶ The JMD’s Conference Travel Bulletin correctly restates the FTR rule, but the JMD Travel Guide does not distinguish between agency and non-agency sponsored conferences. It states that when a sponsor of a conference arranges for lodging, the sponsor may authorize the conference rate, up to 125 percent of the government rate, but that if the conference rate is insufficient, reimbursement up to 300 percent of the government rate may be authorized.

Travel Supplement and JMD Actual Subsistence Bulletin also describe the special events exception.⁷

3. Mission Requirements

The FTR and JMD Actual Subsistence Bulletin allow travelers to exceed the government rate pursuant to “mission requirements.”⁸ Neither the FTR nor DOJ policies explain this exception in detail or identify any circumstances that must be established in order to invoke it. As written, the mission requirements exception is far broader and subject to fewer restrictions than the special events exception described above. However, the JMD Assistant Director for Financial Management Policies and Requirements told us that the mission requirements exception is a rarely invoked exception for special circumstances, such as when the Attorney General could not stay in a hotel room facing the street for security reasons and a room in another part of the hotel exceeded the government rate.

Finally, the FTR also includes an exception for “any other reason approved by [the traveler’s] agency.” We are not aware that DOJ has approved any additional exceptions in its travel policies.

C. Documentation Requirements

As noted above, the FTR requires advance authorization for reimbursement in excess of the government rate. The DOJ Travel Supplement describes the documentation that is required to justify exceeding the government rate. The justification must identify: (1) the actual lodging rate, (2) the reason the traveler must stay at the requested location, (3) the advantage to the Government in allowing the traveler to stay at the requested location, and (4) the address and proximity of the lodging to the temporary worksite. Travel Supplement § 301-8.4(a).⁹

⁷ See Travel Supplement at 301-8.1(a), 8.4(a), and the Actual Subsistence Bulletin. The Bulletin and the U.S. Attorneys’ Manual decouple the special event and cost comparison requirement and present them as separate exceptions. As a result, the Bulletin and U.S. Attorneys’ Manual provide for a special event exception without a commuting cost comparison and an unavailability exception that requires a commuting cost comparison but not a special event.

⁸ The United States Attorneys’ Manual contains a similar exception for “special duties of the assignment.”

⁹ The Travel Guide requires that the justification for actual subsistence include three of the four requirements listed in the Travel Supplement: the actual lodging rate, the reason the traveler must stay at the requested location, and the advantage to the Government in allowing the traveler to stay at the requested location. The Guide also requires that the justification identify the special circumstances that exist at the temporary worksite which caused the government rate to be unavailable.

Neither the FTR nor DOJ travel policies require that the written justification for exceeding the government rate identify which exception is being relied upon. The regulations and policies also do not require the traveler to document the effort made to find lodging at the government rate or otherwise to substantiate its unavailability.

D. Approval of Vouchers

After the completion of travel, the traveler must submit a voucher itemizing the expenses for which reimbursement is sought, together with receipts. The voucher must be reviewed and approved by a designated official in order for the traveler to receive reimbursement. The FTR requires that the person approving travel vouchers be the same person who authorized the travel “or his/her designee (e.g., supervisor of the traveler).” 41 C.F.R. § 301-71.200.

The purpose of reviewing travel vouchers is to ensure that the traveler actually incurred the expenses for which the traveler is seeking reimbursement, and also to ensure that the traveler is reimbursed only for appropriate expenses (such as the cost of a hotel room but not additional fees that may be included on a hotel receipt, like charges for a movie or health club).

During the period of our review, DOJ policies were not clear regarding who must review and approve vouchers submitted by U.S. Attorneys. The DOJ Travel Order and Travel Supplement stated that reimbursement should be approved by an official in a higher level position than the traveler or a senior financial official with knowledge of the travel regulations. The U.S. Attorneys’ Manual permitted U.S. Attorneys to approve their own vouchers.

In practice, during the period of our review, vouchers for U.S. Attorney lodging expenses above the government rate were approved by administrative personnel in the USAO reporting to the U.S. Attorney.

As detailed below in Section IV.C., in 2010 (after instances of excessive U.S. Attorney travel received attention in the news media and we began this review), JMD and EOUSA issued memoranda clarifying who must review U.S. Attorneys’ authorizations and vouchers.

III. OIG REVIEW

Our review found that, although many U.S. Attorneys traveled frequently, the large majority of them rarely or never sought reimbursement above the government rate for lodging. However, as described below, we found that several U.S. Attorneys repeatedly authorized their own lodging at hotels charging more than the government rate, without documenting that the rate was actually unavailable at another hotel near their temporary duty station. We identified five U.S. Attorneys who exhibited noteworthy patterns of exceeding the government rate, and we identified several other troubling incidents of U.S. Attorneys seeking reimbursement for lodging above the government rate without justification.

A. Overview of U.S. Attorney Lodging Reimbursements

The 208 U.S. Attorneys who served during 2007-2009 submitted a total of 4,904 travel vouchers, 3,568 of which included lodging expenses. Based on this data, we found that, on average, each U.S. Attorney took 12.8 overnight trips per year. The data exhibited a wide range of travel patterns. For example, 3 U.S. Attorneys traveled on more than 80 overnight trips, while several others did not seek any reimbursement for overnight lodging during government travel.

During the period of our review, U.S. Attorneys claimed reimbursement for lodging above the government rate in a large number of cases. Of the 3,568 vouchers with lodging expenses, 724 (20 percent) exceeded the government lodging rate.

We believe that the percentage of Department travel where the reimbursement for lodging exceeds the government rate is significantly lower than 20 percent. For example, when we asked the JMD Assistant Director for Finance Policies and Requirements if JMD can provide data on how often Department travelers exceed the government rate for lodging, she stated that JMD does not compile precise data on the number of times Department travelers exceeded the government rate for lodging. However, she said that according to JMD's Financial Management Information System (FMIS), 3.4 percent of travelers from the Department's Offices, Boards, and Divisions checked the "actual subsistence" box on their travel authorizations during fiscal years 2007-2009, indicating that their lodging would exceed the government rate.¹⁰ Moreover, several USAO employees, such as administrative and budget officers, told us that it was rare for anyone in the USAO, other than the U.S. Attorney, to exceed the government rate.

¹⁰ However, our review indicated that FMIS may underreport the number of travelers who exceed the government rate.

Therefore, while we cannot say with certainty the exact percentage of Department travel that exceeds the government rate for lodging, we believe it is much less than the 20 percent of U.S. Attorney travel that exceeded the government rate.

It is also important to note that the frequency of exceeding the government rate was not uniform among U.S. Attorneys. We found that the large majority of U.S. Attorneys never or rarely exceeded the government rate. As shown in Table 1, 71 U.S. Attorneys (34.1 percent) never exceeded the government rate and 96 U.S. Attorneys (46.2 percent) exceeded it 1 to 5 times.

TABLE 1

Number of Vouchers Over the Lodging Rate	Number of U.S. Attorneys	Percentage of Total
0	71	34.1
1 to 5	96	46.2
6 to 10	22	10.6
11 to 15	13	6.3
16 to 20	3	1.4
More than 20	3	1.4
Total	208	100.0

We found that the practice of seeking reimbursement above the government rate was concentrated among a relatively small number of U.S. Attorneys. Nineteen U.S. Attorneys exceeded the government rate on 11 or more trips. Together, these 19 U.S. Attorneys submitted a total of 311 vouchers seeking reimbursement for lodging above the government rate. In other words, fewer than 10 percent of the U.S. Attorneys (19 of 208) accounted for more than 40 percent of the trips in which the government rate was exceeded (311 of 724).¹¹

As noted above, DOJ travelers are permitted to exceed the government rate under specified circumstances, such as for certain conferences, during “special events” that cause the government rate to be unavailable, or as needed for “mission requirements.” We attempted to determine if the travel documentation submitted by U.S. Attorneys established any of these

¹¹ This does not account for the amount of time that a U.S. Attorney served in the position during the course of our review. For example, some U.S. Attorneys served in the position and traveled frequently during the entire 3-year period of our review, while others served in the position for only a few weeks and did not travel during that period.

exceptions. In conducting this review, we excluded trips in which the traveler exceeded the government rate by less than 10 percent, in order to focus on cases in which the government rate was exceeded by larger amounts. This limitation left a total of 633 trips by U.S. Attorneys for detailed analysis.

Our review was hindered by the fact that DOJ policies did not require the traveler to document precisely which exception was being invoked to justify the government rate or to document the efforts made to find lodging within the prescribed limits. In many cases, the travel authorizations or justification memoranda prepared by or for the U.S. Attorneys stated only that the government rate was “unavailable.”

We were able to determine that 302 of these trips qualified under the conference exception to the government rate: 130 of these trips were for internal agency-sponsored conferences and 172 were for external conferences, such as judicial conferences or meetings of law enforcement officials that were attended by U.S. Attorneys.

However, it was more difficult to determine from the documents whether the special event or mission requirement exceptions were properly invoked by the U.S. Attorneys. Only four U.S. Attorney travel documents specified the “special event” that caused the government rate to be unavailable, and none explicitly invoked the mission requirement exception.

We also found 37 cases in which the U.S. Attorney or his staff documented an unsuccessful effort to find the government rate, such as a list of hotels contacted to seek the government rate. We note that such an effort is not in itself sufficient to satisfy either the special events or the mission requirements exception. We were told anecdotally by Department employees that unavailability at three hotels is a standard that some USAOs and DOJ components use for documenting the unavailability of the government rate. However, we did not find any basis for this standard in the FTR or in any DOJ travel policy, and the JMD Assistant Director for Finance Management Policies and Requirements told us that this 3-hotel standard was not a recognized exception to the government rate. She said that if an employee has difficulty finding a hotel that offers the government rate, the employee should contact the Department’s Travel Management Center for assistance. Yet, because we believe the 3-hotel standard is a widespread misconception and not limited to U.S. Attorneys, we treated these 37 cases as adequately justified for purposes of our analysis.

In sum, we found that 358 (56.6 percent) of the 633 U.S. Attorney trips that exceeded the government rate by more than 10 percent were adequately justified, either because of the conference exception, the documentation included the efforts to obtain lodging at the government rate at several hotels, or the lodging was fully reimbursed by a third-party source. Our analysis is summarized in Table 2.

TABLE 2

Adequately Justified Reason	Number of Vouchers	Percentage of Total
Internal agency sponsored conference	130	36.4
External conference	172	48.0
Documented efforts to find govt. rate	37	10.3
Fully reimbursed by non-federal source	6	1.7
Other ¹²	13	3.6
Total of Adequately Justified Vouchers	358	100.0

This analysis left a total 275 travel vouchers (43 percent of the 633 vouchers exceeding the government rate by at least 10 percent) that could not be justified based on our review of the available documentation. For those 275 vouchers, the travel documentation often failed to include any basis for exceeding the government rate or simply stated that the government rate was not available. For example, some justifications merely stated that reimbursement for lodging above the government rate was approved. Other justifications contained conclusory statements such as “no government rate available” without any information to support the conclusion or “boilerplate” language which repeated the same justification for multiple trips without addressing the specific circumstances of each trip. In these instances, we were unable to determine whether there was a special circumstance or any effort to obtain the government rate anywhere other than at the selected hotel. Our findings regarding these 275 questionable vouchers are summarized in Table 3.

¹² The “other” category included instances such as when travel plans were cancelled due to inclement weather.

TABLE 3

Inadequately Justified Reasons	Number of Vouchers	Percentage of Total
No justification	90	32.7
Insufficient justification	154	56.1
Overbilling ¹³	7	2.5
Exceeded 300% at external conferences	17	6.2
Exceeded 125% at agency conference	7	2.5
Total of Inadequately Justified Vouchers	275	100.0

It is important to note the absence of a sufficient justification in the travel documentation does not establish that the costs associated with a particular trip were inappropriate. As noted in Section II.C., DOJ policies did not require detailed written substantiation of the exception to the rule limiting reimbursement to the government rate.¹⁴ In the absence of such a requirement, the primary check on the propriety of a DOJ traveler's invocation of one of the exceptions is the requirement that the authorization for exceeding the government rate be obtained from a designated official in advance. However, U.S. Attorneys most often authorized their own travel, which provided no independent check at all. Even when the travel authorizations were sent to EOUSA, there was no review of the lodging rate.

Using this universe of 275 questionable vouchers, we calculated the percentage of questionable vouchers for each U.S. Attorney in an effort to identify patterns of problematic claims for reimbursement above the government rate. We identified five U.S. Attorneys who exhibited noteworthy patterns of exceeding the government rate and whose travel documentation provided insufficient, inaccurate, or no justification for the higher lodging rate. We also identified several other incidents that did not constitute a pattern of questionable expenses associated with a particular U.S. Attorney but that were nonetheless troubling. Our specific findings about five U.S. Attorneys and other troubling incidents are addressed in the next section of this report.

¹³ Overbilling occurred when the hotel receipt indicates that cost of the room was less than the amount claimed on the voucher or when the traveler claimed an extra night of lodging.

¹⁴ In response to our draft report, JMD noted that JMD's Actual Subsistence Bulletin requires a written justification for actual subsistence to be attached to the travel authorization. While the Bulletin requires written justification, it does not address the content. The two travel policies that address the content of the justification are the Travel Supplement and the Travel Guide, described in Section II.C. We found that these policies did not require detail sufficient to justify actual subsistence or allow for meaningful review.

B. Individual U.S. Attorneys with Patterns of Questionable Lodging Reimbursements

In this section we discuss our findings regarding the five U.S. Attorneys who exhibited a noteworthy pattern of exceeding the government rate without appropriate justification.

1. U.S. Attorney A

During 2007-2009, U.S. Attorney A submitted 82 vouchers that included reimbursement for lodging, of which 40 (49 percent) exceeded the government rate for lodging. This was the largest number of trips over the government rate of any U.S. Attorney during the period of our review.

We found insufficient justification for 35 of these trips. U.S. Attorney A's lodging costs for these trips exceeded the government rate by \$17 to \$188 per night. In total, U.S. Attorney A's lodging for these 35 vouchers exceeded the government lodging rate by a total of \$3,320 (excluding taxes and resort fees).

Most of U.S. Attorney A's trips involving lodging above the government rate (33 in total) were trips to a city within the U.S. Attorney's district where there was a second U.S. Attorney's Office. In that city, U.S. Attorney A always stayed at one of two hotels that he preferred: a Hilton or a Westin Resort & Spa. According to the U.S. Attorney's Administrative Officer, the Hilton was one of several hotels within walking distance of the local U.S. Attorney's office. The Westin Resort & Spa was a short drive from the U.S. Attorney's office.

The U.S. Attorney told us that he selected his lodgings and instructed his Administrative Officer where to make the reservations. The government rate was available at these two preferred hotels in this city on only four occasions. Yet, on each of the other occasions that the government rate was not available at the preferred hotel, the U.S. Attorney stayed there anyway.

When the government rate was not available, the U.S. Attorney's Administrative Officer provided a justification memorandum for approval by that U.S. Attorney's Branch Office Chief. Beginning in September 2007, when the Branch Office Chief retired, the U.S. Attorney's Administrative Officer approved the justification memoranda. The justification memoranda for all but 1 of the 33 vouchers stated that the government rate for this city was "significantly lower than that which is available," and that lodging at the requested hotel was requested "[i]n order for me to be located near our office headquarters and to avoid additional transportation costs and delays in my schedule."

The memoranda did not describe any effort to find lodging at the government rate at a different hotel. We determined that there was no effort to

find a hotel at the government rate because U.S. Attorney A identified the specific hotel at which he wanted to stay without regard to its cost.

We also found that the justification memoranda submitted in support of U.S. Attorney A's trips were inaccurate and misleading. They stated that the government rate was not available, when in fact the rate was merely unavailable at U.S. Attorney A's preferred hotels. The U.S. Attorney's Administrative Officer told us that, in fact, there were several hotels within walking distance of the office. Therefore there would be no significant delay or added transportation costs if the U.S. Attorney stayed at one of the other neighboring hotels. We concluded that U.S. Attorney A did not qualify for any exception to the government rate and improperly received reimbursement in excess of that rate for these trips.

Beginning in December 2007, U.S. Attorney A sought reimbursement only for the government rate at his two preferred hotels and paid any difference himself. When we asked what caused the change, the U.S. Attorney said his Administrative Officer approached him in November or December 2007 and said that he should consider another hotel or pay the difference between the cost of lodging at his preferred hotel and the government rate. U.S. Attorney A said he agreed with his Administrative Officer and paid the difference on 69 subsequent trips to this city at a personal cost of \$7,692 (excluding taxes and resort fees).

The U.S. Attorney's Administrative Officer told us that she raised the issue after the Branch Office Chief retired in September 2007, when the Administrative Officer assumed responsibility of signing the justification memoranda. She said it was her job to protect the U.S. Attorney from "negative exposure" and that over the years she had learned that Department employees served the taxpayers, not themselves.

2. U.S. Attorney B

During 2007-2009, U.S. Attorney B submitted 68 vouchers that included reimbursement for lodging. Of the 68 vouchers, 36 (53 percent) exceeded the government rate for lodging. This U.S. Attorney exceeded the government rate at the greatest cost to the Department and most often exceeded the government rate by more than \$100 per night.

We found insufficient justification for exceeding the government rate in the documents relating to 26 of the 36 vouchers. These 26 vouchers exceeded the government rate by \$18 to \$278 per night, for a total of \$4,221 (excluding taxes for domestic travel and resort fees). The U.S. Attorney's lodging exceeded the government rate by more than \$100 per night on 13 trips.

There were justification memoranda signed by U.S. Attorney B for all 26 vouchers that we questioned. Yet, 7 of the 26 memoranda state only: "I hereby

authorize per diem be exceeded for (city) for (dates) for (the U.S. Attorney).” These seven memoranda did not identify any justification for exceeding the government rate. The other 18 memoranda state that no government rates were available but did not identify any effort to find lodging at the government rate.

The U.S. Attorney’s secretary told us that she prepared the memoranda for the U.S. Attorney’s signature. She asserted that U.S. Attorney B often asked her to find a hotel at the last minute, and the government rates were not available at the hotels that she contacted. She said, for example, that on several occasions the U.S. Attorney traveled to Washington, D.C., for meetings at DOJ Headquarters. The secretary stated that she contacted a set list of three to five hotels close to DOJ Headquarters, although she did not document her efforts. She identified the Willard, the Mayflower, the Renaissance, and the J.W. Marriott as hotels she contacted. If the government rate was not available at one of these hotels, the secretary said she would reserve a room at whichever of these hotels was the least expensive. The U.S. Attorney’s travel records show that on the 11 occasions that she exceeded the government lodging rate in Washington, D.C., she stayed at one of four hotels – the Mayflower, the Renaissance, the J.W. Marriott, and the Grand Hyatt.

We also determined that U.S. Attorney B also exceeded the government rate on other occasions without apparent justification. For example, in January 2009, while attending the inauguration of a state Attorney General, she stayed at a hotel in a resort destination 15 miles away from the inaugural city at a cost of \$249 per night, which was almost two and a half times the applicable government rate. The U.S. Attorney’s secretary said that she could not recall why the U.S. Attorney stayed at this hotel, and no reason was supplied in the justification memorandum.

On another occasion, U.S. Attorney B traveled to Tucson, Arizona, for a conference at a resort hotel. The conference was scheduled from Sunday through Wednesday. According to the agenda, attendees were invited to register on Sunday, a reception was scheduled Sunday evening, and the conference began on Monday. However, U.S. Attorney B flew to Tucson on the Friday before the conference started and stayed at the resort until she left mid-day on Monday. She sought and received reimbursement for her lodging for Friday through Monday. The resort cost \$93 per night on Friday and Sunday and \$179 per night on Saturday. The government rate in Tucson was \$75 per night. No explanation was provided for her claiming reimbursement for the Friday and Saturday nights before the conference began.*

* After our report was issued, U.S. Attorney B contacted the OIG and stated that she had traveled to Tucson to speak to a committee that met on Saturday, before the formal

As with all the U.S. Attorneys discussed in this section, we provided U.S. Attorney B with the relevant travel documents and asked that she participate in a telephone interview about the lodging. U.S. Attorney B declined our request for an interview. However, in our efforts to schedule an interview, we spoke to her briefly on two occasions and received an e-mail from her about her travel. In these communications, U.S. Attorney B stated that she sometimes would not know that her lodging was over the government rate until her secretary asked her to sign a justification memo after she returned from the trip. U.S. Attorney B also stated that in some cases she expected her hotel costs to be reimbursed by a third-party and therefore the government rate lodging was not a concern of hers. She also argued that her secretary was responsible for third-party reimbursements and that she should not be held responsible for her secretary's failures.¹⁵ U.S. Attorney B also stated that in other cases her office was unable to obtain lodging at the government rate.

We found that U.S. Attorney B's explanations for her pattern of claiming reimbursement for lodging above the government rate was unpersuasive and that for many of these trips she did not qualify for any exception to the government rate. In particular, we believe this U.S. Attorney had a practice of claiming that the government rate was "unavailable" if she could not find it at a particular hotel or small group of preferred hotels. Neither the FTR nor any Department policy authorizes Department employees to exceed the government rate if it is not available at select hotels.

3. U.S. Attorney C

During 2007-2009, U.S. Attorney C submitted 23 vouchers that included reimbursement for lodging. Of the 23 vouchers, 15 (65 percent) exceeded the government rate for lodging. After reviewing the travel documents and interviewing the U.S. Attorney's secretary, we found insufficient justification for exceeding the government rate with respect to 14 of the 15 trips. These 14

conference, and that she was also invited to attend other pre-conference events that met on Sunday, such as a Board of Directors meeting and a reception.

U.S. Attorney B also provided the OIG with the name of a former official of the organization sponsoring the conference. The former official confirmed that U.S. Attorney B spoke to a committee that met prior to the formal conference and that U.S. Attorney B was invited to attend the board meeting and reception on Sunday.

We are including this additional information as an asterisk to this report. However, we note that this specific information was not contained on U.S. Attorney B's travel documents and also was not available to the OIG at the time our report was issued because U.S. Attorney B declined our requests to be interviewed or provide additional documentation related to her travel.

¹⁵ EOUSA is required to pre-approve travel reimbursed by third parties. Our list of 26 questionable trips by U.S. Attorney B does not include any trip that had been pre-approved by EOUSA that was not reimbursed by the third-party.

vouchers exceeded the government rate by \$19 to \$242 per night, for a total of \$2,176 (excluding taxes for domestic travel). U.S. Attorney C's lodging costs exceeded the government rate by more than \$100 per night on 9 of the 14 vouchers.

In terms of the percentage of travel, U.S. Attorney C was the U.S. Attorney who most often exceeded the government rate without adequate justification. The U.S. Attorney provided insufficient, inaccurate, or no justification for 14 of 23 trips (61 percent) that exceeded the government rate.

Twelve of the 14 vouchers involved travel for one particular case. When traveling for the case, U.S. Attorney C exceeded the government lodging rate in five different cities.

The U.S. Attorney's secretary told us that she routinely called hotels to seek the government rate. However, she also said that the U.S. Attorney selected his hotel if he was familiar with the city and that she would seek a recommendation for a "decent" hotel if he was not. The secretary told us that if the recommended hotel did not offer the government rate, she would consider other hotels but also take into account the time of the meeting and the distance from the hotel to the meeting site. The secretary stated that the U.S. Attorney normally stayed at the hotel closest to or at the location of his meetings.

Justification memoranda were included in the travel documentation for 9 of the 12 trips related to the case. The justification memoranda were prepared by the U.S. Attorney's secretary and signed by the U.S. Attorney. Eight of the memoranda stated that the government lodging rate was not available in the particular city on the particular dates and asked that the USAO budget officer approve the actual cost of the hotel. According to the budget officer, this was the standard justification memorandum language used by the USAO. According to the U.S. Attorney's secretary, the language of the memoranda did not literally mean that there were "no hotels available at the government rate in the particular city" but that the government rate was not available at the hotel or hotels that fit her criteria – a "decent" hotel at or near the meeting site.

For example, U.S. Attorney C traveled outside of his district to Boston, Massachusetts, for meetings with representatives of a defendant company at the Nine Zero Hotel. U.S. Attorney C stayed at the Nine Zero Hotel at a cost of \$449 per night, which was more than double the government rate of \$220 per night in Boston.¹⁶ U.S. Attorney C's secretary told us that it was a

¹⁶ U.S. Attorney C's reimbursements for airport transportation costs were also noteworthy. For example, rather than take a taxi from the Boston airport to the Nine Zero Hotel in downtown Boston, a trip of approximately 4 miles, he prearranged a car service to and from the Boston airport to the hotel, which cost the government \$236 round trip. In another
(Cont'd.)

“coincidence” that these meetings were at the same hotel where she had reserved a room for the U.S. Attorney.

In addition to his case-related travel, U.S. Attorney C also exceeded the government lodging rate when he traveled to Washington, D.C., to speak to an association. The U.S. Attorney stayed overnight at the Four Seasons Hotel, where he was scheduled to speak the following morning. The hotel rate at the Four Seasons was \$475 per night, more than double the government rate of \$233 per night. According to the justification memorandum, the U.S. Attorney stayed at the Four Seasons because his speech was scheduled at that hotel early in the morning.

U.S. Attorney C declined our request for an interview. In a letter to the OIG, U.S. Attorney C’s attorney stated that the U.S. Attorney was unable to provide “any other specific information” to supplement the travel documentation that we had provided to him for review.

In sum, we concluded that U.S. Attorney C did not comply with the travel regulations or show that his lodging costs which exceeded the government rate were appropriate. The U.S. Attorney or his staff did not make an adequate effort to determine whether the government rate was available within a reasonable distance of his meetings. Most of the justification memoranda that we found simply stated that the government rate was unavailable, but provided no substantiation for this claim. In four cases, there was no justification memorandum at all. The justification for his stay at the Four Seasons Hotel (at a rate of \$475 per night) was an early morning speech at the hotel. We do not believe this was a suitable justification for exceeding the government rate, particularly by such a large amount, if lodging at the government rate was available at a hotel within a reasonable distance from that hotel.

4. U.S. Attorney D

During the period of our review, U.S. Attorney D submitted 23 vouchers that included reimbursement for lodging. Of the 23 vouchers, 9 (39 percent) exceeded the government rate for lodging. We found insufficient justification for exceeding the government rate with respect to six of the nine trip vouchers. These six vouchers exceeded the government rate by \$52 to \$231 per night, for a total of \$903 (excluding taxes and resort fees). U.S. Attorney D exceeded the government rate by more than \$100 per night on three of the six vouchers.

Four of the six trips we questioned were for the U.S. Attorney’s attendance at conferences. According to the justification memoranda signed by the U.S. Attorney’s Executive or First Assistant, actual subsistence was

example of excessive transportation costs, his car service from a London airport to his hotel in central London cost \$562 round trip.

justified because of the “special event” exception. The special event cited was the fact that the conference rate was “sold out.”

The first conference was held at a particular hotel in San Diego. Yet, instead of staying at the conference hotel for the conference rate of \$159 per night, the U.S. Attorney stayed at the U.S. Grant Hotel for \$279 per night.

The second conference was held in Fort Lauderdale, Florida. Instead of staying at the conference hotel where his secretary had reserved a room for \$109 per night, the U.S. Attorney stayed at the Fort Lauderdale Grande Hotel & Yacht Club for \$159 per night and cancelled his reservation at the conference hotel.

The third conference was held at a hotel in Anaheim, California. According to the travel documents, the conference rate was \$143 per night. Instead of staying in Anaheim, U.S. Attorney D stayed at the Island Hotel in Newport Beach, approximately 20 miles from Anaheim, for \$349 per night. The U.S. Attorney told the OIG that he required a hotel near the conference because he was scheduled to speak at the conference in the morning. However, he provided no explanation to us why he did not stay at a hotel in Anaheim and instead stayed at a hotel 20 miles away.

The fourth conference was held at the Rancho Las Palmas Resort & Spa in California. The U.S. Attorney stayed at the conference hotel but not at the conference rate of \$159 per night; the U.S. Attorney’s room cost \$219 per night.

U.S. Attorney D’s secretary told us that the U.S. Attorney instructed her to book rooms at the non-conference hotels described above. She also stated that the U.S. Attorney told her to reserve a non-conference room at the Rancho Las Palmas Resort & Spa in order to have a room with a better view. She said that the U.S. Attorney told her to write that the conferences were “sold out” in order to justify his decision to stay at a preferred hotel.

U.S. Attorney D denied selecting the hotels for his lodging or telling his secretary to misrepresent the reason for his excess lodging costs. He stated that his secretary was responsible for each of the hotel rooms in excess of the government rate and that if she said otherwise, it was to cover for her own misconduct.

The secretary also said that at the end of U.S. Attorney D’s tenure, someone in the USAO told the U.S. Attorney that he should pay the difference between the cost of lodging at his preferred hotel and the government rate. According to the travel documentation, U.S. Attorney D attended a conference in Palm Springs in April 2009. According to the secretary, the U.S. Attorney told her to reserve a room for him at the Parker Hotel, which cost \$325 per night and which was not the conference hotel. In this instance U.S. Attorney D

only sought reimbursement for the \$139 government rate and paid the difference between the government rate and the cost of his preferred hotel himself.

We also interviewed the U.S. Attorney's Executive Assistant, who had taken that position shortly before the U.S. Attorney traveled to the Palm Springs conference and who was required to sign the U.S. Attorney's justification memoranda. She told us that she questioned the cost of hotel the U.S. Attorney had selected and that the U.S. Attorney ultimately agreed to pay the difference. In contrast, the U.S. Attorney told us that his secretary "locked him" into a room at the expensive hotel and that he was forced to pay the difference.

We found similar issues with some of U.S. Attorney D's non-conference travel. On one trip for a press conference, U.S. Attorney D stayed at a Double Tree Resort for \$225 per night when the government rate was \$141 per night. The justification memorandum cited the "special event" exception and stated, "the conference room daily rate is \$295 per day, which exceeds the dollar amount of the federal government daily rate of \$141 per day." We note that there was no conference or conference rate and that the purpose of the U.S. Attorney's travel was to attend a press conference.

U.S. Attorney D also stayed at the Westin Embassy Row in Washington, D.C., for \$391 per night when the government rate was \$233 per night. The justification memorandum cited the "special event" exception and stated "the daily room rate is \$391.25 which exceeds the dollar amount of the government daily rate of \$233.00."

We concluded that some of U.S. Attorney D's claims for reimbursement above the government rate were inappropriate and egregious violations of the travel regulations. We did not find the U.S. Attorney's attempt to cast blame for these violations on his secretary to be credible or persuasive. His secretary said that she would not have known to book the U.S. Attorney at the particular hotels without his specific instructions, and that he told her to write "sold out" to justify being reimbursed for more expensive lodgings. We do not believe that the secretary would have taken these actions on her own initiative. Moreover, the justification memorandum provided no acceptable rationale for the government to reimburse the U.S. Attorney for these selections. Even if the conference hotel was sold out, the U.S. Attorney would be required to find a hotel at the government rate.¹⁷

¹⁷ In response to our draft report, EOUSA provided comments included in Appendix 1 to this report. EOUSA's comments included questions regarding our analysis of U.S. Attorney D's conduct. The OIG's analysis of EOUSA's comments is discussed in Appendix 2.

We also do not believe there was adequate justification for the other reimbursements we questioned for U.S. Attorney D. In sum, we found that U.S. Attorney D's claims for reimbursement above the government rate reflected indifference to applicable FTR and DOJ travel policies.

5. U.S. Attorney E

During 2007-2009, U.S. Attorney E submitted 63 vouchers that included reimbursement for lodging. Of the 63 vouchers, 21 (33 percent) exceeded the government rate for lodging. We found insufficient justification for 10 of the 21 vouchers that exceeded the government rate. These 10 vouchers exceeded the government rate by \$50 to \$288 per night, for a total of \$2,118 (excluding taxes). The U.S. Attorney's lodging exceeded the government rate by more than \$100 per night on three of the trips.

Eight of the 10 questionable trips included lodging in Washington, D.C. U.S. Attorney E told us that either her secretary or the EOUSA Attorney General Advisory Committee (AGAC) coordinator selected her hotel when she traveled. However, the U.S. Attorney's secretary told us that the U.S. Attorney selected the hotels herself, and that when she traveled to Washington, D.C., the U.S. Attorney required a hotel located within walking distance of her meeting location to avoid travel by taxi cab or metro. We determined that on six of the eight occasions when U.S. Attorney E exceeded the government rate in Washington, D.C., she stayed at hotels that were either the site of her meetings or within four blocks of DOJ Headquarters.

U.S. Attorney E denied to us that she limited her hotel choices based on their proximity to her meeting location.

Travel records also show that on seven of the eight occasions that this U.S. Attorney exceeded the government rate in Washington, D.C., other U.S. Attorneys, many of whom traveled to Washington for the same meetings, secured lodging at the government rate.¹⁸ In fact, U.S. Attorney E was the only U.S. Attorney to exceed the government rate on five occasions, and on two occasions, U.S. Attorney E and U.S. Attorney B were the only two U.S. Attorneys to exceed the government rate.

None of U.S. Attorney E's travel documents included justification memoranda for her lodging that exceeded the government rate, and no explanations were provided on the U.S. Attorney's authorizations for these trips.

¹⁸ According to the travel documents we reviewed, no other U.S. Attorneys submitted vouchers for lodging in Washington, D.C., during one of the U.S. Attorney's visits.

U.S. Attorney E stated that she told her secretaries to clear all of her out-of-district travel through the AGAC coordinator at EOUSA. U.S. Attorney E also stated that no one in EOUSA ever addressed her lodging costs and that she was in routine contact with the AGAC coordinator at EOUSA. However, the secretary never requested EOUSA approval for the U.S. Attorney's travel and no approval from EOUSA was included in the travel documentation for the 10 trips that exceeded the government rate. The secretary also stated that she understood that U.S. Attorney E had the authority to approve her own travel and lodging up to 300 percent of the government rate.

We concluded that U.S. Attorney E regularly exceeded the government rate without adequate justification on numerous occasions, including several occasions when other U.S. Attorneys obtained lodging at the government rate.

C. Other Examples of Questionable Travel

We also identified examples of other questionable lodging reimbursements that exceeded the government rate by several other U.S. Attorneys, although these instances were not part of a pattern of abuse like those described above.

1. Travel for Conferences

We identified several recurring problems with the way some U.S. Attorneys obtained reimbursement for lodging expenses at conferences where lodging reimbursements exceeded the 300 percent cap on the government rate. This issue arose most frequently with respect to judicial conferences.

Thirteen U.S. Attorneys attended judicial conferences at resorts that exceeded the government rate by more than 300 percent and received reimbursement for the full amount. For example, in one instance, five U.S. Attorneys attended a judicial conference held at a resort that exceeded the government rate by more than 300 percent (excluding taxes and resort fees). Of the five, only one U.S. Attorney limited his reimbursement to the 300 percent cap on the government rate. According to the FTR, reimbursement for lodging is not permitted over the 300 percent cap.

We also found that one U.S. Attorney's office listed the lodging amount over government rate for a judicial conference as a "miscellaneous expense." The FTR specifically limits reimbursement for miscellaneous expenses to specified items, which do not include lodging. 41 CFR § 301-12.1.

Another judicial conference was attended by six U.S. Attorneys. Five of the U.S. Attorneys reserved "lodge rooms." One U.S. Attorney reserved a "lodge suite." The U.S. Attorney who reserved the lodge suite was the second of the six U.S. Attorneys to reserve his lodging, so lodge rooms were available when this U.S. Attorney made his reservation. The lodge rooms were \$285 for the

first two nights and \$335 for the third night. The lodge suite was \$335 for the first two nights and \$405 for the third night. Although the lodge suite was within 300 percent of the government rate of \$129 per night for the first two nights, it was not the least expensive lodging option. Furthermore, the lodge suite exceeded 300 percent of the government rate for the third night.

The U.S. Attorney who reserved the lodge suite told us that he thought that the available conference rate rooms were the same price and allotted on a first-come/first-serve basis.

We believe that it was inappropriate for the U.S. Attorney to incur unnecessary lodging costs by requesting a suite as opposed to a room. It appears that, in this instance, the U.S. Attorney failed to appreciate the price difference. However, excess costs which are unnecessary or unjustified in the performance of official business are not reimbursable.

2. University Club in Washington, D.C.

One U.S. Attorney traveled to Washington, D.C., to testify before the Senate Judiciary Committee. According to the U.S. Attorney's secretary and the travel documentation, the secretary originally reserved a room at the government rate of \$154 at the Hilton Embassy Row. At the U.S. Attorney's request, she changed the reservation to the University Club, which cost \$189.50 per night, or \$35 over the government rate. She stated that the U.S. Attorney told her that the University Club was the closest hotel to the Senate Building, and she included that rationale in the justification memorandum signed by the U.S. Attorney.

The U.S. Attorney told us that he did not recall the circumstances surrounding the hotel reservation but stated that he often stayed at the University Club. The U.S. Attorney said he also did not recall providing the language for the justification memorandum.

In fact, the University Club is not the closest hotel to the Senate Dirksen Building, and the University Club and Hilton Embassy Row are less than a mile apart, in downtown Washington, not near the Senate. Moreover, the U.S. Attorney traveled to the Senate by taxi.

A preferred hotel is not an exception to the requirement that Department employees obtain lodging at the government rate. We found it troubling that the U.S. Attorney cancelled a reservation at a hotel at the government rate to stay at a hotel that did not offer the government rate.

3. Weekend Travel

We found that another U.S. Attorney routinely traveled to a satellite U.S. Attorney's Office in his district. On three occasions he arranged his travel to

include a weekend and received reimbursement for the weekend lodging. The U.S. Attorney told us that at least some and possibly all of these weekend trips coincided with his son's baseball tournaments, which were held in the same city as the satellite office.

According to the travel documents, on each occasion the U.S. Attorney scheduled meetings at the end of one week and the beginning of the following week. In some cases the reimbursed lodging expenses exceeded the government rate by large amounts. For example, in March 2008 the U.S. Attorney stayed over "Easter Weekend/Spring Break." The hotel charged \$220 per night on Friday and Saturday and \$189 per night on Sunday, compared to the government rate of \$70 per night.

This U.S. Attorney asserted to us that it was cheaper to stay over the weekend than to make two trips to visit the satellite office. We were provided with two cost comparisons in support of this claim. One (in March 2009) showed that it was more expensive to stay over the weekend. The second (October 2009) purportedly showed that it was cheaper for the U.S. Attorney to stay the weekend than to pay for two separate trips, but this comparison omitted the cost of the hotel for two of the nights and used the government rate rather than the actual cost of the hotel for comparison purposes. Had the comparison been calculated accurately it would have shown that it would have been approximately \$150 cheaper to make two separate trips. In addition, there was no explanation in the travel justification memoranda for why the U.S. Attorney did not schedule his local meetings during the same week to avoid a weekend stay.

We concluded that there was no justification for the U.S. Attorney to be reimbursed for these weekend trips.

IV. OIG ANALYSIS AND RECOMMENDATIONS

We identified two systemic problems that we believe contributed to the instances of U.S. Attorneys improperly obtaining reimbursement above the government rate as described in this report. First, we found that deficiencies and inconsistencies in the DOJ travel policies enabled U.S. Attorneys to authorize their own travel, including authorizing themselves to exceed the government rate. The policies do not describe the effort that must be made to find lodging within the government rate or require any substantiation of the traveler's claim that the government rate is unavailable. Second, we found that internal DOJ controls did not effectively ensure that U.S. Attorneys' travel complied with applicable travel policies.

Recent memoranda issued by EOUSA and JMD require that EOUSA approve certain travel by U.S. Attorneys. We believe that these memoranda addressed some but not all of the problems we identified. Accordingly, in this section we make several recommendations for additional improvements by the Department regarding its travel policies.

A. Deficiencies in DOJ Travel Policies

As discussed above, the DOJ Travel Supplement and the United States Attorneys' Manual permitted U.S. Attorneys to authorize their own travel within the United States.¹⁹ Based on these policies, U.S. Attorneys or their subordinates signed the authorizations approving their own travel, including authorizing themselves to exceed the government rate.

This authority is generally not available to component heads within the Department of Justice. For example, the Travel Order requires travel by component heads to be authorized by the Deputy Attorney General or the Associate Attorney General, depending upon to whom the component head reports. U.S. Attorneys are considered heads of field offices for the purpose of the Travel Order, which permits them to authorize their own in-district travel. We believe that the U.S. Attorneys' ability to authorize their own travel contributed to the problems we found in this review.

In addition, the DOJ travel policies are silent regarding what effort must be made to find lodging within the government rate at a location near the temporary work station before concluding that the government rate is "unavailable." This silence permitted the practice of some U.S. Attorneys or

¹⁹ The Travel Supplement and the U.S. Attorneys' Manual are inconsistent with the DOJ Travel Order, which allows U.S. Attorneys to authorize their own in-district travel only. With respect to out-of-district travel, according to the Travel Order U.S. Attorneys are subject to the same requirement as other DOJ travelers – that their travel be authorized by a person in a higher level position than the traveler.

their staffs to call a few preferred hotels (or even just one), find that the government rate was unavailable at these particular hotels, and declare that the rate was “unavailable” as a justification for reimbursement of higher cost lodging. For example, as discussed above, U.S. Attorney B’s secretary told us she checked the Willard, the Mayflower, the Renaissance, and the J.W. Marriott to find the government rate. Similarly another U.S. Attorney justified a \$499 per night room at the J.W. Marriott hotel in Washington, D.C., when the government rate was \$201 per night because she could not find a cheaper room at three exclusive hotels: the Mayflower, the Willard, and the Washington Court Hotel. The DOJ travel policies do not require that the results of an unsuccessful effort to find the government rate be documented in the justification memorandum. We also note that the breadth of the FTR provision allowing travelers to exceed the government rate for undefined “mission requirements” could lead U.S. Attorneys to believe they had wide discretion to book lodging above the government rate.

However, we do not believe any deficiencies in DOJ travel policies or EOUSA’s procedures excuse the problematic patterns and abuses described in this report. Despite these deficiencies, the large majority of U.S. Attorneys were able to find lodging within the government rate or provided persuasive justification for exceeding it. However, some U.S. Attorneys authorized themselves to stay at hotels above the government rate on a regular basis, or to stay at hotels significantly above the government rate.

B. Deficiencies in Internal Controls

We also found that the DOJ internal controls that were in place did not ensure that U.S. Attorneys were complying with applicable travel rules.

1. U.S. Attorneys or Their Subordinates Authorized and Approved Their Travel

Because U.S. Attorneys were permitted to authorize their own travel, U.S. Attorneys’ travel was often reviewed solely by the U.S. Attorneys’ subordinates in the U.S. Attorneys’ Offices. In most USAOs, the U.S. Attorney’s subordinates prepared the travel authorization (including advance authorization to exceed the government rate) and certified the availability of funding. The authorization was usually signed by the U.S. Attorney or his subordinate. Once travel was completed, a USAO employee prepared the voucher, signed as the approving official, and signed as a certifying official. If the U.S. Attorney exceeded the amount pre-authorized on the travel authorization, USAO budget staff would increase the pre-authorized amount.

Most USAO employees who prepared, approved, and certified the U.S. Attorneys’ authorizations and vouchers told us that their review was limited. If the U.S. Attorney’s lodging exceeded the government rate, USAO staff often drafted a justification memoranda but did not include sufficient facts to

adequately support the decision to exceed the government rate. For example, many justification memoranda simply stated that the U.S. Attorneys authorized themselves to exceed the government rate, or that there was no government rate available, but did not provide the facts underlying this claim. With respect to vouchers, USAO staff said that they reviewed the documents to ensure the form was complete, the receipts were attached, and the amounts on the receipts matched the amounts on the voucher.

During our review, we found two USAO employees who questioned U.S. Attorneys regarding their lodging costs. Both of these employees were in positions that required them to sign the U.S. Attorneys' justification memoranda. Once questioned, both U.S. Attorneys paid the difference between the cost of their preferred hotel and the government rate. Notably, one of the employees, who was the U.S. Attorney's Administrative Officer, told us that even though she had worked for the U.S. Attorney for many years and considered him to be a friend, confronting him was a difficult decision because of his position. Moreover, despite the fact that this employee served as the U.S. Attorney's Administrative Officer for many years and had assisted the U.S. Attorney with his hotel reservations, she did not confront the U.S. Attorney until an office employee retired and she became the USAO staff person required to sign the justification memoranda when the U.S. Attorney exceeded the government rate.

In our review, we found that USAO staff generally deferred to the U.S. Attorney's decision to exceed the government rate. We believe that the structure where the U.S. Attorneys, or their subordinates, approved and reviewed their travel did not provide effective oversight on U.S. Attorney travel.

2. EOUSA Review Was Ineffective

In addition, EOUSA review of U.S. Attorney travel was also limited and ineffective. During the period of our review, EOUSA conducted only partial and deferential reviews of the travel authorizations for U.S. Attorneys.

On September 22, 2003, the Director of EOUSA issued a memorandum to all U.S. Attorneys stating that all authorizations for out-of-district travel by U.S. Attorneys should be sent to EOUSA for review and approval.

Yet, we determined that the scope of EOUSA's review of U.S. Attorneys' travel was very limited. The EOUSA Senior Advisor for Management and Operations said that there were no written policies or procedures for his review and that his focus was on the purpose of the travel. The Senior Advisor said that he never rejected an authorization but that he had questioned the appropriateness of one authorization to a foreign resort which he thought might raise an appearance problem. The authorization was ultimately approved.

This EOUSA review did not serve as an effective control on U.S. Attorney's lodging expenses because the review was very limited and too deferential. To begin with, there was no mechanism to ensure that U.S. Attorneys actually obtained EOUSA approval for travel. As a result, USAO compliance with the requirement to submit U.S. Attorney travel authorizations to EOUSA was voluntary and inconsistent. Many USAOs did not provide EOUSA with all of their out-of-district travel authorizations. Moreover, although the FTR required lodging above the government rate to be approved in advance, the authorization documents submitted to EOUSA by U.S. Attorneys often did not even identify the fact that the government rate would be exceeded.

The scope of EOUSA's review was minimal and did not ensure compliance with applicable rules for exceeding the government rate. EOUSA focused on the purpose of the travel and did not check to see if the lodging rate exceeded the government rate. The EOUSA Senior Advisor told us that although he reviewed the entire authorization, he did not "get in the weeds" or check to see if the lodging rate exceeded the government rate because U.S. Attorneys are presidential appointees and the United States Attorneys' Manual gave them the authority to approve their own lodging above the government rate.

Our review of e-mail exchanges between EOUSA and the USAOs confirmed this account of limited review. The EOUSA Senior Advisor simply replied "Approved" to the majority of e-mails. On a few occasions the EOUSA Senior Advisor asked for an explanation of the purpose of the travel. We did not see any e-mail questioning the U.S. Attorney's lodging costs even when, for example, a U.S. Attorney requested authorization for a \$775 per night hotel in New York City for two nights in December 2007 when the government rate was \$311 per night.

Several U.S. Attorneys who we interviewed told us that they assumed their lodging in excess of the government rate was appropriate because their travel authorization were approved by EOUSA. However, in light of the inconsistent and limited review of travel authorizations by EOUSA, this procedure did not provide effective oversight.

3. JMD Fiscal Services Section Audits of Travel Were Limited and Ineffective

In addition, JMD's review of U.S. Attorney travel was limited and ineffective. JMD's Fiscal Services Section (FSS) is the unit specifically tasked with auditing Department travel vouchers.²⁰ According to the FSS Assistant

²⁰ The Department has several large auditing systems in place. These are not designed specifically to review travel by Department employees, although a travel obligation may be selected in a random sample. For example, the Department contracts with a private

(Cont'd.)

Director, FSS reviews travel vouchers that meet specific criteria, such as vouchers totaling \$2,500 or more and vouchers for foreign travel. In fiscal year 2009, the FSS audited approximately 1,900 travel vouchers.

The vast majority of the travel authorizations and vouchers we reviewed during this investigation that exceeded the government rate for lodging were for domestic travel and did not exceed the \$2,500 threshold for FSS review. Therefore, FSS did not review most of the U.S. Attorney lodging reimbursements over the government rate.

The scope of FSS review also did not necessarily address compliance with DOJ policies, including the requirements for exceeding the government rate. We showed the FSS Assistant Director five U.S. Attorney travel vouchers that were over \$2,500 or that were for foreign travel and therefore met the criteria for FSS review. One involved a U.S. Attorney's travel to Hawaii. The travel documentation did not justify the cost of an extra night's lodging or the reimbursement of meals and incidental expenses for two personal days in Hawaii. Three vouchers involved foreign travel which exceeded the government rate, and none included a justification memorandum. In addition, one voucher showed that the Department reimbursed a U.S. Attorney for first class travel without proper authorization and for a gym fee, which is not a miscellaneous expense recognized by the FTR. None of this was uncovered by the FSS review. We question whether the FSS Audits provide effective oversight or control of travel by U.S. Attorneys.

C. OIG Assessment of 2010 Policy Revisions

In response to the recent concerns raised about excessive costs associated with some U.S. Attorneys' travel, EOUSA and JMD have issued two memoranda intended to improve controls relating to U.S. Attorney travel. The EOUSA memorandum was issued on February 25, 2010, and the JMD memorandum was issued on July 2, 2010. These memoranda are attached as Appendices 3 and 4 to this report.

Pursuant to these memoranda, EOUSA has established a Travel Office to manage U.S. Attorney travel authorizations and vouchers. According to the

accounting firm to conduct annual audits of its financial statements. However, these audits focus on large dollar value obligations. The JMD Quality Control and Compliance Group (QCCG) conducts annual reviews of financial transactions of the Department's Offices, Boards, and Divisions, which includes both EOUSA and the individual USAOs. The QCCG reviews specific items related to premium class travel but does not conduct specific reviews of non-premium class travel. In addition, EOUSA's Evaluation and Review Staff (EARS) conducts on-site reviews of USAOs every 3 years. However, because of the limited amount of travel by USAO employees, it is rare that a U.S. Attorney's travel voucher would be selected for an EARS review. For example, in FY 2007-2009, EARS reviewed only 20 (.004 percent) of the approximately 5,000 travel vouchers of U.S. Attorneys.

EOUSA memorandum, the new procedures were established to: (1) ensure full compliance with Departmental travel policies and procedures, (2) strengthen internal controls and oversight of United States Attorneys' travel, and (3) maintain the integrity and reputation of the position of United States Attorney.

Under the EOUSA and JMD memoranda, all U.S. Attorneys' travel authorizations and vouchers for out-of-district travel must be submitted to the EOUSA for approval. The EOUSA memorandum also requires U.S. Attorneys to submit authorizations for in-district travel if it involves lodging above the government rate or premium class travel.²¹ However, the EOUSA memorandum allows all U.S. Attorneys' in-district travel authorizations for travel at the government rate and all in-district vouchers regardless of the lodging rate to be approved by the USAO. According to the EOUSA memorandum, the EOUSA Travel Office will review a sample of U.S. Attorneys' travel authorizations and vouchers every 6 months for compliance with the new procedures.

According to EOUSA's Chief Financial Officer, the Travel Office is being staffed with reviewers with expertise in federal travel regulations. EOUSA's Chief Financial Officer told us that EOUSA may develop a written checklist for the reviewers and that it would maintain copies of any correspondence with USAOs. She said that the Travel Office will review travel authorizations; certify that they comply with Department policies; and then send them to the EOUSA Director, Deputy Director for Administration and Management, or Chief of Staff for approval. The Travel Office will also review the out-of-district vouchers to ensure that the expenses were pre-authorized and comply with Department policies. Once approved, EOUSA will process the out-of district travel vouchers for payment.

We believe that if enforced, these policy revisions can improve oversight of travel by U.S. Attorneys, primarily by providing a comprehensive review and approval of most travel authorizations that was largely absent during the period of our review. However, we have several concerns about the new procedures. First, we note that EOUSA previously attempted to provide independent oversight in 2003, when it issued a memorandum requiring that certain U.S. Attorney travel authorizations be submitted to EOUSA for approval. As discussed above, this previous set of review procedures did not provide effective oversight or prevent any of the egregious instances of travel over the government rate described in this report. The EOUSA review under the new policies must be far more rigorous and greater in scope than in the past.

²¹ As discussed below, the recent JMD memorandum requires that the EOUSA Director (or his designee) approve U.S. Attorney Travel without distinguishing the U.S. Attorneys' authority to approve their own in-district travel.

Second, the current documentation requirements still do not require that U.S. Attorneys provide the information necessary for EOUSA to assess whether lodging above the government rate is justified under the FTR or DOJ travel policies. In particular, the current policies do not identify the effort that must be made to find the government rate and do not require any written substantiation that the rate was not available at any location reasonably close to the temporary duty station. Without this information, EOUSA will have limited ability to ensure that a U.S. Attorney's claim that the government rate was "unavailable" for a particular trip was in fact accurate.

D. Recommendations

The OIG makes the following recommendations to the Department relating to its travel policies and practices

1. Revise DOJ Travel Policies To Make Them Consistent Regarding Who Must Authorize U.S. Attorney Travel

As detailed above, the policy revisions contained in the 2010 EOUSA memorandum require that authorizations for all out-of-district travel and any in-district travel involving "actual subsistence" or premium travel be submitted to EOUSA for approval. Other DOJ travel policies continue to provide inconsistent guidance, however. The DOJ Travel Order, which a JMD official described as the highest authority on DOJ travel policy, continues to state that U.S. Attorneys may approve their own in-district travel, without regard to whether such travel involves premium travel or exceeding the government rate. This is inconsistent with the 2010 JMD and EOUSA memoranda. Therefore, we recommend that the Department modify the Travel Order to identify the position of persons who must authorize U.S. Attorney Travel (including in-district, out-of-district, and foreign travel).²² In addition, JMD should conform its policies to the Travel Order, and EOUSA should make conforming changes to the U.S. Attorneys' Manual.

2. Provide Guidance Regarding the Actions Required To Find the Government Rate

As discussed above, some U.S. Attorneys or their staffs would declare that the government rate was "unavailable" after determining that the rate was unavailable at one particular preferred hotel or at a small number of preferred hotels. Current policies do not explicitly prohibit this practice or describe the

²² Moreover, under the Travel Order all out-of-district travel by U.S. Attorneys must be approved by someone in a "higher level position than the traveler." Although the 2010 JMD and EOUSA memoranda assign this function to the Director of EOUSA, it is not clear that the Director is in a higher level position than any U.S. Attorney. The Department should revise the Travel Order to clarify this question as well.

effort required by DOJ travelers to find the government rate. We recommend that the Department issue guidance describing the effort required by travelers to find the government rate before declaring that such rate is “unavailable.”²³

3. Strengthen Requirement To Document Justifications for Exceeding the Government Rate

To ensure compliance with DOJ travel policies and allow appropriate reviews of DOJ travel, including U.S. Attorney travel, we recommend that the Department require that justification memoranda sufficiently document the facts that support a decision to exceed the government rate. The justification memorandum for any travel involving lodging above the government rate should provide sufficient detail to establish that the applicable exception to the government rate has been satisfied. In cases in which the traveler claims the government rate is unavailable, the justification memorandum should be required to describe the efforts made to locate lodging at the government rate within a reasonable distance of the duty station rather than simply declaring that it was unavailable. For example, a printout of search results from one of the on-line search sites may be sufficient documentation of an unsuccessful effort to find the government rate.

4. Simplify Structure of DOJ Travel Policies

We recommend that JMD consider reviewing and conforming its structure of policies and guidance relating to DOJ travel. We believe that the existing multilayered approach has generated inconsistencies among the various authorities governing DOJ travel, and we are concerned that there are additional inconsistencies in other parts of the policies that we did not review during this investigation. We believe that the JMD should review DOJ travel policies for consistency and simplicity, and make appropriate changes. In addition, the Department should also revise the U.S. Attorneys’ Manual to ensure conformity and eliminate confusion.

²³ We note that cwtsatotravel.com and fedrooms.com provide an on-line method to search for hotels in a particular destination that offer the government rate. However, users must cross check the listed government lodging rate with the GSA lodging rate because what is labeled the government rate on the websites is not always the GSA rate.

V. CONCLUSION

We found that, although many U.S. Attorneys traveled frequently during the period of our review (2007-2009), the large majority of them rarely or never sought reimbursement above the government rate for lodging. However, we found that some U.S. Attorneys repeatedly authorized their own lodging at hotels charging more than the government rate, without documenting that the rate was actually unavailable at another hotel near their temporary duty station. We identified five U.S. Attorneys who exhibited noteworthy patterns of improperly exceeding the government rate, and we identified other troubling incidents of U.S. Attorneys seeking reimbursement for lodging above the government rate without justification.

In total, during the period of our review, U.S. Attorneys claimed reimbursement for lodging above the government rate for 20 percent of their overnight travel. While we cannot say with certainty the exact percentage of Department travel that exceeds the government rate for lodging, we believe it is much less than the 20 percent that U.S. Attorney travel exceeded the government rate.

Finally, we believe that, to some extent, deficiencies in DOJ travel policies and in internal DOJ controls contributed to the improper lodging reimbursements described in this report. In particular, U.S. Attorneys were permitted to authorize their own travel and approve their own travel expenses, which we believe contributed to some exceeding the government rate without adequate justification. Moreover, internal controls within the Department provided ineffective oversight of U.S. Attorney travel.

In 2010, JMD and EOUSA issued memoranda intended to correct these problems. However, in this report we make several recommendations for additional action by the Department to improve its travel practices and controls, which we believe would help prevent recurrences of the inappropriate travel practices by some U.S. Attorneys that are described in this report.

APPENDIX 1



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

(202) 252-1300

OCT 26 2010

MEMORANDUM

TO: Glenn A. Fine
Inspector General

FROM: H. Marshall Jarrett
Director

SUBJECT: Response to Draft Report on OIG Review of United States Attorney Travel that
Exceeded the Government Lodging Rate

Since the commencement of this review, the Executive Office for United States Attorneys (EOUSA) has developed travel policies and procedures that have substantially improved controls over United States Attorney travel. On March 1, 2010, EOUSA began reviewing and approving all authorizations and vouchers for out-of-district United States Attorney travel and have staffed a dedicated Travel Unit. In addition, we are auditing all within-district travel conducted by United States Attorneys. As a result, controls over the United States Attorney travel approval process have significantly improved.

Prior to March 1, 2010, when United States Attorneys planned travel, the associated authorizations were self-approved and not subject to a higher level of review or authorization. Under EOUSA's updated procedures, United States Attorney authorizations and vouchers are reviewed separately against Federal Travel Regulation requirements before being forwarded to me for approval. I have delegated this approval authority to EOUSA's Principal Deputy Director and EOUSA's Deputy Director for Administration and Management. The review conducted prior to approval includes an evaluation of the purpose and description of travel and any requests for actual subsistence or premium class accommodations made by United States Attorneys for in-district and out-of-district travel. Travel requests lacking adequate justifications or support are now denied.

Eleven specific instances of travel noncompliance were identified in the report for five unnamed United States Attorneys. We were able to confirm the accuracy for six instances, but question some of the OIG's clarity for two examples (both noted for U.S. Attorney D). We did not confirm the summary numbers provided for each United States Attorney or the accuracy of the OIG's numbers on all U.S. Attorneys.

In two instances noted by the OIG for U.S. Attorney D (for identified travel to Fort Lauderdale, FL, and San Diego, CA), the OIG did not specifically address why sold out conference room rates are not acceptable reasons for incurring actual subsistence at alternate hotels. For the Fort Lauderdale example, the report also does not address information that the rate provided at the conference location was already higher than the government rate (\$129 conference hotel rate; \$109 government rate; \$159 paid at alternate hotel).

As indicated in OIG Recommendation No. 1, EOUSA travel policies related to the authorization of United States Attorney travel involving actual subsistence or premium class accommodations are now more restrictive than those of the Department. With the September 30, 2010 announcement of the implementation of electronic travel throughout the Department, we are now working directly with the Justice Management Division to ensure that our business processes related to travel remain in compliance with Department policies and procedures. EOUSA and the United States Attorneys' offices will be the first Department components to implement the new automated travel management system. The automated routing of United States Attorney travel authorizations and vouchers directly to EOUSA will further strengthen controls over the travel approval process.

The preparation and dissemination of periodic travel policies and guidance on issues encountered in the United States Attorney travel approval process has been a developing feature of our travel management oversight since March 1, 2010. Since the commencement of this review, the United States Attorneys' Manual (USAM) section referencing travel has been removed while policies are being developed. This section of the USAM will be reissued within the next two weeks to reflect our updated policies. Upon the implementation of the automated travel management system, the USAM section on travel will include a quick and ready reference for United States Attorneys conducting within-district travel, out-of-district travel, foreign travel and local travel.

Thank you again for the opportunity to provide comments to your draft report.

APPENDIX 2

APPENDIX 2: OIG ANALYSIS OF THE EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS' RESPONSE

The Office of the Inspector General (OIG) provided a draft of this report to the Executive Office for United States Attorneys (EOUSA) and the Justice Management Division (JMD). EOUSA's response is included in Appendix 1 to this report. Below is the OIG's analysis of EOUSA's response, and the actions we are requesting from JMD and EOUSA in response to our recommendations.

Summary of EOUSA Comment. EOUSA's response stated that beginning on March 1, 2010, EOUSA had implemented new policies and procedures "that have substantially improved controls" over United States Attorney (U.S. Attorney) travel. EOUSA stated that the 2010 policies improved controls over the U.S. Attorney travel approval process by establishing a dedicated Travel Unit to review and approve out-of-district travel and to audit in-district travel by U.S. Attorneys. EOUSA also cited the Department's implementation of an electronic travel management system as an additional control over the travel approval process.

EOUSA's response acknowledged that prior to March 1, 2010, U.S. Attorney travel was self-approved and not subject to a higher level of review. EOUSA stated that pursuant to the 2010 policies, out-of-district travel by U.S. Attorneys will be reviewed by EOUSA Travel Unit staff and approved by either EOUSA's Principal Deputy Director or Deputy Director for Administration and Management. EOUSA stated that the review prior to approval includes an evaluation of any requests for U.S. Attorney travel involving actual subsistence or premium class travel. EOUSA also stated that it is revising the travel section of the United States Attorney's Manual to conform it to EOUSA's new policies.

In addition, EOUSA's response "question[ed] some of the OIG's clarity for two examples (both noted for U.S. Attorney D)," which related to U.S. Attorney D's lodging in Fort Lauderdale and San Diego. Specifically, EOUSA's response questioned why "sold-out" conferences do not justify actual subsistence at an alternate hotel and why the OIG report did not address the fact that the Fort Lauderdale conference hotel rate was higher than the government rate.

OIG Analysis. EOUSA's response suggests that the problems identified in our report have been addressed by EOUSA's 2010 policies. We do not believe EOUSA's 2010 policies alone will solve the problems our report identified. In Section IV.C. of our report, we described two major concerns regarding the 2010 policies. First, we noted that EOUSA's previous attempt to provide independent oversight over U.S. Attorney Travel in 2003 was ineffective, and that we believe the EOUSA review under the new policies must

be far more rigorous and greater in scope than in the past. Second, we noted that current policies still do not identify the steps that travelers must take to attempt to find a hotel room at the government rate before determining that one is not available, and the 2010 policies do not require any written substantiation that the government rate was not available.¹

In addition, in Section IV.D of the report, we recommended revising DOJ travel policies to make them simpler, more consistent, and more effective. The first recommendation was for the Department to clarify its travel policies to address the inconsistency between EOUSA's 2010 travel policy and the DOJ Travel Order, which continues to state that U.S. Attorneys may approve their own in-district travel and which is unclear regarding who has the requisite authority to approve out-of-district travel by U.S. Attorneys. We believe these clarifications will also encourage EOUSA to apply a more searching and rigorous review of requests by U.S. Attorneys to exceed the government rate.

EOUSA also questioned the "clarity" of our findings regarding U.S. Attorney D's lodging in Fort Lauderdale and San Diego and stated that the OIG report did not address why sold out conference room rates did not justify actual subsistence at alternative hotels for U.S. Attorney D. However, as noted in the report, Department employees are required to find a hotel room at the government rate unless one of the exceptions discussed in Section II.B applies. There is no exception for when an employee stays at a non-conference hotel because the conference rate rooms at the conference hotel are sold out. Thus, even if the conference hotel was sold out, the employee should justify why the non-conference hotel he chose that was above the government rate was appropriate, as opposed to a non-conference hotel at the government rate. In Attorney D's case there was no such justification.

With regard to the conference in Fort Lauderdale, we found that U.S. Attorney D had in fact secured a room at the conference hotel (\$109 per night). However, he then cancelled the reservation in order to stay at an alternate hotel at a higher rate (\$159). The fact that the conference rooms later sold out was irrelevant and did not justify his decision to cancel his reservation and stay at a different hotel at a higher rate. We also found that U.S. Attorney D's actions in this matter were consistent with his pattern, described in detail in our report, of justifying his lodging above the government rate by making unsupported claims that the government rate was "sold out."

EOUSA's response also stated that OIG failed to address the fact that the conference room rate at the Fort Lauderdale hotel (\$129) was above the

¹ The effectiveness of EOUSA's review of the in-district authorizations will also depend on the authorizations correctly identifying that the traveler was seeking approval for actual subsistence. This will require additional training and monitoring, since we found the majority of authorizations sent to EOUSA pursuant to the 2003 memorandum failed to correctly identify that the traveler's lodging was above the government rate.

government rate for Fort Lauderdale (\$107). Again, as noted above, this point was not relevant to the issue with U.S. Attorney D's actions. Conference rates are generally above the government rate, which is why there is a conferences exception to the requirement that Department employees obtain a hotel at the government rate. EOUSA's response ignores the fact that the cost of the hotel that U.S. Attorney D chose in Fort Lauderdale (\$159) exceeded the government rate (\$107), his reserved room at the conference hotel (\$109), and the conference room rate at the conference hotel (\$129). In addition, U.S. Attorney D provided no justification for why he did not determine whether there were other hotels in Fort Lauderdale that were available at the government rate.

With respect to the San Diego conference, the conference rate rooms were sold out when U.S. Attorney D's secretary called for a reservation. However, U.S. Attorney D directed his secretary to reserve him a room at a non-conference hotel far above the government rate (the U.S. Grant Hotel at \$279 per night), despite the fact that his secretary found a room at another non-conference hotel at the government rate (a Marriott hotel at \$139 per night), one block from the conference. U.S. Attorney D told his secretary that he preferred to stay at the U.S. Grant Hotel and declined to stay at the Marriott at the government rate.

Finally, the OIG report contained the following four recommendations to the Department:

- Revise DOJ travel policies to make them consistent regarding who must authorize U.S. Attorney travel.
- Provide guidance regarding the actions required to find the government rate.
- Strengthen requirement to document justifications for exceeding the government rate.
- Simplify structure of DOJ travel policies.

We believe that these recommendations are essential to effective oversight of Department travel. Ensuring that travel authorizations are routed to individuals with the requisite approval authority is one aspect of effective oversight. Another important aspect is providing both the travelers and the reviewers with clear and concise standards to apply when evaluating whether a request for actual subsistence is appropriate.

Our four recommendations require action by both JMD and EOUSA. We are therefore requesting that, within 30 days, JMD and EOUSA provide responses stating whether they agree with each recommendation, and identify the specific actions that JMD and EOUSA intend to take in response to each recommendation.

APPENDIX 3



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

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(202) 514-2121

FEB 25 2010

TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL ADMINISTRATIVE OFFICERS

FROM:

H. Marshall Jarrett
Director

SUBJECT: Updated Procedures for the Approval of United States Attorneys' Travel Authorizations and Vouchers

ACTION: Implement the new United States Attorneys' travel procedures in accordance with the attached instructions for all United States Attorneys' travel authorizations prepared on or after March 1, 2010.

CONTACT PERSON: Lisa A. Bevels
Chief Financial Officer
email: Lisa.Bevels@usdoj.gov
Phone: 202-514-1035

Andrew Katsaros
Assistant Director, Audit and Review Staff
email: Andrew.Katsaros@usdoj.gov
Phone: 202-305-3302

The purpose of this memorandum is to notify the United States Attorneys' Offices of new procedures that are required for the approval of United States Attorneys' travel authorizations and vouchers. These new procedures are being established to:

- (1) ensure full compliance with Departmental travel policies and procedures,
- (2) strengthen internal controls and oversight of United States Attorneys' travel through a user friendly and expeditious process, and
- (3) ensure the integrity and reputation of the position of United States Attorney is preserved and maintained.

An EOUSA Travel Unit will manage travel authorizations and vouchers associated with United States Attorneys' travel. Below is a summary of the significant changes:

1. Travel authorizations for all United States Attorneys' travel outside of his or her district, including foreign travel, must be submitted to the **USAEO-USAtty Travel** mailbox for approval by either the Director, EOUSA or the Deputy Director for Administration and Management. Authorizations will be uploaded into FMIS by EOUSA rather than by the districts.
2. Travel vouchers associated with all United States Attorneys' travel outside of his or her district must also be submitted to the **USAEO-USAtty Travel** mailbox for approval by either the Director, EOUSA or the Deputy Director for Administration and Management. Vouchers will be uploaded into FMIS and payments will be processed by EOUSA rather than by the districts.
3. Travel authorizations for all United States Attorneys' travel within his or her district requiring actual subsistence expenses must be submitted to the **USAEO-USAtty Travel** mailbox for approval by either the Director, EOUSA or the Deputy Director for Administration and Management.
4. Authorizations for United States Attorneys' travel within districts approved by the United States Attorney must be submitted to the **USAEO-USAtty Within District** mailbox in advance of travel to comply with DOJ oversight requirements.
5. All United States Attorneys' travel authorizations, for within and outside of district travel, must include a YREGDOC referencing "USA" as the first three characters of the document control number (DCN).
6. *Every six months, the EOUSA Travel Unit will select a sample of United States Attorneys' travel authorizations and vouchers processed in the financial management system to determine if districts are complying with the procedures outlined herein. Once this audit is completed, a report outlining findings and providing recommendations will be prepared and submitted to the Director, EOUSA and the Deputy Director for Administration and Management.*

The following procedures related to United States Attorneys' travel have not changed and will remain in effect:

7. All requests for premium class travel (PCT) accommodations will continue to be approved by EOUSA. However, when PCT accommodations are required for United States Attorneys' travel, the request and associated justification must be sent to the **USAEO-USAtty Travel** mailbox for approval by either the Director, EOUSA or the Deputy Director for Administration and Management.

8. Travel authorizations for all United States Attorneys' travel within his or her district not requiring actual subsistence or PCT accommodations will continue to be authorized (and signed) by the United States Attorney.
9. Travel vouchers associated with all United States Attorneys' travel within his or her district will continue to be approved and paid by district personnel with delegated authority. Delegated authority to approve travel vouchers for a United States Attorney may, for example, be provided to a district's Administrative Officer or Division Chief. This delegated authority must be evidenced by the use of a properly completed Form OBD- 234, *Accountable Officer Signature Form*, on file with the Justice Management Division's Finance Staff. The United States Attorney is still not authorized to approve his or her own travel voucher.

Detailed procedures for the approval of United States Attorneys' travel authorizations and vouchers are included in the attachment. These new procedures will become effective for all United States Attorneys' travel authorizations prepared on or after March 1, 2010.

Attachment

cc: All United States Attorneys' Secretaries

Procedures for the Approval of United States Attorneys' Travel Authorizations and Vouchers

BACKGROUND

In order to address some recent concerns related to the United States Attorneys' travel authorization and vouchering process, the following new procedures have been implemented.

The objectives of these procedures are to:

- (1) ensure full compliance with Departmental travel policies and procedures,
- (2) strengthen internal controls and oversight of United States Attorneys' travel through a user friendly and expeditious process, and
- (3) ensure the integrity and reputation of the position of United States Attorney is preserved and maintained.

PROCEDURES

There are two primary types of United States Attorneys' travel. The two types are:

- (1) within district travel and
- (2) outside of district travel.

The procedures outlining the approval process for each type of travel are outlined below. These procedures are to be used for employees serving in the position of United States Attorney, regardless of appointment type. These procedures will be formalized as United States Attorneys' Procedures (USAP).

A. Within District Travel

United States Attorneys may approve their own travel authorizations, but only for travel within their own districts, *except* if premium class travel accommodations and/or actual subsistence are required. Within district travel requiring premium class travel accommodations and/or actual subsistence must be approved by the Director, EOUSA or the Deputy Director for Administration and Management. If the within district travel is to be reimbursed by a non-Federal source, offices must receive approval from EOUSA's General Counsel's Office (GCO) (see <http://www.usa.doj.gov/staffs/lc/Nonfederaltravel.htm>). Documentation evidencing the submission of a request to GCO for approval must be emailed along with travel authorization when submitted to EOUSA in accordance with the instructions outlined below.

A. 1. Within District Travel - No Premium Class Travel Accommodations and/or Actual Subsistence Required

A.1. a.) Travel Authorizations. All within district travel authorizations that do NOT require premium class travel and/or actual subsistence, may be approved by the United

States Attorney.

Please note that although districts are able to process these authorizations “in-house,” offices are now required to adhere to a specific DCN (Document Control Number) coding convention when assigning the Y-REG-DOC for ALL United States Attorney travel, including within district travel authorized by the United States Attorney. This convention requires the first three letters of the DCN to be “USA”. For example, a Y-REG-DOC used by the Southern District of New York for travel by their United States Attorney travel would be:

J-54-USA0001

(where J is for FY2010; 54 is SDNY’s district number; USA0001 is the DCN)

Also note that offices must submit United States Attorneys’ travel authorizations that have been approved and signed by themselves, along with any requisite supplemental information to the **USAEO-USAtty Within District** mailbox in advance of travel. *It is imperative that only travel authorizations, not vouchers, approved by the United States Attorney for his/her within district travel be sent to this mailbox.*

A. 1. b.) Travel Vouchers. All claims for travel reimbursement associated with within district travel approved by the United States Attorney may be approved by district personnel who have been delegated authority to approve travel payment vouchers. Each USAO may have multiple travel approving officials, as long as they are in senior positions, have authority within the component for financial matters (includes having a current OBD-234), possess the requisite travel knowledge, and have direct access to the Director, EOUSA; the Deputy Director for Administration and Management; the Chief Financial Officer or other senior official for consultation.

A. 2. Within District Travel - Premium Class and/or Actual Subsistence

A. 2. a.) Travel Authorizations. All within district travel authorizations requiring premium class travel and/or actual subsistence must be submitted, along with a written justification substantiating the need for premium class accommodations and/or actual subsistence expenses to the **USAEO-USAtty Travel** mailbox at least five (5) business days in advance of the planned departure date. Offices should use the travel application within FMISPC2 to generate the travel authorization. When generating the authorization, offices should use their TABSEG, not EOUSA’s TABSEG.

In addition, offices are now required to adhere to a specific DCN (Document Control Number) coding convention when assigning the Y-REG-DOC for ALL United States Attorney travel. This convention requires the first three letters of the DCN to be “USA”. For example, a Y-REG-DOC used by the Southern District of New York for travel by their United States Attorney travel would be:

J-54-USA0001

(where J is for FY2010; 54 is SDNY's district number; USA0001 is the DCN)

When transmitting within district, travel authorizations via FMISPC2, offices must insert "WITHIN -" at the beginning of the pre-populated "Subject" line of the email. For instance,

Pre-populated Subject line:

Travel Authorization - Joe Smith - 01/27/2010 - A027L4635 - \$2605

Modified Subject line:

WITHIN - Travel Authorization - Joe Smith - 01/27/2010 - A027L4635 - \$2605

EOUSA will review the travel authorization and supplemental information. If there are questions concerning the authorization package, EOUSA will contact the sender. Once the authorization is compliant with the applicable travel regulations, EOUSA will approve the authorization, notify the sender via the **USAEO-USAtty Travel** mailbox, and upload the authorization in FMIS on or before the first day of travel.

A. 2. b.) Travel Vouchers. All claims for travel reimbursement associated with within district travel requiring premium class travel and/or actual subsistence must be approved by the Director, EOUSA or the Deputy Director for Administration and Management. Offices should use the travel application within FMISPC2 to generate the travel voucher. When preparing the voucher, offices must enter a ✓ in the "Payment Notification" box and enter the United States Attorney's email address. This will ensure that the United States Attorney is notified via an email that the claim for reimbursement has been processed.

EOUSA will review the voucher package in conjunction with the corresponding authorization. If there are questions concerning the voucher package, EOUSA will contact the sender. Once the voucher is compliant with the applicable travel regulations, EOUSA will approve the voucher, upload it in FMIS, and process the reimbursement within five (5) business days.

B. Outside of District Travel

The Director, EOUSA or the Deputy Director for Administration and Management must authorize all United States Attorney travel outside of their districts. This includes both domestic and foreign travel. If the out of district travel is to be reimbursed by a non-Federal source, offices must receive approval from EOUSA's General Counsel's Office (GCO) (see <http://www.usa.doj.gov/staffs/lc/Nonfederaltravel.htm>). Documentation evidencing the submission of a request to GCO for approval must be emailed along with travel authorization when submitted to EOUSA in accordance with the instructions outlined below. Offices should use the travel application within FMISPC2 to generate the travel authorization. When generating the authorization, offices should use their TABSEG, not EOUSA's.

In addition, offices are now required to adhere to a specific DCN (Document Control Number) coding convention when assigning the Y-REG-DOC for ALL United States Attorney travel. This convention requires the first three letters of the DCN to be "USA". For example, a Y-REG-DOC used by the Southern District of New York for travel by their United States Attorney travel would be:

J-54-USA0001

(where J is for FY2010; 54 is SDNY's district number; USA0001 is the DCN)

All outside of district travel authorizations and supplemental documentation must be submitted to the **USAEO-USAtty Travel** mailbox in accordance with the requirements outlined below:

B. 1. Domestic Travel

B.1. a) Travel Authorizations. All outside of district, domestic travel authorizations must be submitted at least five (5) business days in advance of the planned departure date, *except* if the travel is to be reimbursed by a non-Federal source (including in-kind reimbursement) or if the travel is to attend an EOUSA or OLE sponsored conference, meeting, or training course or event. In these instances, the authorizations must be submitted at least ten (10) business days in advance of the planned departure date.

When transmitting outside of district, domestic travel authorizations via FMISPC2, offices must insert "DOM - " at the beginning of the pre-populated "Subject" line of the email. For instance,

Pre-populated Subject line:

Travel Authorization - Joe Smith - 01/27/2010 - A027L4635 - \$2605

Modified Subject line:

DOM - Travel Authorization - Joe Smith - 01/27/2010 - A027L4635 - \$2605

EOUSA will review the travel authorization and supplemental information. If there are questions concerning the authorization package, EOUSA will contact the sender. Once the authorization is compliant with the applicable travel regulations, EOUSA will approve the authorization, notify the sender via the **USAEO-USAtty Travel** mailbox, and upload the authorization in FMIS on or before the first day of travel.

B.1 b.) Travel Vouchers. All claims for travel reimbursement associated with domestic travel must be approved by the Director, EOUSA or Deputy Director for Administration and Management. Offices should use the travel application within FMISPC2 to generate the travel voucher. When preparing the voucher, offices must enter a ✓ in the "Payment Notification" box and enter the United States Attorney's email address. This will ensure that the United States Attorney is notified via an email that the claim for reimbursement has been processed.

The FMISPC2 voucher, as well as a PDF file of the travel authorization signed by the United States Attorney as the requestor, the voucher signed by the United States Attorney as the traveler, and other requisite documentation (i.e., receipts), must be submitted electronically to the **USAEO-USAtty Travel** mailbox within five (5) business days of the last day of travel.

EOUSA will review the voucher package in conjunction with the corresponding authorization. If there are questions concerning the voucher package, EOUSA will contact the sender. Once the voucher is compliant with the applicable travel regulations, EOUSA will approve the voucher, upload it in FMIS, and process the reimbursement within five (5) business days.

B. 2. Foreign Travel

B. 2. a.) Travel Authorizations. All foreign travel authorizations must be submitted to the **USAEO-USAtty Travel** mailbox at least fifteen (15) business days in advance of the planned departure date. When transmitting foreign travel authorizations via FMISPC2, offices must insert "FOR -" at the beginning of the pre-populated "Subject" line of the email. For instance,

Pre-populated Subject line:

Travel Authorization - Joe Smith - 01/27/2010 - A027L4635 - \$2605

Modified Subject line:

FOR - Travel Authorization - Joe Smith - 01/27/2010 - A027L4635 - \$2605

Additional documentation requirements specifically related to foreign travel must also be submitted with the travel authorization. For a complete listing of these requirements, please see USAP 3-8.300.002, Foreign Travel Authorization.

EOUSA will review the travel authorization and supplemental information. If there are questions concerning the authorization package, EOUSA will contact the sender. Once the authorization is compliant with the applicable travel regulations, EOUSA will approve the authorization, notify the sender via the **USAEO-USAtty Travel** mailbox, and upload the authorization in FMIS on or before the first day of travel.

B. 2. b.) Travel Vouchers. All claims for travel reimbursement associated with foreign travel must be approved the Director, EOUSA or the Deputy Director for Administration and Management. Offices should use the travel application within FMISPC2 to generate the travel voucher. When preparing the voucher, offices must enter a ✓ in the "Payment Notification" box and enter the United States Attorney's email address. This will ensure that the United States Attorney is notified via an email that the claim for reimbursement has been processed.

The FMISPC2 voucher, as well as a PDF file of the travel authorization signed by the United States Attorney as the requestor, the voucher signed by the United States Attorney

as the traveler, and other requisite documentation (i.e., receipts), must be submitted electronically to the **USAEO-USAtty Travel** mailbox within five (5) business days of the last day of travel.

EOUSA will review the voucher package in conjunction with the corresponding authorization. If there are questions concerning the voucher package, EOUSA will contact the sender. Once the voucher is compliant with the applicable travel regulations, EOUSA will approve the voucher, upload it in FMIS, and process the reimbursement within five (5) business days.

C. EOUSA Travel Unit Oversight

Every six months, the EOUSA Travel Unit will select a sample of ALL United States Attorneys' travel authorizations and vouchers processed in the financial management system to determine if districts are complying with the procedures outlined herein. Once this audit is completed, a report outlining findings and providing recommendations will be prepared and submitted to the Director, EOUSA and the Deputy Director for Administration and Management.

RESOURCES

Federal Travel Regulations

DOJ Order 2110.11H— Department of Justice Travel Regulations

FMISPC2 Instructions:

Preparing Travel Authorizations

Preparing Travel Vouchers

JMD Policies and Procedures

Financial Management USAPs

APPENDIX 4



JUL - 2 2010

Washington, D.C. 20530

MEMORANDUM FOR H. MARSHALL JARRETT
DIRECTOR
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

FROM: Lee J. Lofthus
Assistant Attorney General
for Administration

SUBJECT: Clarification of Delegations and Authorities Associated with the
Approval of United States Attorney Travel Authorization and Vouchers

This is in response to your request that I provide guidance on your interpretation of DOJ Order 2200.11H, Department of Justice Travel Regulations, which states that all travel must be authorized by an individual occupying a higher level position than the traveler, except as otherwise specified in the Travel Order. In addition, you request guidance on travel voucher approval in the United States Attorney's Offices (USAO).

The Travel Order requires that travel performed by any United States Attorney must be authorized by you, the Director, Executive Office for the United States Attorneys (EOUSA), or if you make such a redelegation, the Principal Deputy Director/Chief of Staff or the Deputy Director for Administration and Management, EOUSA. For all other travelers in the USAOs, travel also must be authorized by an individual occupying a higher level position than the traveler. In cases when a United States Attorney or other official occupying a higher level position is not in the USAO, travel may be authorized by the individual designated in the position. Travel vouchers in the USAOs may be approved by an individual occupying a higher level position than the traveler or the senior financial manager in the USAO. If those individuals are not in the office, travel vouchers may be approved by the individual designated in the position. You may also permit the EOUSA Chief Financial Officer to approve travel vouchers as allowed by the Travel Order.

If you have any questions, please contact me or have your staff contact Melinda Morgan, Director, JMD Finance Staff, on (202) 616-5800.

