

Government of Guam
Medical Referral Benefits Bank Account

Performance Audit
October 1, 2004 through September 30, 2009

OPA Report No. 09-06
November 2009



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EXECUTIVE SUMMARY

Government of Guam Medical Referral Benefits Bank Account
Report No. 09-06, November 2009

This report presents the results of our review of the Guam Medical Referral Benefits Bank Account (MRBBA), which was established by Public Law (P.L.) 24-276 for the deposit of frequent flyer miles earned by travelers at government expense. The review was initiated at the request of a Senator of the 30th Guam Legislature. Our audit objective was to identify and report difficulties in the implementation of P.L. 24-276. In summary, we found that the MRBBA cannot be implemented because the current mechanisms identified in P.L. 24-276 does not take into account the major airline that services Guam's (major airline) authority and prerogative to establish, regulate, and restrict its frequent flyer program. Similar attempts to pool travel miles by the U.S. Federal Government and the governments of the Commonwealth of the Northern Mariana Islands (CNMI), and the Republic of Belau (Palau) were equally unsuccessful for the same reason.

DOA's Implementation Difficulties

In an effort to credit travel mileage to a single account, the Department of Administration (DOA) acquired a business credit card in October 2008 to be used exclusively to pay for all DOA approved air travel. By arrangement with the local financial institution which offers the credit card, purchases made on the credit card earn airline miles from the major airline. Although DOA earns miles through the purchase of the tickets, the travelers are awarded the flight miles.

As of October 12, 2009, the business credit card earned 789,598 frequent flyer miles from airline ticket purchases. As of November 12, 2009, no miles have been redeemed for free flights pursuant to P.L. 24-276.

The Airline's Frequent Flyer Program

The major airline and its program partners retain the right to regulate their frequent flyer programs. Currently, the program is limited to individual members who may not establish more than one account. Corporations and other entities are not allowed membership. The major airline's Sales and Marketing official explained that government efforts to establish accounts and to pool government travel miles is in conflict with their corporate policy. In response to the then proposed legislation, a senior airline official noted in a 1997 letter of "*the need for some fundamental changes in the proposed structure of the program,*" and that pooling miles "*is not physically possible*" in their system.

Service Charge for Miles Transfer

The major airline does allow the transfer of miles from one account to another. For a service charge of \$7.50, 500 miles can be transferred to another account. Although transfers are allowable, travel recipients also need to have their own frequent flyer accounts. P.L. 24-276 does not address the transfer of miles, including who should pay the transfer service charge, nor does it require medical patient recipients to establish or maintain their own accounts.

Other Government Mileage Banking Programs

We reviewed mileage banking initiatives by the U.S. Federal Government, CNMI, and Palau. None were successful for the same reason as the government of Guam's.

- U.S. Federal Government: In May 2001, the Government Accountability Office (GAO) reported to Congress that implementing frequent flyer mileage banking programs would be difficult because (1) airlines would not pool the miles earned on official travel; (2) airlines would not create separate accounts for the individual's personal and official travels; and (3) as experienced by the GAO, the General Services Administration, the Department of Defense, and the Department of Interior, the administrative costs of managing frequent flyer banking programs outweighed the benefits.

Subsequently, in December 2001, Congress passed P.L. 107-107, allowing federal employees to retain the miles and benefits they earn from government travel.

- CNMI: The Commonwealth's P.L. 9-54, passed in 1995, required all miles earned on government travel be allocated to the medical referral program. The law was repealed in 1998 because the airlines could not be required to establish a master account for the CNMI government.
- Republic of Palau: Palau's Bill No. 7-12, proposed in 2005, would require all frequent flyer miles earned from government travel be used by the Ministry of Health to benefit citizens who require urgent off-island medical care. As of November 2009, the bill has yet to pass, despite numerous re-introductions in the Senate.

Conclusion and Recommendation

P.L. 24-276 attempts to mandate some government control over a privately initiated incentive program. The airline retains the right to implement, regulate, and/or discontinue the program, if it so chooses, and cannot be required to change its policies on this issue. The airline will not allow individual travelers to establish separate personal and government accounts, nor will it allow communal master accounts for governments or corporate entities. Should the government of Guam require employees to transfer government travel miles, P.L. 24-276 makes no provision for the payment of transfer service charges or for monitoring such transfers. We encourage charitable donations of employees traveling at the government's expense to give miles earned from official travel into the MRBBA. However, the administrative burden of monitoring the deposit of frequent flyer miles should not be placed on a government agency.

Although well intended, the current mechanisms identified in P.L. 24-276 does not take into account the airline's authority and prerogative to establish, regulate, and restrict its frequent flyer program nor does it recognize the failed attempts of other governments to initiate change in airline policies. We believe that the implementation of the MRBBA under the current mechanism is not feasible; therefore we recommend the repeal of P.L. 24-276.



Doris Flores Brooks, CPA, CGFM
Public Auditor



Introduction

This report presents the results of our audit of the Medical Referral Benefits Bank Account (MRBBA). The review was initiated at the request of a Senator of the 30th Guam Legislature to evaluate the implementation of Public Law (P.L.) 24-276, which established the MRBBA for the deposit of frequent flyer miles earned by employees traveling at government expense. Our objective was to identify and report difficulties in the implementation of P.L. 24-276.

The audit scope and methodology are detailed in Appendix 1.

Background

P.L. 24-276, enacted in October 1998, intended the MRBBA to fund air travel for patients under the Medically Indigent Program who need off-island medical treatment, for their accompanying family members, and any necessary health care staff. The only eligibility criteria described in the law are:

- Financial need;
- Lack of availability or required medical services on Guam; and
- Urgency and severity of illness, as documented by an attending physician.¹

The MRBBA is administered by the Department of Administration (DOA). The DOA Director was to negotiate with an airline serving Guam for mileage deposits. The DOA Director and the Guam Memorial Hospital Authority (GMHA) Administrator were mandated to jointly promulgate rules and regulations to implement the program. However, both the GMHA Administrator and DOA Management Analyst informed us that no rules and regulations were ever promulgated.

According to P.L. 24-276, the air carrier was to deposit all the travel benefits accrued by government of Guam employees directly into the MRBBA no later than ninety (90) days after the date of departure. The Medical Referral Office Manager and the GMHA Administrator or their designees were authorized to withdraw from the MRBBA.

¹ P.L. 24-276's eligibility standards were not detailed and only provided these guidelines.

Results of Audit

We found that the MRBBA cannot be implemented as intended because the current mechanisms identified in P.L. 24-276 do not take into account the airline's authority and prerogative to establish, regulate, and restrict or discontinue its frequent flyer program at will. The airline's program limits mileage accrual to individual travelers and to certain flight dates. We also found that similar attempts to pool travel miles by the U.S. Federal Government and the governments of the Commonwealth of Northern Mariana Islands (CNMI), and the Republic of Belau (Palau) were equally unsuccessful for the same reason.

Other Government Mileage Banking Programs

We reviewed the miles banking initiatives of the U.S. Federal Government, CNMI, and Palau. Their initiatives were also unsuccessful and are discussed below.

U.S. Federal Government

In May 2001, the Government Accountability Office (GAO) issued a report relative to frequent flyer miles earned by employees on official travel. GAO concluded that the policy of managing the frequent flyer miles program proved to be cumbersome as its implementation was fraught with difficulties for the following reasons:

1. Airlines would not pool the miles received by employees on official travel. It is their position that frequent flyer miles belong to the individual traveler.
2. Airlines refused to create separate accounts for the individual's personal and official travels.
3. As experienced by the GAO, the General Services Administration, the Department of Defense, and the Department of Interior, the administrative costs of managing frequent flyer banking programs outweighed the benefits.

The report noted that the private sector allows its employees to keep and use the frequent flyer miles they earn from official business travel as additional employee perks and because capturing frequent flyer benefits is too difficult to track. See Appendix 2 for the full report.

Subsequently, Congress passed P.L. 107-107 in December 2001, allowing federal employees to retain for personal use the promotional items (including frequent flyer miles, upgrades, or access to carrier clubs or facilities) earned from government travel.

CNMI

The CNMI's P.L. 9-54 was "*a creative effort to address the fiscal needs of the Commonwealth's Medical Referral Program.*" Enacted in October 1995, P.L. 9-54 required all bonus miles earned on government paid flights be allocated to the Department of Public Health to provide air passage for medical referral program recipients for off island treatment. But the airlines carrier could not be required to

establish either individual account numbers or a master account for the CNMI government. Subsequently, P.L. 10-79 repealed P.L. 9-54 in 1998.

Republic of Belau

In January 2005, Republic of Belau (Palau) Bill 7-12 proposed requiring all frequent flyer miles from government paid travel be used by the Ministry of Health to benefit citizens who require urgent off-island medical care. In November 2009, Palau's Senate Legal Counsel Office confirmed that, despite numerous re-introductions in the Senate, Bill 7-12 has yet to be passed.

Interviews Relative to MRBBA

We conducted interviews with officials from DOA, GMHA, the Ayuda Foundation, and the major airline. The following are among our findings.

DOA's Implementation Difficulties

According to a DOA Management Analyst, the government of Guam's miles banking program was difficult to implement because the major airline will not pool miles accrued by government employees on official travel. Additionally, the MRBBA is an aggregate account not recognized, allowed or accepted by the airline under its frequent flyer program. This is consistent with the GAO report referred to above.

In an effort to bank government travel miles, DOA acquired a business credit card account with a financial institution offering one frequent flyer mile for every dollar purchased with the card and double miles for qualifying purchases from the major airline. The credit card agreement was signed by the Treasurer of Guam in October 2008. The Treasurer of Guam is the official named on the credit card and on the airline's frequent flyer account. DOA's Management Analyst informed us that the credit card is exclusively used to pay for travel authorization tickets approved by DOA. Although DOA earns miles through the purchase of the airline tickets, the travelers are credited the flight miles.

As of October 12, 2009, the business credit card accumulated 789,598 frequent flyer miles from airline ticket purchases. As of November 12, 2009, the DOA Management Analyst stated that no miles have yet to be used.

For a service charge of \$7.50 per 500 miles, the airline allows miles to be transferred from one account to another. Transfers are limited to a minimum of 2,500 miles for a fee of \$37.50 and a yearly maximum of 100,000 miles for a total fee of \$1,500. While miles can be transferred to someone in need, as defined by P.L. 24-276, the law does not address who should pay the service charge or establish that recipients should start or maintain their own frequent flyer accounts.

GMHA Administrator's Suggestion

According to the GMHA Administrator, P.L. 24-276's mandate was well intended. However, he made a suggestion to have the Director of the Department of Public Health

and Social Services (DPHSS) as one of the authorized officials to withdraw from the MRBBA instead of the GMHA Administrator. The DPHSS Director, and not the GMHA Administrator, is the authorized official that oversees the Medically Indigent Program's (MIP) off-island medical referrals. Refer to the Ayuda Foundation "Wings for Life" section for more information on MIP off-island medical referrals.

The Airline's Frequent Flyer Program

The major airline's Sales and Marketing official confirmed that the government of Guam's credit card purchases had accrued approximately 789,000 miles. The official did know that the government of Guam had been attempting to pool miles, but stated that doing so was not feasible because it is in direct conflict with the airline's frequent flyer program policy.

The same issue surfaced in a November 1997 letter from the major airline's Staff Vice President where he stated that they have "*reviewed the revised draft Bill No. 182² and note the need for some fundamental changes in the proposed structure of the program,*" and that "pooling" miles from various individuals is not practicable in the airline's system. See Appendix 3 for the letter.

Ayuda Foundation "Wings for Life"

The "Wings for Life," administered by the Ayuda Foundation, is one of the airline's miles donation programs. It provides air transportation for people who need off-island medical treatment but cannot afford the airfare. The Ayuda Foundation is a non-profit organization dedicated to improving delivery of health care services throughout the Micronesia region. Miles account holders can assist in the program by donating miles into the foundation's "Wings for Life" account. To encourage donation, the airline waives service fee for miles donations.

The "Wings for Life" Administrator confirmed that the Ayuda Foundation provides free airline ticket for patients enrolled in MIP administered by DPHSS. MIP contacts the Ayuda Foundation for assistance and the foundation coordinates with the airline for the booking and reservation of the free ticket(s). The "Wings for Life" restricts its assistance to only two economy class tickets for the patient and an escort.

Tracking of Accrued Miles by the Public Auditor

We tallied the frequent flyer miles accrued during the Public Auditor's official travels between fiscal years 2005 and 2009 and arrived at a figure of approximately 144,379 mileage points. If the Public Auditor were to transfer the miles from her personal account to the government of Guam account, she would have to pay approximately \$1,875 to transfer 125,000 of the 144,379 miles accrued. The cost of the transfer is more than a roundtrip airfare from Guam to Hawaii of approximately \$1,200.

² Passed into legislation as P.L. 24-276.

Conclusion and Recommendation

The implementation of P.L. 24-276 has been hindered because the mandate that “...all travel benefits accrued by a government of Guam employee shall be deposited directly into the account by the air carrier no later than ninety (90) days after the date of departure,” is not feasible. The major airline serving Guam cannot be required to establish separate personal and government travel accounts for individuals or a master account for the government of Guam. Additionally, the administrative burden of keeping separate records of official and personal travel miles, determining the accuracy of the records, and monitoring the deposit of frequent flyer miles would be tremendous and likely not cost justified.

Even if travelers transferred their government-paid frequent flyer miles, there is no current policy or guidelines addressing who will pay the service charges or who will be responsible for monitoring mileage transfers.

We encourage charitable donations of employees traveling at the government’s expense to give miles earned from official travel into the MRBBA. However, the administrative burden of monitoring the deposit of frequent flyer miles should not be placed on a government agency.

Although P.L. 24-276 was well intended, the current mechanisms identified have fundamental implementation flaws in that the airline’s frequent flyer program prevents it from obliging the government of Guam. It does not take into account the airline’s authority and prerogative to establish, regulate, and restrict its frequent flyer program nor does it recognize the failed attempts of other governments to initiate change in airline policies. The efforts of the U.S. Federal Government and the governments of the CNMI and Palau were similarly thwarted. We believe that the implementation of the MRBBA under the current mechanism is not feasible; therefore we recommend the repeal of P.L. 24-276.

OPA’s enabling legislation requires agencies to prepare a corrective action plan to implement audit recommendations. Accordingly, our office will be contacting the Senator who requested the audit for the implementation of the recommendation. We appreciate the assistance rendered by the Department of Administration, Guam Memorial Hospital Authority, the Ayuda Foundation, and the major airline.

OFFICE OF PUBLIC ACCOUNTABILITY



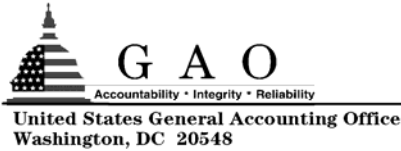
Doris Flores Brooks, CPA, CGFM
Public Auditor

Appendix 1:**Scope and Methodology**

Our audit objective was to identify and report difficulties in the implementation of P.L. 24-276. The audit scope included the review of applicable government of Guam miles banking program laws, rules and regulations, policies, prior audit findings, and relevant documents between October 1, 2004 and September 30, 2009. We also interviewed officials from the Department of Administration, Guam Memorial Hospital Authority, Ayuda Foundation, and the airline, and we reviewed correspondence from other governments that have attempted implementation of similar programs.

The following steps were done in order to prepare a summary log calculating the accrued miles by the Public Auditor: (1) an auditor reviewed all travel authorization (TA) files of the OPA from October 1, 2004 through September 30, 2009; (2) TA files were reviewed to identify Public Auditor travel; (3) inputted Public Auditor's TA Number, travel destination (to and from), date of travel, and airlines; and (4) using the major airline's website, we obtained approximate mileage accrued by entering the point of origin and destination.

We conducted this performance audit in accordance with the standards for performance audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States of America. These standards require that we plan our audit objectives and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.



May 24, 2001

The Honorable Dan Burton
Chairman, Committee on
Government Reform
House of Representatives

Dear Mr. Chairman:

I am writing in response to your March 22, 2001, letter asking for our views on the merits of allowing federal employees to keep and use the frequent flyer miles received on official travel as an aid in efforts to recruit and retain employees. You also asked us to obtain the views of the Foreign Service Officers Association on this issue.

A few months ago, a task team of GAO staff began looking informally into whether GAO should seek legislative authority to allow its employees, as well as perhaps other federal employees, to keep for their personal use frequent flyer miles received as a result of official travel. The purpose of such authority would be to help GAO and other agencies better compete with the private sector in recruiting and retaining top-quality employees. The team reviewed the current federal policy on this issue, determined how that policy was being implemented, compared the federal policy to the private sector's practice, and informally obtained the views of officials from several federal agencies on the current policy and possible changes to it. While the current policy covers frequent traveler benefits, including those offered by airlines, hotels, and car rental vendors, our review was limited to frequent flyer benefits. However, we recognize that all of these are promotional benefits offered to the general public at no additional cost to the government.

To carry out our informal inquiry, we reviewed relevant federal legislation and regulations and previous Comptroller General decisions. We obtained information on our own units' application of the federal frequent traveler policy as it applies to frequent flyer miles and interviewed representatives from several federal organizations, including the Departments of Defense (DOD), the Interior, and Justice; the General Services Administration (GSA); the Internal Revenue Service (IRS); the Securities and Exchange Commission (SEC); and the U.S. Postal Service. We chose GSA because it is responsible for the governmentwide policy on federal travel, DOD and the Postal Service because they have so many employees, and the other agencies because we understood that they had explored forming or had formed programs to capture and use frequent flyer miles for government travel. At your request, we also

talked to a representative from the Foreign Service Officers Association. Finally, we obtained information on the private sector's plans and practices in this area from the National Business Travel Association, an organization consisting of travel service providers and corporate travel managers, and a limited literature review. We did not discuss frequent flyer issues with the airlines, but we did review relevant policies and procedures posted on their Internet Web sites. Moreover, given the informal nature of our review, we did not obtain official agency comments on the information we are providing in this letter; however, we did discuss its contents with representatives from the agencies we contacted.

In summary, current federal policy prohibits most federal employees from retaining for personal use frequent flyer miles received on official travel and requires federal agencies to encourage, promote, and facilitate the use of such miles to reduce the government's travel costs. Governmentwide data are not readily available on the extent to which this policy is implemented or on what savings can be attributed to it. However, our experience, as well as that of several other federal agencies, indicates that the policy is difficult to implement, primarily for two reasons. First, the airlines--which regard frequent flyer miles as belonging to the individual traveler, not the organization that pays for the travel--are generally unwilling to create separate official and personal frequent flyer accounts for individual travelers. Second, employees are often reluctant to provide their employers with account statements detailing both official and personal travel. In addition, practical constraints and the burden and cost of administering the program limit its benefits to the government. For example, free frequent flyer tickets are not always available when needed. Furthermore, according to GSA, even if federal agencies made more aggressive efforts to capture and use their employees' official travel miles, the airlines might respond by reducing or eliminating the discount the federal government currently receives on contract airfares. GSA reports that this discount has saved the government over \$2 billion annually. The private sector, by contrast, commonly allows its employees to keep the frequent flyer miles they receive on business travel, giving private companies, including government contractors, a competitive edge over federal agencies in this area.

Overall, in our view, while the current federal policy was well intentioned, its implementation is fraught with difficulties, and the competition to attract and retain skilled employees has increased such that Congress should consider changing the federal government's policy to allow employees to keep any frequent flyer miles received on government travel. However, if this is done, it will be important for agencies to effectively implement controls over the need for travel and the selection of routes and carriers consistent with the government's overall best interests.

Changing the federal policy could increase the travel costs of some agencies that now capture and use their employees' official travel miles, and we do not know whether or how the airlines would respond to such a change. Allowing employees to keep their official travel miles would be consistent with the airlines' position that frequent flyer miles belong to the individual traveler. Above all, a change in the current policy would boost federal employees' morale and help the government attract and retain top-quality employees. In this regard, we believe, Congress should consider making

any such policy change retroactive so that employees can benefit from any unused miles accumulated to date.

Current Federal Frequent Traveler Policy

Under current federal laws and regulations, the frequent traveler benefits¹ received by a federal employee in conjunction with official travel are generally considered government property, and the employee may not retain the benefits for personal use. As a result, the employee should accept the benefits on behalf of the government and turn them over to the employee's agency. The agency should then integrate the benefits into its travel plans to maximize their value to the government.

Initially, this policy was enunciated and followed in a number of prior Comptroller General decisions. These decisions were based on the fundamental rule of law that a federal employee is obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty. Any such gifts, gratuities, or benefits tendered to the employee are viewed as having been received on behalf of the government.²

In 1994, Congress enacted a statute designed to help realize to the maximum extent practicable cost savings for official travel from frequent traveler benefits. The statute directed the Administrator of GSA to issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by federal employees who engage in official travel.³ This act specifically provides that any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.⁴

GSA has incorporated these policies into the Federal Property Management Regulations⁵ and the Federal Travel Regulation,⁶ applicable to most federal civilian employees. Similarly, the Joint Federal Travel Regulations,⁷ applicable to members of

¹These include the benefits offered by airlines, hotels, and car rental vendors.

²See 67 Comp. Gen. 79 (1987) (quoting B-199656, July 15, 1981); and 63 Comp. Gen. 229 (1984). See also, 63 Comp. Gen. 233 (1984); B-215826, Jan. 23, 1986; and B-257525, Nov. 30, 1994.

³Federal Acquisition Streamlining Act of 1994, P.L. 103-355, § 6008, 102 Stat. 3367 (1994), 5 U.S.C. § 5702, note.

⁴P.L. 103-355, § 6008(b). GSA issued Bulletin FTR 17, Oct. 24, 1995, advising agencies of the provisions of P.L. No. 103-355, § 6008 and reminding them of the existing provisions of the Federal Travel Regulation concerning cost-saving opportunities provided by the use of frequent traveler benefits. In Bulletin FTR 17, GSA also encouraged agencies to establish programs under the Government Employees Incentive Awards Act, 5 U.S.C. §§ 4501-4507, to reward employees who take the initiative to accrue travel savings, and GSA offered its program as a guide in establishing such reward programs.

⁵41 C.F.R. § 101-25.103-2.

⁶41 C.F.R. part 301-53.

⁷Paragraph U2010B.

the uniformed services, recognize that promotional material received by a uniformed service member traveling on official business at government expense belongs to the government and must be relinquished in accordance with service regulations.⁸

Legislation would be required to change the government's general policy to allow civilian employees and uniformed service members to retain for personal use frequent traveler benefits accrued on official travel. Such legislation would be necessary to repeal the current requirement that such benefits be used only for official travel⁹ and to affirmatively authorize employees and members to retain for personal use these benefits that are now considered the property of the government.

Use of Frequent Flyer Miles for Official Travel Is Difficult and Appears Limited

Comprehensive governmentwide data are not readily available on the extent to which federal agencies capture and use frequent flyer miles for official travel. GSA officials told us that they do not collect such data. However, our task team did obtain information on GAO's practices, as well as those of several other federal organizations. This information follows.

GAO's Experience

GAO has never had a centralized, formal program to reduce its travel costs by capturing and using its employees' official travel miles. Several years ago, we pilot-tested a program in one of our headquarters units but soon discontinued it for a variety of reasons. These reasons, which have also discouraged other headquarters units, include the airlines' refusal to establish separate official and personal travel accounts for employees, employees' reluctance to participate, administrative burdens and costs, and limited savings. Furthermore, few frequent flyer seats were available at desired travel times, transfers of free tickets to other employees took time and effort, and employees who flew on different airlines often took a long time to accumulate enough miles for free trips.

Although we never set up a GAO-wide program to capture and use frequent flyer miles, several of our field offices tried to establish such programs. Of these, the majority discontinued their efforts for the same reasons that discouraged our headquarters units. Two field offices did, however, establish programs and continue to operate them, yet their dollar savings have been very limited. One office saved \$6,600 over about 33 months. This office has many employees with enough miles on single carriers for free trips, but these miles have been difficult to use because few seats have been available when employees have needed to travel. Furthermore, in past years, the unit's savings were reduced by the \$50 fee that the contract carrier charged for reservations made less than 3 weeks in advance. Accumulating sufficient

⁸There are some federal organizations that are not covered by § 6008 of P.L. 103-355 and also have their own property disposal authority. One such organization we are aware of that does not prohibit its employees from retaining frequent flyer benefits for their personal use is the U.S. Postal Service.

⁹§ 6008 of P.L. 103-355.

frequent flyer miles for this unit's employees has become more problematic since the government contracted with a different carrier for one of the unit's most heavily traveled routes. The other field office, which reported saving about \$32,000 over 6 years, also noted that multiple changes in contract carriers have made it more difficult to accumulate and effectively use frequent flyer miles.

Experiences of Other Federal Organizations

The other federal organizations we contacted had varied approaches to capturing and using frequent flyer benefits for official travel. A representative from one--the U.S. Postal Service, which is not subject to the travel rules that apply to most federal agencies--said that the Service does not prohibit its employees from making personal use of the frequent flyer miles received on official travel.

In 1998, the Department of the Interior considered establishing a frequent traveler program that would have been managed by a contractor. However, the Department rejected the contractor's proposal as too expensive and difficult to implement. Interior believed that the fees the contractor would have charged were excessive and the savings were uncertain. In addition, under the contractor's proposal, Interior would have had to provide the contractor with data on the frequent flyer miles received by its employees. It would have had to obtain the data from the employees because the airlines would not provide the information to the agency.

An Interior Department representative told us that some of its bureaus use frequent flyer benefits to enable their employees to take training and attend conferences because their budgets do not cover non-program-related travel. Therefore, if frequent flyer miles received on program-related travel were not captured and used for this type of travel, the bureaus might not be able to send their employees to these types of events. At the same time, if employees were allowed to retain the frequent flyer benefits, they might be willing to use some of their miles for such travel on a voluntary basis.

GSA, IRS, and the Department of Justice have established gain-sharing programs that enable frequent travelers to share in the savings they achieve in airfares, lodging costs, or both. Under these programs, employees can obtain cash awards based on savings they can document by using free tickets from airline frequent flyer programs or by securing lodging rates below the maximum amounts allowed.

According to GSA officials, GSA considered establishing a frequent traveler program in the early 1990s but abandoned the idea because the airlines would neither pool the miles received by GSA employees for the agency's use nor provide data to GSA on the miles its employees received. In 1995, however, GSA established a voluntary gain-sharing program under which employees who use free tickets awarded for official travel miles or secure lodging at less than the established lodging rates can receive cash awards of up to half the amount saved for the government. GSA reported that from January 1995 through September 2000, almost \$823,000 was saved under the program, and employees received about half that amount in cash awards. These savings do not take into account the costs of administering the gain-sharing program, which GSA officials believe were minimal. However, GSA officials view the program

as a limited success because the savings are low relative to GSA's overall travel costs, which totaled about \$190 million for the last 6 years. In addition, GSA officials believe that most of the savings are from the lodging portion of the program rather than from the use of frequent flyer miles.

IRS established a program similar to GSA's in 2000 at the request of the National Treasury Employees Union. Employees can accrue savings by such means as using frequent flyer miles to obtain free airline tickets, sharing hotel rooms with coworkers, or staying with friends or relatives. IRS travel officials did not have data on the savings achieved through their program because the program is less than a year old. However, they view the program as a success. They said employees like the program and most of the savings are in lodging costs.

The Justice Department established its gain-sharing program at the beginning of fiscal year 1996. Like GSA and IRS, Justice shares savings its employees achieve by using frequent flyer miles and obtaining lodging at reduced costs. The program is discretionary, and Justice components can choose whether they want to include frequent flyer savings, lodging savings, or both. Administrative support staff who assist travelers who achieve savings can also share in the savings awards. According to Justice, it saved about \$70,000 in fiscal year 1996 and \$202,000 in fiscal year 1997 and paid cash awards equaling about half of the savings. Again, these financial benefits do not factor in the gain-sharing program's administrative costs. Justice did not provide savings data beyond fiscal year 1997.

According to a representative from DOD, the Department does not have a departmentwide frequent traveler program and has no data on the extent to which its components have such programs. He said that in the mid-1990s, his command attempted to, but could not, find an effective program for capturing and using employees' official frequent flyer miles anywhere in DOD. He believes the use of free tickets awarded for frequent flyer miles in DOD is spotty at best. He cited many of the same practical difficulties with implementing the current federal policy that we and other agencies identified, including the reluctance of both the airlines and employees to provide frequent flyer data to the government and the problems with tracking and using miles for official travel. He also identified another difficulty—the time and expense associated with taking disciplinary action against employees who violate the current policy by making personal use of miles received on official travel. He said his agency completed a demotion action against an employee for personal use of miles, but assistance from the airlines was difficult to obtain. Such action, he maintained, was not cost-effective. These difficulties, combined with a departmental emphasis on adopting private-sector practices, have led DOD to prepare draft legislation that would abolish the current restriction and allow military and civilian employees governmentwide to retain for personal use frequent flyer benefits received on official travel. He said that DOD has discussed its proposal with other federal agencies, which have been supportive. DOD is currently considering submitting its proposal to the Office of Management and Budget.

An SEC representative informed us that SEC began using a contractor's software 2 to 3 years ago to facilitate the use of frequent flyer mileage. She said that employees' participation in SEC's frequent flyer program is voluntary and that SEC's savings have

been minimal, in part because frequent flyer tickets do not give travelers flexibility in arranging their travel. Specifically, she said that it is difficult for SEC employees to obtain seating using frequent flyer tickets because many trips are scheduled, canceled, or changed at the last minute. Finally, she said that SEC is likely to discontinue its contract because the savings, minus the contractor's 30-percent commission, are not sufficient to offset SEC's "hidden" management and oversight costs and employees have not been enthusiastic about participating in the program.

The Private Sector's Practices

According to the results of three recent surveys, the private sector commonly allows its employees to retain for personal use frequent flyer miles received on business travel. This practice may give the private sector, including government contractors, an advantage over the federal government in recruiting and retaining employees. While small compared with the higher salaries companies often pay, this advantage may nonetheless influence the job choices of some employees, especially if they are frequent travelers.

In April 2001, the National Business Travel Association surveyed its members via the Internet on frequent traveler programs. According to the Association, 200 companies responded. Of these, 98 percent said they do not recover frequent traveler benefits received by employees on business travel for their companies, and 95 percent said they have no plans to do so. According to the Association, most companies do not want to become involved in capturing these benefits because it is too difficult to track miles or points received.

In May 2000, the Bureau of National Affairs reported the results of a 1999 survey of about 1,800 companies on their business travel policies. These companies, about 450 of which responded to the survey, represented a cross section of U.S. employers: 34 percent were manufacturing companies, 36 percent were nonmanufacturing (e.g., service) businesses, and about 30 percent were other establishments, such as health care facilities, educational institutions, and government agencies. Seventy percent of the companies had fewer than 1,000 employees, and the remainder had more. According to the survey, most employers with business travelers allowed their workers to keep frequent flyer miles received on business travel for their own use. About two-thirds of the responding companies reported specifically allowing their employees to retain the miles for their personal use, about 20 percent reported having no policy at all, and under 10 percent reported requiring their employees to relinquish mileage received to the company. A few companies reported having gain-sharing programs similar to GSA's, IRS', and Justice's.

The findings from these two surveys appear consistent with the results of an American Express survey of business travel management, reported in July 1999 by *Business Travel News*, a business travel industry publication. According to the article discussing this survey, the trend in the private sector was away from collecting frequent flyer awards, and the number of corporations doing so was declining. Specifically, the survey showed that the proportion of companies managing and using frequent flyer miles received by their travelers fell from 9 percent in 1994 to 4 percent in 1996. According to the article, "most companies neither want the headache of

tracking miles nor the disincentive that taking them away might present to employees.” In addition, the article discussed the views of the travel services manager of a company that was using a contractor to aggressively track and use frequent flyer miles for company business. Although this approach was saving the company 10 percent of its overall air travel costs, the manager said he would rather receive discounts from the airlines than deal with frequent flyer miles.

These survey results are also consistent with the experience of one large corporation that we contacted in 1994 after learning that it had established a program to capture and use for company travel frequent flyer miles received by employees on company business. The company later told us that it had discontinued the program because of its adverse effect on employee morale. In April 2001, we contacted the company again, and a representative told us that the company continues to allow its employees to make personal use of frequent flyer miles received on company travel.

Views on Frequent Flyer Issue

You asked for our views on this issue as well as those of the Foreign Service Officers Association. I will discuss the Association’s views first.

In April 2001, the Director of Congressional Affairs for the Foreign Service Officers Association told us that the Association would support legislation that would allow federal employees to keep for personal use frequent flyer miles earned on official travel. He said the Association recognizes that many foreign service officers frequently travel long distances and would therefore receive considerable benefits from such legislation. However, he noted that these officers are often assigned to hardship locations that require difficult travel. He also said that if this type of legislation is not feasible, the Association’s members would like to be able to use their frequent flyer miles to upgrade to business class on long flights.

In our view, the current federal policy on frequent flyer miles was well intentioned as a potential means for reducing federal travel costs and promoting economy in government. We recognize that federal agencies, including GAO, might be able to achieve some additional savings by taking more advantage of frequent flyer miles for government travel. However, the practical obstacles to achieving significantly greater savings are such that few agencies have overcome them without creating incentives, such as gain-sharing plans, that have generally reduced the government’s savings by half. Additionally, more aggressive efforts to use frequent flyer miles to reduce the government’s travel costs could, according to GSA, jeopardize its ability to negotiate significant savings under its contract air carrier program. This negotiated travel program saves the government over \$2 billion annually. GSA officials responsible for the program told us they believe the savings achieved through this program far outweigh the benefits the government would gain through more aggressive efforts to capture and use frequent flyer miles for official travel. We do not know how a change in the current federal policy to permit individual use would affect GSA’s ability to negotiate savings in contract airfares. However, a change would not seem likely to have a negative impact, since, in contrast to the current policy, it would be consistent with the airlines’ position that frequent flyer miles belong to the individual traveler.

Changing the federal policy on frequent flyer miles would have some disadvantages for the government. First, it would eliminate any savings that certain agencies currently achieve by implementing the policy. In addition, some employees who now travel on free tickets obtained with frequent flyer miles might no longer be able to travel when funds for air travel were not available or were in short supply. However, these disadvantages would, we believe, be far outweighed by the advantages of a change, both to federal employees and to the government. A change would eliminate the current disparity in practice between the private sector and the government and would put federal employees on a par with their private-sector counterparts, including federal contractor personnel, in this area. Like private-sector employees, federal employees who put up with flight delays and cancellations and travel on their own time to meet work schedules would then feel that they were being compensated, in part, for these frustrations and sacrifices. Establishing parity between the federal government and the private sector in this area would also aid the government in recruiting and retaining top-quality employees.

If the current policy is changed to allow federal civilian and military employees to retain their official travel miles for personal use, controls over the need for travel and the selection of routes and carriers would have to be effectively implemented. These controls are designed to prevent employees from selecting certain carriers to earn miles or otherwise undercutting the government's negotiated fare agreements with major carriers.

Today, millions of frequent flyer miles earned on official travel are going unused, benefiting neither the government nor its employees. Changing the federal frequent flyer policy—and changing it retroactively so that employees can take advantage of these unused miles—would boost federal employees' morale and strengthen the federal government's ability to compete with the private sector. We therefore believe Congress should consider allowing federal employees to keep and make personal use of the frequent flyer miles they have already received and will receive for official travel. In order to assist the Committee, we have enclosed draft legislation that would accomplish this objective (see enc. I).

If you have any questions on the information we are providing or if we can be of further assistance, please call me on (202) 512-5500 or John H. Anderson, Jr., Managing Director, Physical Infrastructure Issues, on (202) 512-2834.

Sincerely yours,



David M. Walker
Comptroller General
Of the United States

Enclosure I

Draft Legislation

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SEC. 1. Section 5702 of title 5, United States Code, is amended –
(1) by redesignating subsection (c) as subsection (d); and
(2) by inserting after subsection (b) the following new subsection (c):
“(c) Notwithstanding the provisions of subsection (d), promotional items an employee (including a justice or judge) receives as a consequence of using travel or transportation services procured by the United States or accepted pursuant to 31 U.S.C. § 1353 may be retained by the employee for personal use. Promotional items include only those obtained under the same terms as those offered to the general public and at no additional cost to the government. Promotional items include but are not limited to frequent flyer miles, upgrades, and access to carrier clubs or facilities.”

SEC. 2. Section 404 of title 37, United States Code, is amended –
(1) by redesignating subsection (j) as subsection (k); and
(2) by inserting after subsection (i) the following new subsection:
“(j) Promotional items a member receives as a consequence of using travel or transportation services procured by the United States or accepted pursuant to 31 U.S.C. § 1353 may be retained by the member for personal use. Promotional items include only those obtained under the same terms as those offered to the general public and at no additional cost to the government. Promotional items include but are not limited to frequent flyer miles, upgrades, and access to carrier clubs or facilities.”

SEC. 3. Section 6008 of the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (5 U.S.C. § 5702, note), is repealed.

SEC. 4. Sections 1 and 2 of this act shall apply to promotional items received prior to the effective date of this act.

Sectional Analysis

Section 1 of this legislation would amend section 5702 of title 5, United States Code (Per diem, employees traveling on official business). This amendment would authorize federal civilian employees, including justices and judges, who receive promotional items incident to using government procured travel or transportation services, or such services accepted from non-Federal sources pursuant to 31 U.S.C. § 1353, to retain such promotional items for personal use. The travel or transportation services from which the promotional benefits accrue are intended to include services provided by airlines, hotels, and rental car vendors. The Administrator of the General Services Administration would be expected to prescribe regulations under existing authority in 5 U.S.C. § 5707 to protect the government from incurring excess costs or

improper selection of travel or transportation providers for the benefit of the employee.
Enclosure I

Section 2 of this legislation would amend section 404 of title 37, United States Code (Travel and Transportation Allowances). This amendment would provide the same treatment for members of the uniformed services. The Secretaries of the services concerned under existing authority in 37 U.S.C. § 404 would be expected to prescribe regulations similar to those prescribed by the Administrator of General Services.

Section 3 of the legislation would repeal section 6008 of the Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355, 108 Stat. 3367 (1994) (5 U.S.C. § 5702 note). Section 6008 requires the Administrator of the General Services Administration to issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by Federal employees who engage in official travel, for the purpose of realizing cost savings for official travel. Section 6008 also provides that any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel. It would be necessary to repeal section 6008 since its provisions conflict with the purposes of sections 1 and 2 of the proposed legislation.

Section 4 would make it clear that the legislation is applicable to any unused promotional benefits received by an employee or service member prior to the effective date of the legislation as well as to such benefits received on and after the effective date of the legislation.

Appendix 3:
November 1997 Letter

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| | |
|------------------|------------------------|
| To: Sen. E. Cruz | From: Staff |
| Co. FYT | Co. Sen. Felix Camacho |
| Dept. | Phone # |
| Fax # 472-3552 | Fax # 472-9747 |

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Staff Vice President
Sales and Promotions

11-149.

RECEIVED
24TH GUAM LEGISLATURE
COM. HEALTH & HUMAN SVCS.
DATE: 11/25/97 By: J. S. Dora

VIA FAX: 671 472-9747

November 24, 1997

Senator Felix P. Camacho
Chairman, Committee on Power, Foreign Affairs and General Government Services
Twenty-Guam Legislature
155 Healer Street
Agana, Guam 96910

Dear Senator Camacho:

Thank you, for the opportunity to comment on the most recent revision of Bill No. 182. As we stated previously, [redacted] supports establishing a medical referral program that utilizes [redacted] miles earned by government paid travel. In the past, we have supported the medically indigent program by granting discounts or free tickets to those in need. We have been working with the Department of Administration to complete an agreement utilizing [redacted] miles earned by the government.

Such a complex program has never been attempted anywhere else in the world. As a concerned and responsible member of the community, we began work on this project three years ago in a cooperative effort with the DOA. Much of the details of the program have been mutually agreed upon to the point of completing a draft contract for the program.

We have reviewed the revised draft of Bill No. 182 and note the need for some fundamental changes in the proposed structure of the program. As we have indicated in a letter dated August 13, 1997 to Senator Eduardo Cruz, a "pooling" arrangement structure which "pools" miles from various individuals to one "Medivac Charity Account" is not physically possible in our system. I have attached a copy of the draft agreement we have been developing with the DOA. This draft agreement outlines the specific mechanics that will allow the program to work within [redacted] system.

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cc-ESC
RB
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JE

Appendix 3:
November 1997 Letter

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We have been ready to implement the program as outlined in the draft agreement for over a year, unfortunately one issue prevents us from moving forward. This final outstanding issue is the "indemnification" issue as outlined in paragraph 9 of the agreement. [REDACTED] is unable to enter into a contract that exposes the company to additional potential legal liabilities outside those that already exist in the daily operation of an airline. This paragraph is absolutely necessary for us to enter into any agreement.

As we have stated previously, we believe the DOA program, as outlined in the attachment, should be used as a prototype for the rest of the government of Guam branches. We can implement this program tomorrow, if the indemnification issue can be settled. As soon as the DOA program is completed, we would be happy to work with the government of Guam to implement the agreement for all branches.

We look forward to working with the Legislature on this matter. Please let us know if you have any further questions.

Sincerely,

[REDACTED]

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24TH GUAM LEGISLATURE
COM. HEALTH & HUMAN SVCS.
DATE 11-25-97 By: [REDACTED]

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