Capitol Area Architectural and Planning Board

Special Review Certain Activities of the Executive Secretary

May 1995

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Financial Audit Division Office of the Legislative Auditor State of Minnesota



STATE OF MINNESOTA

OFFICE OF THE LEGISLATIVE AUDITOR

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JAMES R. NOBLES, LEGISLATIVE AUDITOR

Members of the Legislative Audit Commission

The Honorable Joanne Benson, Lieutenant Governor Capitol Area Architectural and Planning Board Chair

Members of the Capitol Area Architectural and Planning Board

The Office of the Legislative Auditor has conducted a special review of two issues concerning Mr. Gary Grefenberg, the executive secretary of the Capitol Area Architectural and Planning Board. We conducted the review in response to requests from former Lieutenant Governor Joannell Dyrstad and current Lieutenant Governor Joanne Benson. By law, the Lieutenant Governor serves as the chair of the Capitol Area Architectural and Planning Board.

Our objectives were to answer two questions regarding Mr. Grefenberg's actions:

- Did Mr. Grefenberg receive personal benefits from traveling on state business?
- Did Mr. Grefenberg inappropriately maintain a second set of financial records for the Minnesota Vietnam Veterans Memorial project?

This report presents the results of our review.

Pursuant to Minn. Stat. Section 3.975, this report has been referred to the Attorney General. The Attorney General has the responsibility to ensure the recovery of state funds and in fulfilling that role may negotiate the propriety of individual claims. It is the Attorney General's duty to cause criminal proceedings to be instituted by the proper authorities as the evidence may warrant.

James R. Nobles

Legislative Auditor

John Asmussen, CPA

Deputy Legislative Auditor

Report signed on: May 16, 1995



State of Minnesota

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612/296-4708

Capitol Area Architectural and Planning Board

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Public Release Date: May 19, 1995

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- Did Mr. Grefenberg receive personal benefits from traveling on state business?
- Did Mr. Grefenberg inappropriately maintain a second set of financial records for the Minnesota Vietnam Veterans Memorial project?

This report represents the results of our review.

Conclusions

We found that Mr. Grefenberg did not comply with state laws and policies concerning the use of travel benefits he received as a state employee. He used frequent flyer mileage, all or in part earned by state travel, for personal benefit. Mr. Grefenberg obtained personal benefits from his state travel primarily from frequent flyer benefits.

We also looked for other possible benefits that Mr. Grefenberg might have derived from state travel including hotel accommodations, higher coach fares, and extending days in travel status for personal reasons. We were unable to determine if Mr. Grefenberg received any additional benefits through any of these means.

We did not find any evidence of financial improprieties relating to the Minnesota Vietnam Veterans Memorial project. We found no evidence that Mr. Grefenberg maintained a second set of financial records for the project.

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Audit Participation

The following members of the Office of the Legislative Auditor prepared this report:

John Asmussen, CPA	Deputy Legislative Auditor
Jeanine Leifeld, CPA	Audit Manager
Marla Conroy, CPA	Investigator
Jenny Lee	Senior Auditor

Chapter 1. Introduction

Background

The Capitol Area Architectural and Planning Board is responsible for architectural design and comprehensive planning for the Capitol area. Its role is to preserve and enhance the architecture of the area, and develop a framework for future growth. By law, the Lieutenant Governor serves as the Chair of the Capitol Area Architectural and Planning Board.

On December 30, 1994, former Lieutenant Governor Joanell Dyrstad notified the Office of the Legislative Auditor that the state had conducted a personnel investigation of Mr. Gary Grefenberg, the executive secretary of the Capitol Area Architectural and Planning Board. During the course of the personnel investigation, certain allegations of financial improprieties had arisen. On January 4, 1995, Lieutenant Governor Joanne Benson requested that the Legislative Auditor investigate the allegations of misuse of public funds.

Objectives

In conducting our investigation, we asked the following questions regarding Mr. Grefenberg's actions as executive secretary of the Capitol Area Architectural and Planning Board:

- Did Mr. Grefenberg receive personal benefits from traveling on state business?
- Did Mr. Grefenberg inappropriately maintain a second set of financial records for the Minnesota Vietnam Veterans Memorial project?

Methodology

In order to conduct the investigation, we examined documents related to Mr. Grefenberg's out-of-state travel, including travel expense authorizations and expense reimbursement forms for the period from March 1988 through December 1994. We also obtained Mr. Grefenberg's WorldPerk account records from Northwest Airlines for the period from October 1986 through January 1995. Mr. Grefenberg also provided us his WorldPerk account statements for the period from July 1993 through December 1994. We analyzed the mileage accumulated and benefits received. We discussed travel policies and procedures with board staff.

We reviewed selected Minnesota Vietnam Veterans Memorial financial records maintained both at the Capitol Area Architectural and Planning Board offices and at the Department of Veterans Affairs. We compared financial status reports to expenditure records related to the project. We discussed the financial management of this project with both Department of Veterans Affairs and with board staff.

In addition, we took sworn testimony from Mr. Grefenberg on March 24, 1995.

Chapter 2. Personal Benefits from Traveling

Chapter Conclusions

Mr. Grefenberg did not comply with state laws and policies concerning the use of travel benefits he received as a state employee. He used frequent flyer mileage, all or in part earned by state travel, for personal benefit. Mr. Grefenberg obtained personal benefits from his state travel, primarily from frequent flyer benefits.

We also looked for other possible personal benefits that Mr. Grefenberg might have derived from state travel including hotel accommodations, higher coach fares, and extending days in travel status for personal reasons. We were unable to determine if Mr. Grefenberg received any additional benefits through any of these means.

In this chapter, we attempted to answer the following question:

Did Mr. Grefenberg receive personal benefits from traveling on state business?

Table 2-1 shows the details of all of Mr. Grefenberg's out-of-state business trips between March 1988 and December 1994.

State employees or elected state officials may not receive any personal benefits from state business trips when traveling at state expense. The code of ethics for employees in the executive branch, contained in Minn. Stat. Section 43A.38, speaks generally about personal benefits for state employees. Subd. 2 of that section provides, in part, that:

Employees in the executive branch in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive to any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source, except the state for any activity related to the duties of the employee unless otherwise provided by law.

In November 1982, the Commissioner of Employee Relations issued a personnel directive concerning travel to all agency heads and personnel directors. The directive addressed questions regarding airline carriers providing cash payments, discount coupons, and free tickets to state employees traveling at state expense. The directive concluded that compensation from airlines, whether paid to delayed passengers or as a reward for frequent trips, was the property of the state and that employees were to remit any such benefits back to the state.

Table 2-1 - Analysis of Mr. Grefenberg's out of state travel from 1988 - 1994

			Class of			No. of	Average Nightly
Date	<u>Destination</u>	Trip Purpose Cited	<u>Service</u>	Total Airfare	Hotel	Nights (5)	Cost (10)
March 1, 1988	Chicago, IL	Consultant Mtg.	Coach	\$ 385.00	Unknown	1	\$196.21
May 12, 1988	New York, NY	Convention/Mtgs.	First Class	670.00 (6)	UN Plaza Hotel	2	220.01 (2)
Sept. 5, 1988	Edmonton, Canada	Consultant Mtg.	First Class	587.35 (7)	Unknown	3	167.13
Oct. 20, 1988	Washington, D.C.	Consultant Mtg.	First Class	579.00 (6)	Park Hyatt	2	223.20 (2)
Mar. 29, 1989	Portland, WA	Light Rail Transit	First Class	1,288.00 (6)	Various	5	192.80 (1)
April 21, 1989	Chicago, IL	Sears Corp. Mtg.	Coach	322.00	Unknown	1 '	191.08
May 5, 1989	Boston, MA	Conference/Mtg.	First Class	802.50 (7)	Unknown	3	197.46
July 28, 1989	Washington, D.C.	Consultant Mtg.	Coach/First	700.00 (7)	Park Hyatt	3	170.59
Dec. 11, 1989	Washington, D.C.	Consultant Mtg.	First Class	700.00 (6)	Park Hyatt	2	234.60 (3)
Jan. 28, 1990	Washington, D.C.	Consultant Mtg.	First Class	728.00 (6)	Unknown	2	217.95
April 18, 1990	Boston, MA	Consultant Mtg.	First Class	824.50 (6)	Boston Hbr. Hotel	2	213.92
Dec. 3, 1990	Washington, D.C.	Memorial Placement	First Class	397.50 (6)	Park Hyatt	3	177.99
Oct. 4, 1991	Lincoln, NE	Conference	Coach	298.50	Cornhusker Hotel	2	96.36
Oct. 30, 1991	San Francisco, CA	Conference	First Class	408.00 (6)	Park Hyatt Hotel	4	248.86 (3)
Dec. 14, 1991	New York, NY	Consultant Mtg.	First Class	508.00 (6)	Rihga Royal Hotel	2	265.38 (3)
Jan. 1, 1992	Portland, OR	Workshop	First Class	388,00 (6)	Heathan Hotel	3	103.55
July 15, 1992	New York, NY	Consultant Mtg.	First Class	403.00 (6)	Park Hyatt Hotel	2	270.31 (3)
Nov. 8, 1992	New York, NY	Consultant Mtg.	First Class	846.00 (6)	Park Hyatt Hotel	2	246.46 (4)
Jan. 13, 1993	New York, NY	Project Mtgs.	First Class	786.00 (6)	Park Hyatt Hotel	3	230.56 (4)
May 20, 1993	Atlanta, GA	Consultant Mtg.	Coach	251.00	Swissotel	3	201.52
Oct. 18, 1994	New York, NY(8)	Consultant Mtg.	First Class	453.00 (6)	Park Hyatt Hotel	2	210.51 (9)

- (1) Mr. Grefenberg limited the reimbursement of hotel charges to \$154 plus taxes per night.
- (2) Mr. Grefenberg limited the reimbursement of hotel charges to \$185.00 plus taxes per night.
- (3) Mr. Grefenberg limited the reimbursement of hotel charges to \$195.00 plus taxes per night See Attachment 2.
- (4) Mr. Grefenberg limited the reimbursement of hotel charges to \$200.00 plus taxes per night.
- (5) "No. of nights" indicates the number of hotel nights the board reimbursed the hotel charges. In some cases, Mr. Grefenberg extended his hotel stay at his own expense.
- (6) The board reimbursed Mr. Grefenberg only for the coach fare. Mr. Grefenberg upgraded his airline ticket to first class travel at his own expense, or by using a fly write coupon.
- (7) Ticket information not available other than the cost reimbursed to Mr. Grefenberg.
- (8) Although Mr. Grefenberg stayed in New York City, his business destination was West Port, Connecticut.
- (9) Mr. Grefenberg has requested that he be reimbursed at an average of \$162.50, plus taxes, per night. The board has not reimbursed Mr. Grefenberg for this trip.
- 10) In some cases, the hotel rate varied per night during the stay. Average nightly cost includes all applicable taxes.

In 1992, the legislature passed a law specifically addressing airline travel credit. Minn. Stat. Section 15.435, effective August 1, 1992, provides that:

Whenever public funds are used to pay for airline travel by an elected official or public employee, any credits or other benefits issued by any airline must accrue to the benefit of the public body providing the funding.

Frequent Flyer Benefits Received by Mr. Grefenberg

Mr. Grefenberg obtained a WorldPerk account from Northwest Airlines in 1985. The WorldPerk free travel program allows members to accumulate miles for free air travel. Under the program, once a member accumulates 20,000 WorldPerk miles, Northwest Airlines issues a flywrite coupon to the member. Members can exchange flywrite coupons for free round trip tickets within the continental United States. Members can also choose to exchange these coupons for upgrades from coach class to first class travel when purchasing certain coach fare tickets.

Mr. Grefenberg routinely accumulated both business and personal benefits into a single WorldPerk account. He earned mileage credits from a number of sources, including:

- Airline travel on Northwest Airlines
- Credit card purchases, when using a WorldPerk credit card
- Long distance telephone charges, when using an MCI telephone credit card
- Hotel charges when participating as a Park Hyatt Hotel Gold Passport Card member

We considered mileage Mr. Grefenberg accumulated from any of these sources to be the property of the state, if the board had paid for the travel. For example, when traveling on state business, Mr. Grefenberg charged his air fare and travel expenses to his WorldPerk credit card, thereby earning frequent flyer mileage. Mr. Grefenberg also was a Park Hyatt Hotel Gold Passport card member. The Gold Passport Program allowed him to earn 500 bonus miles on his Northwest Airlines WorldPerk account when staying at a Park Hyatt Hotel.

Mr. Grefenberg accumulated 118,849 WorldPerk miles between October 1986 and January 1995, as a result of traveling on state business. Table 2-2 shows a summary of Mr. Grefenberg's WorldPerk account activity for this period.

Table 2-2
Summary of Mr. Grefenberg's WorldPerk Account
1986 - 1995

State Travel - Miles Accumulated Personal Travel - Miles Accumulated	118,849 (1) <u>97,417</u>
Total Miles Accumulated	216,266
Total Miles Issued in Flywrite Coupons	200,000
Mileage Balance as of January 1995	<u> 16,266</u>

⁽¹⁾ Amount includes 22,454 miles accumulated through credit card purchases, hotel bonus programs, and long distance telephone charges incurred at state expense.

Source: Northwest Airline WorldPerk account statements from October 1986 through January 1995.

Mr. Grefenberg did not return any of his frequent flyer mileage to the state. He did not use the resulting flywrite coupons for state purposes. Rather, he used his frequent flyer mileage, all or in part earned by state travel, for personal benefit by transferring flywrite coupons to other non-state parties, upgrading tickets from coach to first class, and by taking personal vacations. Table 2-3 summarizes the benefits Mr. Grefenberg received under the WorldPerk Program.

Table 2-3 - Mr. Grefenberg's Use of FlyWrite Coupons

<u>Date Issued</u> March 1988	State Business Miles 20,000	Personal Miles 0	Total Miles <u>Redeemed</u> 20,000	Use Personal-Upgrade for trip to Europe
September 1988	19,500	500	20,000	Personal-Upgrade for trip to Europe
June 1989	18,442	1,558	20,000	Personal-Upgrade for trip to Europe
October 1989	4,538	15,462	20,000	Unknown - not available from Northwest Airlines.
May 1990	9,796	10,204	20,000	Personal - transferred to another party
January 1991	9,991	10,009	20,000	Unused-Expired
November 1991	1,993	18,007	20,000	Personal - transferred to another party
February 1992	15,033	4,967	20,000	Personal - transferred to another party
November 1992	8,346	11,654	20,000	Issued but not used
April 1994	7,708	12,292	20,000	Issued but not used
Total	<u>115,347</u> (1)	<u>84,653</u>	200,000	

⁽¹⁾ Of the total of 118,849 state travel miles accumulated (Table 2-2), Northwest Airlines has redeemed 115,847 in flywrite coupons

Source: Northwest Airline WorldPerk and state travel expense records for October 1986 through January 1995.

We estimated that the board would have saved \$3,354 if Mr. Grefenberg had used his state earned frequent flyer benefits to defray the costs of subsequent out-of-state trips. In order to arrive at the amount of potential savings, we reconstructed Mr. Grefenberg's frequent flyer mileage, as if he had maintained a separate business WorldPerks account. Based on the frequent flyer mileage Mr. Grefenberg accumulated at state expense, we determined that Mr. Grefenberg would have received the equivalent of five free round trip tickets between 1986 and 1995. Table 2-4 shows the trips for which we believe Mr. Grefenberg could have used available flywrite coupons for state business trips. We based the estimated savings on the actual cost of subsequent trips for which

Mr. Grefenberg should have used a Flywrite coupon. We did not consider the value of the personal benefits Mr. Grefenberg received by personally using the flywrite coupons.

Table 2-4 State Business Trips Where Flywrite Coupons Should Have Been Used 1988 - 1994

<u>Date</u> March 1, 1988	<u>Destination</u> Chicago	<u>Cost</u> \$ 385.00
March 29, 1989	Portland and San Francisco	\$1,288.00
April 18, 1990	Boston	\$ 824.50
July 15, 1992	New York	\$ 403.00
October 27, 1994	New York (1)	\$ 453.00
Total	-	<u>\$3,353.50</u>

⁽¹⁾ Mr. Grefenberg has not been reimbursed for the cost of this trip.

Source: Office of the Legislative Auditor analysis of Mr. Grefenberg's WorldPerk account.

During our review, we also found that the board reimbursed Mr. Grefenberg for telephone charges exceeding the maximum limit allowed under his bargaining agreement, the Managerial Plan. The maximum personal telephone reimbursement for employees in travel status under the Managerial Plan is two dollars per night. Since 1991, Mr. Grefenberg charged a total of \$33 more for telephones than the Managerial Plan allowed. There was no documentation in the travel reimbursement records to indicate that the excess telephone charges were business related.

Pursuant to Minn. Stat. Section 3.975, we have referred this report to the Attorney General. It is the Attorney General's responsibility to coordinate any reimbursements from Mr. Grefenberg for airline benefits he received while traveling at state expense, and for any excessive telephone charges he claimed.

Other Potential Personal Benefits Received by Mr. Grefenberg

We also looked for other possible personal benefits that Mr. Grefenberg might have derived from state travel including hotel upgrades, higher coach fares, and extra days in travel status.

Mr. Grefenberg set the maximum hotel reimbursement rates allowed for board employees. The bargaining unit agreements allow for a "reasonable hotel reimbursement." Mr. Grefenberg defined the maximum reimbursement rate for the board staff. Attachment A is the board's Employee Expense Reimbursement Policy as of September 1989. As the policy states, from 1985 through 1989, the daily hotel reimbursement maximum was \$180 per night, with local or state taxes added to the maximum. In September 1989, Mr. Grefenberg revised the maximum allowed to \$195 per night plus taxes. In the fall of 1992, Mr. Grefenberg again increased the maximum allowed to \$200 per night.

Mr. Grefenberg chose to stay in deluxe hotels during many of his business trips. On a trip to San Francisco in 1991, Mr. Grefenberg did not stay in the conference designated hotel. Instead, he stayed at a nearby Park Hyatt Hotel. As a result, Mr. Grefenberg paid an average rate of \$248.86 per night, in contrast to the hotel block rate of \$138.75 per night offered through the conference. Of the \$248.86 nightly room rate, the board reimbursed Mr. Grefenberg an average of \$212 per night. Mr. Grefenberg also upgraded his hotel room to a suite on three of his business trips. It appears that the state did not incur any additional costs for these upgrades.

We also found that Mr. Grefenberg often purchased higher coach class airfares than may have been necessary. These higher fares allowed him to upgrade his tickets to first class. There are various classes of coach fares. Northwest Airlines only allows passengers purchasing certain higher cost coach tickets to upgrade to first class. Mr. Grefenberg purchased these higher cost coach fares, for which the board reimbursed him. When upgrading to first class, Mr. Grefenberg either paid the difference in cost or used a flywrite coupon. We were unable to determine whether lower airfares may have available at the time of purchase for these business trips.

Finally, we reviewed Mr. Grefenberg's length of stays while attending meetings or conferences. We attempted to determine whether, on any of the trips, he had extended his travel status for personal reasons. We were unable to determine whether Mr. Grefenberg extended any of his out-of-state business trips for personal benefit.

Other Observations

Beyond the issue of frequent flyer usage, we made several other observations as a result of our investigation. First, when reviewing Mr. Grefenberg's out-of-state travel, it became apparent that Mr. Grefenberg had high travel standards. He stayed in deluxe hotels and flew first class on many occasions. By purchasing higher coach fares, Mr. Grefenberg was able to routinely upgrade to first class. Although the state reimbursed Mr. Grefenberg for the coach fares, the state did not pay for the first class upgrades. He established an internal hotel reimbursement policy which allowed him to stay at preferred hotels, rather than seeking lower cost hotel rates. Although we could not determine the incremental costs to the state for many of these travel decisions, we believe that, generally, Mr. Grefenberg's travel standards exceeded those considered reasonable for a state employee.

In addition, Mr. Grefenberg did not use the services of the state's preferred travel agency. In 1991, the Department of Administration contracted with a travel agency, Carlson Travel Network, to assist state employees in their travel needs. The preferred travel agency guaranteed lowest applicable air fares, lowest hotel room rates using applicable government rates, and lowest car rental rates. While not required, the Department of Administration has recommended that agencies use the preferred travel agency to minimize their travel costs.

Finally, Mr. Grefenberg did not seek board approval prior to traveling. In his sworn testimony, Mr. Grefenberg stated that, although the board was generally aware of his travel plans, the board did not formally approve his travel arrangements, days in travel status, or the associated costs. Because of this, Mr. Grefenberg did not have to justify his decisions to the board concerning airfares, hotel choices, and length of stay.

We believe that, in light of this investigation, the Capitol Area Architectural and Planning Board should reconsider some of its travel practices. The board should set travel policies for the staff, including the use of flywrite coupons accumulated at state expense. The board should set reasonable limits for travel reimbursements, including hotel charges. We also believe that the board should encourage the use of the state's preferred travel agency whenever possible. Finally, we believe that the board should be actively involved in discussing and approving out-of-state travel by employees before the trips occur.

Chapter 3. The Minnesota Vietnam Veterans Memorial

Chapter Conclusion

We did not find any evidence of financial improprieties relating to the Minnesota Vietnam Veterans Memorial project. We found no evidence that Mr. Grefenberg maintained a second set of financial records for the project.

In this chapter, we attempted to answer the following question:

Did Mr. Grefenberg inappropriately maintain a second set of financial records for the Minnesota Vietnam Veterans Memorial Project?

The Capitol Area Architectural and Planning Board coordinated the construction of the Minnesota Vietnam Veterans Memorial on the capitol mall. The board received \$130,000 from the Department of Veterans Affairs for the memorial's preliminary planning and design selection. The project was coordinated with the Department of Veterans Affairs, the Department of Administration, and Minnesota Vietnam Veterans Memorial, Inc., a private, non-profit organization. The non-profit organization conducted fund raising for the construction of the memorial. Upon completion of the design phase, the Department of Administration oversaw the construction of the memorial.

In reviewing this project, we analyzed selected project status reports. We compared the reported expenditures to the Statewide Accounting System. From the records reviewed, the financial information prepared by Mr. Grefenberg and presented to the Department of Veterans Affairs appeared accurate. We also reviewed selected financial records at the Department of Veterans Affairs. We compared these records to those maintained at the board office. On the basis of the evidence reviewed, we found that the financial information from these two sources agreed. We found no evidence that Mr. Grefenberg maintained a second set of financial records for the Minnesota Vietnam Veterans Memorial project. We also did not find any evidence of financial improprieties relating to the project.

SF-00006-05 (4/86)

STATE OF MINNESOTA

DEPARTMENT : CAAPB

Office Memorandum

DATE: May 12, 1989

то: File "CAAPB: Office/Procedures for Employee Expense Reimbursements"

FROM: Gary Grefenberg

Executive Secretary

PHONE :

SUBJECT: MAXIMUM REIMBURSEMENT FOR OUTSTATE TRAVEL

Lodging Maximum

This is to confirm that for the past four to five years the maximum daily hotel reimbursement for CAAPB employees is \$180.00 This is the base daily rate; local or state taxes may be applied to this maximum.

This has been our policy for at least the last four years. The purpose of this memo is to confirm this pre-existing policy in writing.

GRG: bh

cc: Sharon Huber

CAAPB Fiscal Officer

\$6-00000-05 (4)63

DEPARTMENT : CAAPB

Office Memorandum

DATE: September 28, 1989

TO: File "CAAPB: Office/Procedures for Employee Expense Reimbursements"

FROM : Gary Grefenberg Executive Secretary

PHONE :

SUBJECT : MAXIMUM REIMBURSEMENT FOR OUTSTATE TRAVEL Revision in Lodging Maximum

> For approximately the past five years the maximum daily hotel reimbursement for CAAPB employees has been \$180.00. This is the base daily rate; local or state taxes may be applied to this maximum.

> The purpose of this memo is to revise this CAAPB maximum to \$195.00, effective immediately.

> The additional amount was derived at by comparing the new Managerial Plan's expense reimbursement maximums for lunch and dinner with the previous maximums, as follows

for "non-expensive areas" the lunch maximum was raised 7.1% and the dinner maximum 12.5%, for a combined raise in the maximum of 10.5%; for "expensive metro areas" the lunch maximum was raised 6.3% and the dinner maximum 10.7%, for a combined raise of 8.3%.

I made the determination that we should follow the precedent of the "expensive metro area" raise, and therefore increased the internal CAAPB policy for maximum hotel reimbursements by 8.3% to \$195.00 (rounded up from \$194.94).

GRG: rnd

Sharon Huber cc:

CAAPB Fiscal Officer

q\lodging\$.max