

Civillian Personnel Law Manual

Title IV — Relocation, Supp. 1979

OFFICE OF GENERAL COUNSEL
U.S. GENERAL ACCOUNTING OFFICE

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FOREWARD

In May of 1977, Title IV, Relocation, of the Civilian Personnel Law Manual was issued reflecting decisions of the General Accounting Office in effect through March 31, 1978. We are pleased to announce distribution of the 1979 Supplement to Title IV reflecting decisions of this Office from April 1, 1978, through September 30, 1979.

The 1979 Supplement follows the same format as the text of Title IV and is intended to be filed as a single unit at the end of Title IV.

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RELOCATION, Supp. 1979

CHAPTER 1

INTRODUCTION

Errata: Chapter 53 should be chapter 33 (1-7)
5 U.S.C. § 922 should be 22 U.S.C. § 922 (1-9)

A. RELOCATION EXPENSES UNDER 5 U.S.C. §§ 5721-5733

Employees covered

Employees assigned to AID (1-2)

A Department of the Interior employee completed an overseas assignment with the Agency for International Development (AID) and was transferred by Interior to Sandusky, Ohio. Since the employee did not receive a Foreign Service appointment while serving with AID, his entitlements should be computed under 5 U.S.C. §§ 5724 and 5724a and the FTR. .192199, January 31, 1979.

Employees not covered

Employees of the Postal Service (1-3)

Employees of a Postal Service contract compliance unit who were transferred to GSA incident to a transfer of functions are not eligible for relocation expenses under 5 U.S.C. §§ 5724 and 5724a. Reimbursement under those sections is restricted to "employees of an agency" which, as defined in 5 U.S.C. §§ 105 and 5721(1), excludes the United States Postal Service. Therefore, individuals who transfer to or from the Postal Service are not eligible for relocation expenses under 5 U.S.C. §§ 5724 and 5724a. 58 Comp. Gen. 132 (1978).

D. RELOCATION EXPENSES UNDER THE FOREIGN SERVICE ACT

Employees not covered

Foreign Service personnel assigned under the Intergovernmental Personnel Act (1-10)

The entitlement to travel and transportation expenses of Foreign Service personnel detailed under the Intergovernmental Personnel Act (IPA) is governed by the

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provisions of that act, specifically 5 U.S.C. § 3375. That section authorizes reimbursement of certain expenses in accordance with chapter 57 of title 5 of the United States Code and the FTR. Thus, while the travel expenses of Foreign Service personnel are normally paid pursuant to the Foreign Service Act and the Foreign Service Travel Regulations, expenses incurred incident to an IPA assignment are payable only insofar as authorized by 5 U.S.C. § 3375. B-190182, September 5, 1978.

CHAPTER 2

GENERAL CONDITIONS AND REQUIREMENTS

Errata:

B-189745 should be B-187405 (2-15)
Delete last two lines (2-28)
Delete first two lines (2-29)

A. GENERAL REQUIREMENTS

Service agreements

Requirement to execute agreement

Failure to execute agreement--

Exception for actual service (2-2)

Where an employee was notified that his agency intended to transfer him and he incurred expenses in reliance on the intended transfer, the expenses are reimbursable even though the transfer was cancelled and the employee did not execute a service agreement. The employee remained in the Government service for 12 months after the date the transfer was cancelled and thus satisfied the 12-month service obligation imposed by 5 U.S.C. § 5724(i). 57 Comp. Gen. 447 (1978).

Government vs. agency service (2-2)

The holding in Finn v. United States, 192 Ct. Cl. 814 (1970) does not apply to the Postal Service, which is not an agency within the terms of 5 U.S.C. §§ 5724 and 5724a. Thus, the Postal Service can require its employees to execute service agreements as a condition to payment of relocation expenses obligating them to remain in the Postal Service, rather than the Government service, for a period of time following transfer. A Postal Service employee who signed such a 12-month service agreement, but transferred to the Department of the Interior within 12 months, violated that agreement and is obligated to repay relocation expenses. B-191991, December 1, 1978.

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Release from service agreements (2-4)

An employee transferred overseas, who signed a 36-month service agreement, resigned after 1 year because of a dispute with the agency concerning his job assignments. The agency's decision not to pay the expenses of his return travel, based on its determination that his separation was not for reasons beyond his control and acceptable to the agency, is not improper. The acceptability of the reasons for an employee's resignation prior to completion of his agreed period of service is for determination by the agency involved and is reviewable only if the facts establish that the determination was arbitrary or capricious. B-191081, July 26, 1978. To the same effect, see B-193456, December 28, 1978, involving an employee who retired voluntarily after only 5 months of service.

Successive transfers (2-5)

After signing a transportation agreement, an employee was transferred from Barksdale AFB, Louisiana, to Lajes Field, Azores. Three months later she returned to her former position at Barksdale AFB at her own request. The employee is not required to reimburse relocation expenses paid by the Government in connection with her transfer to Lajes Field, provided she remains in the Government service for 12 months. B-194836, August 28, 1979.

Cancelled transfer (2-6)

Where an employee's transfer is cancelled, the 12-month period of required service begins to run from the date the employee is advised of cancellation. Notwithstanding that a service agreement was not executed at that time, the statutory requirement of 5 U.S.C. § 5724(i) is satisfied where the employee has in fact remained in the Government service for 12 months. 57 Comp. Gen. 447 (1978).

Effective date of transfer or appointment (2-6)

An employee who was issued transfer orders to Washington, D.C., and who reported for duty is entitled to relocation expenses even though his reassignment was subsequently disapproved and he was required to return to New Orleans.

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A transfer is effective on the date the employee reports for duty at his new station. B-192146, March 15, 1979. Compare 58 Comp. Gen. 385 (1979) holding that a transfer was not effective so as to entitle the employee to relocation expenses where he was issued transfer orders and embarked upon change-of-station travel, but resigned before reporting to his new duty station.

Time to begin travel (2-7)

Through administrative error, an employee who was transferred a short distance was not issued travel orders for 2 years after reporting for duty at his new station. Although he delayed moving his family because of management's handling of his travel orders, the employee may not be reimbursed relocation expenses since the 2-year limitation within which travel or transportation must begin has elapsed. B-193814, June 18, 1979. Although an employee's failure to relocate his family until 2 months beyond the 2-year period of limitation may have been due in part to delays in resolving his discrimination complaint, his relocation expenses may not be reimbursed. B-190202, August 14, 1978.

Orders

Authorization of transfer or other relocation action (2-8)

Where travel orders were not issued prior to the date an intended transfer was cancelled, the absence of travel orders is not fatal to the employee's claim for relocation expenses where there is other objective evidence that the agency in fact intended to transfer the employee. 57 Comp. Gen. 447 (1978) and B-191912, April 5, 1979. For a discussion of the circumstances that evidence an agency's intent to transfer an employee refer to the section on "Notice of transfer" at Part B of this Chapter.

Modification of orders (2-9)

Where an agency determined that the employee's transfer was for his own convenience and specifically intended not to reimburse his relocation expenses, the fact that other employees were reimbursed under similar circumstances does not provide a basis to retroactively modify his orders. An exception to the

rule against retroactive modification of travel orders exists only when an error is apparent on the fact of the orders and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence. B-191482, November 7, 1978.

B. TRANSFER

What constitutes a transfer

Transfer vs temporary duty (2-10)

An employee transferred from Cali, Columbia, to Sandusky, Ohio, may not have his reimbursement for indirect travel computed on the basis of authorized travel by way of California under amended travel orders purporting to transfer him first to Davis, California, his duty station prior to the overseas assignment, and then to Ohio. The employee may not be transferred first to a former United States duty station where he is not expected to remain for an extended period of time. The amended travel orders are without legal effect. B-192199, January 31, 1979.

The CSC ordered GSA to restore an employee to his position at his former duty station based on its finding that the reduction-in-force that had led to the employee's transfer was procedurally defective. The later-determined illegality of the personnel action that resulted in the transfer did not convert the new duty station from a permanent to a temporary duty station for the purpose of entitlement to travel expenses. B-194447, August 7, 1979.

Assignments for training (2-11)

An employee's transfer from Alexandria, Virginia, to Baltimore, Maryland, was interrupted by 14 weeks of training at Quantico, Virginia. Notwithstanding that Washington, D.C., was designated as his duty station for administrative purposes while at training, Washington, D.C., was not his permanent duty station. For transfer purposes his old and new duty stations were Alexandria and Baltimore, respectively. B-192614, March 7, 1979, and B-193807, May 21, 1979.

Intergovernmental Personnel Act Assignments (2-12)

An employee of NOAA detailed to the University of California for 1 year under the Intergovernmental Personnel Act is not entitled to both per diem and change of station allowances, although the assignment employee elected to receive per diem, he has no further entitlement. B-193797, May 11, 1979.

Relocation upon reemployment

Reemployment after break in service--

Reemployment after reduction in force

After more than 1 year (2-14)--An employee separated by reduction in force, who was not reinstated to a position at a different geographic location until a period of more than 1 year had elapsed, is not entitled to relocation expenses. Although the delay in obtaining reemployment may have been due to an agency error in failing to list the employee on the Department of Defense Priority Placement List throughout the first year following his separation, and notwithstanding that he was reregistered as a reemployment eligible for an additional period to give him his full year of entitlement to priority job placement, that error does not provide a basis to extend the 1-year period specified in 5 U.S.C. § 5724(a)(c) within which an individual separated by reduction in force must be reemployed to be eligible for relocation expenses. B-195374, September 14, 1979.

Notice of transfer (2-15)

An employee who was informed that he had been selected for a transfer signed a service agreement but moved his dependents before formal travel orders were issued. Expenses incurred prior to the issuance of travel orders may be reimbursed. Even though he was advised that the transfer was subject to higher level approval and that he should not relocate prior to receipt of orders, administrative intent to transfer the employee was demonstrated by preparation of transfer approval documents and the fact that he was given a transfer date for "planning purposes." B-191912, April 5, 1979.

Because of a medical determination that his wife could not remain in Hawaii, an employee entered into a contract to sell his Hawaiian residence on May 24. On July 6 he was orally notified that he would be returned to the mainland and travel orders were issued on July 20. Settlement for the sale of his residence occurred 3 days later. Under the circumstances, his only options were to transfer or separate. When he incurred the real estate expenses, there were compelling reasons in the Government's interest for the transfer and these reasons were the basis for subsequently issuing travel orders approving the real estate expenses. Where such a compelling reason leads the employee to believe he will be transferred and where he actually is transferred, there is substantial compliance with the requirement for a clearly evident intention to transfer him. 58 Comp. Gen. 208 (1979).

Mass transfers (2-16)

Employees were personally informed that their function would be relocated at a specific date. The preliminary offer of transfer, though advising employees that separations may be possible, offered assistance in relocating with the agency. Such preliminary offer of transfer constitutes communication of intent to transfer the employees and, even though the transfer was cancelled, they may be reimbursed for relocation expenses incurred after the date of such notification. 57 Comp. Gen. 447 (1978).

Interest of the Government

Administrative determination (2-17)

The Army determined that an individual formerly employed with the Navy in California sought his transfer to Fort Carson, Colorado, and refused to authorize relocation expenses. That determination was sustained since the Army, acting within its authority, determined that the transfer was for the convenience and benefit of the employee, and such determination is binding in the absence of a showing that it was arbitrary or capricious. B-191228, September 29, 1978, and November 28, 1978.

Basis for determination--

Budgetary constraints (2-18)

Where an employee sought a transfer for personal reasons and, because of a shortage of funds, was accepted for the position and advised that the move would be at his own expense, his travel and transportation expenses are not reimbursable in the absence of an agency determination that the transfer was in the interest of the Government. However, budgetary constraints alone cannot form the basis for denying an employee relocation expenses, if the transfer is found to be in the interest of the Government. B-190487, February 23, 1979.

Transfers for convenience of the employee

At employee's request (2-19)--While at a meeting, an employee learned of a position opening in Sacramento. He wrote a letter requesting to be transferred to Sacramento for "personal reasons" and stating that he understood "a money freeze was in force" and waiving all moving costs. Under the circumstances, the agency's determination that the employee's transfer was for his own convenience is fully supported by the record. B-193666, August 20, 1979. Similarly, an employee who initiated his transfer by a memorandum request for reassignment and completed the transfer by signing a statement acknowledging that the reassignment was at his request and at no expense to the Government was properly determined to have been transferred for his own convenience and at his request. B-191482, November 7, 1978, and B-193631, May 3, 1979.

Transfer outside Merit Promotion Plan (2-20)--An air traffic control specialist requested a transfer to Cleveland under the FAA's Internal Placement Program, a voluntary, noncompetitive program by which employees seek reassignment to other FAA positions at the same grade level. Since the transfer was a lateral transfer, it constitutes an exception to the Merit Promotion Plan and the agency properly determined that the employee's transfer was for his own convenience. B-192105, May 16, 1979. Also see B-144304, September 19, 1979.

Short-distance transfer

Relocation incident to appointment (2-21)

A new appointee to a manpower-shortage category position may not be paid moving expenses for a short-distance relocation of his residence since his new residence was no closer to his first duty station than was his old residence. There is no evidence of other circumstances showing that the relocation was incident to his appointment. B-191393, May 11, 1978.

Local or metropolitan area (2-23)

The words "general local or metropolitan area" as used in FTR para. 2-1.5b(1) are descriptive rather than restrictive. These are general criteria rather than fixed rules to be narrowly applied in all cases involving transfers between official stations which are relatively close to each other. Therefore, it does not follow that for the relocation to be incident to a transfer of duty stations it must invariably result in less commuting time and distance. Thus, where the old duty station and the new duty station are located 77 miles apart and the employee's residence from which he commuted daily 43 miles to the old station is located midway between the two stations, the fact that the employee chose to relocate to the new station rather than continue to commute 45 miles daily, does not preclude a determination that the relocation was incident to the transfer. 58 Comp. Gen. 319 (1979).

Overseas transfer

Actual residence determination (2-23)

Upon transfer overseas, an employee signed a document stating that Copperas Cove, Texas, where he had lived for 2 years prior to that assignment, was his place of actual residence. Under these circumstances the Army properly determined that Copperas Cove was his place of residence for computation of his transportation expenses entitlement, notwithstanding the employee's claim that Ocala, Florida, where he had at one time been assigned, was his residence. B-191143, January 3, 1979.

Erroneous residence determination (2-24)

A former employee of a Government contractor on Guam was subsequently hired by the Navy and was denied a transportation agreement based on the Navy's initial determination that he was a resident of Guam and did not have return transportation rights with the contractor. Subsequently, for the purpose of finding him entitled to a nonforeign post differential, the Navy found that he had in fact had return transportation rights with the contractor, indicating that he had a United States residence. The latter determination was made under regulations listing as classes of eligible employees, virtually the same classes of employees as are entitled to a transportation agreement. Therefore, the employee is entitled to a transportation agreement. B-191012, May 17, 1978.

Funding of transfers

Transfer between agencies

Transfer upon completion of period of overseas duty (2-29)--An Air Force employee in the Canal Zone, who was entitled to travel and transportation costs to his home of record, transferred to a position with the Forest Service in Oregon. The Air Force's payment of travel and transportation expenses to his new station before the effective date of the Forest Service appointment was proper, to the extent that those costs did not exceed the constructive costs of travel and transportation to the employee's home of record. B-195245, September 12, 1979, 58 Comp. Gen. ____.

C. TRAVEL TO FIRST DUTY STATION

First duty station in United States (2-30)

New appointees cannot be reimbursed travel and relocation expenses from Washington, D.C., to their duty stations, where the agency erroneously indicated that Washington was their permanent duty station rather than their temporary duty station while in training for 4 months. New appointees must bear the expense of reporting to their first official duty station, which is the place where the major part of the employees' duties are performed and where they are expected to spend the greater part of their time. B-194642, August 24, 1979, 58 Comp. Gen. ____ . The fact

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that new appointees were erroneously presumed to be appointees to shortage-category positions and were incorrectly advised that their moving expenses would be reimbursed does not provide a basis for payment. B-194032, June 19, 1979.

Shortage-category appointees (2-30)

Manpower-shortage appointees are entitled only to the travel and transportation expenses authorized by 5 U.S.C. § 5723. They are not entitled to expenses for sale and purchase of residences or to subsistence while occupying temporary quarters. B-194341, May 22, 1979. Nor are they entitled to miscellaneous expenses. B-194270, May 9, 1979. The erroneous administrative authorization of such expenses provides no basis for entitlement, since the Government cannot be bound beyond the actual authority conferred on its agents by statute and regulation. B-194341, May 22, 1979.

Relocation incident to appointment (2-31)--Where a shortage-category appointee relocated his residence to a place which did not result in a reduction in the commuting time or distance to his first duty station, the relocation was not incident to his appointment and his moving expenses may not be paid. B-191393, May 11, 1978.

D. RENEWAL AGREEMENT TRAVEL

Eligibility

Employees hired locally (2-33)

While vacationing in Hawaii, an FAA employee applied for another position with that agency in Hawaii. The position was being offered to local applicants only and, upon being accepted, the employee signed a statement to the effect that she was a local hire and not eligible for tour renewal agreement travel. Since under FTR para. 2-1.5h(3)(b) such travel may be denied eligible local hires, and since the claimant was advised that home leave travel would not be authorized, the Government is not liable for the cost of the employee's travel to the continental United States and return. B-191144, March 15, 1979. Similarly, see B-191674, March 29, 1979, involving

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an Air Force member who, while stationed in Oklahoma, applied for an FAA position and was appointed from the local register as a local hire.

An employee was appointed by the Navy in Hawaii from a local register and was advised that, as a local hire, he was not entitled to tour renewal agreement travel. The agency had authority to deny such travel entitlement to local hires under FTR para. 2-1.5h(3)(b)(iii). The fact that he was appointed without a break in service from an agency which had granted him entitlement to home leave travel is not controlling. B-190590, February 21, 1979.

Points of travel

One-trip limitation (2-35)

While in North Carolina, an intermediate point on authorized home leave travel to California, the employee was notified of transfer from Newfoundland to the Azores and was required to return to Newfoundland to complete transfer arrangements. Under amended orders authorizing home leave in California en route to the Azores, he traveled to Dallas, Texas, for leave before reporting to his new duty station. Because he was reimbursed for that travel, the agency questioned whether he was also entitled to be reimbursed for the round trip to North Carolina. An employee is entitled to round-trip travel expenses only for one home leave trip. Although the cost payable by the Government for travel to an alternate home leave point is generally restricted to the cost actually incurred, not to exceed the constructive cost to the place of actual residence, the employee should be reimbursed his travel expenses not to exceed the constructive cost of one round trip between Newfoundland and Dallas and the constructive cost of a trip from Newfoundland to the Azores. B-192619, July 23, 1979.

Funding of renewal agreement travel (2-37)

A Department of the Interior employee who satisfactorily completed an overseas tour of duty returned to the United States for home leave upon signing a tour renewal agreement. He arranged a transfer to AID while on home leave, effective on the termination of his home leave. The employee's salary should be charged to the Department of

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the Interior appropriation for the period of home leave since the employee earned it as an Interior employee and the effective date of his transfer to AID, agreed to by Interior, was after the completion of home leave. 58 Comp. Gen. 633 (1979).

E. SEPARATION TRAVEL

Eligibility

Employees hired locally (2-37)

An employee who was an overseas local hire and who did not sign a transportation agreement at the time of his appointment is not entitled to reimbursement of transportation expenses to his home of record in the United States at the time of his separation. 58 Comp. Gen. 385 (1979).

F. REMEDIES

Erroneous overpayments

Waiver (2-39)

The waiver authority of 5 U.S.C. § 5584 does not extend to indebtedness resulting from the overpayment of travel and transportation expenses allowances and relocation expenses. B-188597, January 15, 1979.

Back Pay Act (2-39)

An employee who was transferred to a new duty station filed a complaint alleging discrimination in the transfer. The CSC ruled that the transfer was based on race and sex discrimination and the agency retroactively restored the employee to her former position at her old duty station. The corrective action taken did not change her interim duty station from permanent to temporary and the employee may not be paid per diem while stationed at the new duty station for 3 years. There is no basis under the Back Pay Act for payment of such expenses and neither the Civil Rights Amendments of 1964 nor its implementing regulations provide for the payment of such expenses. However, the employee is entitled to relocation expenses incident to two transfers. B-191056, June 5, 1978. See also B-190332, April 26, 1978.

CHAPTER 3

TRAVEL OF EMPLOYEE AND IMMEDIATE FAMILY

Errata:

B-186975, March 16, 1975,
should be B-186975, March 16, 1977 (3-17)

B-189489, June 7, 1970,
should be B-189489, June 7, 1978 (3-19)

Prior decisions affected:

57 Comp. Gen. 76 (1971) applied prospectively (3-17)

B. ELIGIBILITY

Incident to relocation

New appointment (3-2)

Where new appointees were told to report to Washington, D.C., for 4 months, during most of which period they were assigned to training in Georgia, and were thereafter assigned to permanent duty stations other than Washington, Washington was improperly designated as their first duty station. As new appointees, they may not be reimbursed travel expenses for reporting to their subsequently assigned permanent duty stations, which were in fact their first duty stations. However, new hires who traveled to training sites en route to those first duty stations may be authorized travel expenses in excess of what would have been incurred in traveling directly from the employees' homes to their first duty station. B-194642, August 24, 1979.

Immediate family

Parents of employee or spouse

Surrogate parents (3-7)--An employee may not be reimbursed travel and transportation expenses for an aunt who raised him since age 9 since he was never legally adopted by his aunt and, therefore, she is not within the definition of "immediate family" contained in FTR para. 2-4.1d. The term "dependent parent"

as used in that regulation has reference only to dependent parents (including step and legally adoptive parents) of the employee or his spouse. B-194127, August 10, 1979.

Dependent in-laws (3-7)--An employee's mother-in-law, who resides in Belize, Central America, with her husband and six children, was visiting the employee's family on a 3-month visa at the time of his transfer and was dependent upon him for support during her visit. She was not a member of the employee's immediate family within the purview of 5 U.S.C. § 5724(a)(3). B-194350, September 14, 1979.

Children

Children under age 21--

Legal wards, guardianship (3-8)

Prior to beginning permanent change of station travel, an employee was granted temporary custody of her niece. The niece's travel expenses may not be reimbursed since at the time the transfer occurred, the term "immediate family" as defined in the JTR covered only children, stepchildren, and adopted children. A change the following year in that definition to include legal wards and other dependent children who are under the legal guardianship of the employee is not applicable to the employee's transfer which was accomplished before the regulations were changed. B-193958, May 29, 1979.

D. TIME LIMITATION (3-13)

A shortage-category appointee to a position in Idaho did not move his family from California until 26 months after he reported for duty. The delay was attributed by the employee to the fact that he had filed a discrimination complaint based on his failure to be appointed to a position in Oregon and his desire not to move his family until the matter of his possible appointment to the position in Oregon was resolved. The fact that the discrimination complaint was not resolved for more than 2 years, after the period allowed by FTR para. 2-1.5a(2) for beginning travel had passed, does not provide a basis

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to allow transportation expenses for the employee's family. B-190202, August 14, 1978.

An employee transferred in November 1975 may be reimbursed expenses for his family's travel even though the record is unclear as to whether they traveled to the new duty station in November or December 1975. The only requirement with regard to the timing of dependents' travel incident to transfer is that all transportation for dependents must begin within 2 years from the date the employee reports for duty at the new duty station. B-191597, November 8, 1978.

E. GENERAL TRAVEL PRINCIPLES

Trip to port to ship POV (3-16)

Since an employee assigned to training overseas is not entitled to transportation of his POV at Government expense, he may not be reimbursed for the expense of his round-trip travel to the port of debarkation to pick up his automobile. 58 Comp. Gen. 253 (1979). Also see Chapter 11, Part G, of this title.

Use of United States air carriers (3-16)

Where an employee on home leave travel from Paris to San Francisco took a rest stop in London, the rest stop was so near to the point of origin as to be superfluous and resulted in diversion of revenues to foreign air carriers from United States air carriers in violation of the Fly America Act, 49 U.S.C. § 1517. However, the employee need not be assessed a penalty since his home leave travel predated November 14, 1977, the date of 57 Comp. Gen. 76 (1977). B-192548, April 18, 1979. The Fly America Act is discussed at length in Title III, Travel Expenses, at Chapter 4, subchapter I, Part H.

F. TRANSPORTATION EXPENSES

Modes of travel, generally

Rental car (3-17)

Incident to his transfer from overseas to Maryland, an employee who was authorized the use of his privately owned vehicle upon return in fact had no vehicle at his disposal. Upon arrival at Dulles Airport, he rented a vehicle for his general use in which he drove

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50 miles to his temporary place of residence. Under the particular circumstances, the employee may be reimbursed for travel from the air carrier terminal based on the pro rata cost of the rented car, not to exceed the usual taxicab or limousine fare. His reimbursement is not limited to the mileage rate for travel by privately owned vehicle. B-194061, September 2, 1979.

Travel by air

Attendant for child (3-17)

The wife and 16-month-old twins of a transferred employee traveled part of the distance by air between the old and new stations prior to the employee's travel. Airline regulations required an adult to accompany each child under 2 years of age. Although the employee was not specifically authorized airfare for an attendant to accompany the second twin, he may be reimbursed such airfare as attributable to the child's travel. B-191284, September 22, 1978, and B-183563, May 4, 1976.

Reimbursement limitation

Distance (3-19)

Although the mileage tables show a distance of 38 miles between Avery, Idaho, and Silverton, Idaho, the employee's old and new duty stations, he may be reimbursed travel expenses based on a distance of 106 miles by usually traveled route since the 38-mile direct route is unsafe, due to steep slopes, narrowness and an unsafe bridge. B-192142, March 21, 1979.

Deviations

Personal travel (3-20)--An employee transferred from Cali, Columbia, to Ohio, with temporary duty in Denver, Colorado, who traveled by way of Florida and Connecticut for personal reasons, is entitled only to transportation expenses based on direct official travel. B-192199, January 31, 1979.

POV not driven (3-25)

An employee transferred from Florida to Connecticut was

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authorized use of his automobile. He drove from Miami to Sanford, Florida, took Auto-Train to Lorton, Virginia, and drove from there to Danbury. Since the cost of travel as performed by the employee and his dependents was less than if they had driven the entire distance, he was properly reimbursed the total Auto-Train fare, including the amount allocable to shipment of his automobile. B-194267, September 6, 1979.

G. PER DIEM

Generally

Prior return of dependents (3-26)

Where an employee's dependents returned to the United States from overseas nearly 1 year prior to the date of the employee's transfer under orders authorizing their early return, there is no basis for payment of their per diem. B-194061, September 12, 1979.

Travel by POV

Less than 300 miles per day (3-27)

An employee transferred from Washington, D.C., to Anchorage, Alaska, a distance of 4,400 miles, was authorized 15 days traveltime based on a minimum of 300 miles per day traveled. In fact the trip took 50 days. The employee attributed the delay to the fact that he chose to transport his household goods himself and encountered a series of mishaps requiring periodic layovers en route. Although the delays may not have been anticipated, they were not officially necessary or related to Government business, and they may not be reimbursed in the form of a per diem allowance. B-193393, April 17, 1979.

Per diem not extended

Delay to pick up POV (3-31)

An employee who was authorized use of his automobile incident to his transfer from Honolulu to Atlanta, incurred 2 additional days of living expenses in Los Angeles while awaiting delivery the of automobile at port. Where delivery of the automobile was not delayed due to circumstances beyond the employee's

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**control, additional per diem may not be allowed.
B-193935, June 18, 1979.**

Rate of per diem (3-32)

In December 1976, when the employee reported to his new duty station, his daughter was age 11. By April of 1977, when she traveled to join him, she was age 12. Her per diem for travel is to be determined on the basis of her age at the time she traveled. Thus, the employee is entitled to be reimbursed for his daughter's travel at the per diem rate for a dependent of age 12. 57 Comp. Gen. 700 (1978).

CHAPTER 4

MISCELLANEOUS EXPENSES

B. ELIGIBILITY

Location of duty stations

First duty station (4-1)

Even though a new appointee in a manpower-shortage category was given incorrect information regarding his entitlement to miscellaneous expenses and his written authorization for moving expenses reflected that information, his claim must be denied since FTR para. 2-1.5f(4) specifically prohibits payment of those allowances. B-194270, May 9, 1979.

F. DETERMINING AMOUNT OF REIMBURSEMENT

With- or without-family rate

Employees without immediate family

Employee does not join family (4-7)--An employee's dependents returned from overseas nearly 1 year before the date of the employee's transfer under orders for their prior return. The employee did not join his family upon his arrival because he and his wife were separated. Since the employee's family did not discontinue a prior residence and establish a new residence in connection with the employee's transfer, the employee is entitled to the miscellaneous expenses allowance of \$100 authorized for employees without immediate family. B-194061, September 12, 1979.

Family remains at old residence (4-7)--Since the employee's dependents did not accompany him to his new station but remained at the old station, the employee is entitled to the \$100 miscellaneous expenses allowance authorized for employees without immediate family. B-192343, November 15, 1978.

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G. REIMBURSABLE EXPENSES

Adjustments to old furnishings

Grandfather clock (4-11)

An employee transported a grandfather clock in connection with his change of station. While the cost of disassembling and reassembling the grandfather clock in connection with its relocation is not allowable as a miscellaneous expense where the clock was part of his household goods shipped under the commuted-rate system, the cost of servicing, leveling, and adjusting the clock, if it can be determined, may be recovered as a miscellaneous expense since it is associated with installation of the clock in the new residence. B-190444, May 30, 1978.

Disconnection and connection

Equipment

Swimming pool (4-11)--Charges for dismantling and installing a swimming pool may be reimbursed under the miscellaneous expenses allowances. B-191724, March 29, 1979.

Utility fees and deposits

Refundable or non-refundable (4-12)

An employee claims reimbursement for the deposit for electrical and gas utilities. The employee may not be reimbursed for the gas deposit as a miscellaneous expense since it is refundable. The electrical deposit may be reimbursed if it is determined to be non-refundable. B-190209, July 13, 1978.

Real estate related expenses

Forfeited deposits

Forfeited purchase deposit (4-13)--An employee forfeited \$4,000 of a deposit in return for obtaining a release from a binding contract for the purchase of a new home at his old duty station after receiving notice of a transfer. He may be reimbursed the

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forfeited amount as a miscellaneous expense.
B-190764, April 14, 1978.

An employee incurred expenses of \$297 in obtaining a release from a binding contract for the construction of a home at his old duty station after notice of a permanent change of station. He may have those expenses reimbursed as miscellaneous expenses.
B-193280, May 8, 1979.

Forfeited lease deposit (4-13) --An employee who forfeited \$112.50 of a rental deposit for the lease of a residence at his new duty station after receiving notice of cancellation of transfer, may be reimbursed the forfeited amount as a miscellaneous expense.
B-191676, November 2, 1978.

H. NONREIMBURSABLE EXPENSES

New items

New swimming pool equipment (4-17)

The costs of new sand and blocks required for installation of a swimming pool at the employee's new duty station are not reimbursable. B-191724, March 29, 1979.

Structural changes

Wiring

Telephone jacks (4-18)--The expense of installing a telephone jack is not reimbursable as part of the miscellaneous expenses allowance since it involves a structural alteration. B-191662, December 28, 1978.

Plumbing

Ice maker (4-18)--A charge for hooking up an ice maker is not a reimbursable miscellaneous expense since it involves a structural alteration. B-191662, December 28, 1978.

Remodeling (4-19)

A charge for venting a clothes dryer in the employee's new residence is a charge for remodeling. Since it

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involves a structural alteration it is not reimbursable as a miscellaneous expense. B-191662, December 28, 1978.

Site alterations (4-19)

An employee may not be reimbursed for the costs of site alterations involved in installing a swimming pool at his new duty station. Site alterations are similar to structural alterations and are not reimbursable as a miscellaneous expense. B-191724, March 29, 1979.

Attorney's fees (4-19)

Expenses for legal services related to items determined to be structural changes are not reimbursable since miscellaneous expenses for structural alterations are not reimbursable. 57 Comp. Gen. 669 (1978).

Real estate related expenses

Home insurance contract (4-20)

The cost of a Homegard Contract, to insure against the seller's contingent liability for defects in the home, is intended to protect against future maintenance costs and thus is not reimbursable as a miscellaneous expense. B-193578, August 20, 1979.

Mobile home related expenses

New items

Anchors (4-20)--The cost of purchasing and installing anchors for the employee's mobile home is not reimbursable as a miscellaneous expense since they are newly acquired items. B-190209, July 13, 1978.

Boarding of children (4-22)

An employee ordered to duty outside the United States is not entitled to reimbursement of his son's boarding expenses as a miscellaneous expense. B-191560, July 13, 1978.

Tuition payments (4-22)

A transferred employee is not entitled to reimbursement for the difference between in-state tuition at the University of Maryland and out-of-state tuition at the University of Colorado on behalf of his son since such expenses are not among those contemplated by the miscellaneous expense allowance. B-192471, January 17, 1979.

Lost salary of spouse (4-23)

An employee ordered to duty outside the United States is not entitled to reimbursement of salary lost by his wife, caused by amended travel orders delaying his departure, since such expense is not among those covered by the miscellaneous expenses allowance. B-191560, July 13, 1978.

Excess trash removal (4-23)

The excess trash removal fee of \$10 charged for hauling away trash associated with the employee's move to a new residence is not reimbursable as a miscellaneous expense. B-192420, August 27, 1979.

I. RELATIONSHIP TO OTHER ALLOWANCES

Generally (4-23)

An employee is not entitled to reimbursement for the costs of litigation for breach of contract to purchase a house under the miscellaneous expenses allowance since the costs of litigation are specifically disallowed elsewhere in the regulations. B-191920, December 26, 1976.

CHAPTER 5

TRAVEL TO SEEK RESIDENCE QUARTERS

B. ELIGIBILITY

Location of duty stations

Both in continental United States (5-1)

An employee who is transferred from an overseas duty station to the United States may not be authorized reimbursement for a house-hunting trip. B-192199, January 31, 1979.

More than 75 miles apart (5-1)

An employee who was transferred from Avery, Idaho, to Silverton, Idaho, which are only 38 miles apart, is nonetheless entitled to reimbursement for a house-hunting trip. Pertinent provisions of the regulations state that distances should be those via a usually traveled route and the record shows that the regularly traveled route is 106 miles and that the 38-mile direct route is unsafe because of steep slopes, narrowness, and an unsafe bridge. B-192142, March 21, 1979.

Incident to change of official station

New appointees (5-2)

New appointees who were erroneously authorized house-hunting trips from their training site to their first official station may not be reimbursed for such expenses. B-194642, August 24, 1979, 58 Comp. Gen. ____.

C. PROCEDURAL REQUIREMENTS

Authorization

Advance authorization required

After-the-fact determination of benefit (5-4)--
Authorization for a house-hunting trip given after the house-hunting trip, on the basis of an after-the-fact determination that authorization of such expenses

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would have resulted in reduced cost to the Government, furnishes no basis for payment. B-192617, April 20, 1979.

Verbal authorization by unauthorized official (5-4)--
An employee is not entitled to reimbursement for a house-hunting trip when such trip was made prior to official written notification even if the house-hunting trip was verbally authorized by a supervisor. The verbal authorization must be given by an official vested with authority to authorize travel prior to the house-hunting trip. B-192781, April 24, 1979.

Exceptions

Affirmation of informal approval (5-5)--A transferred employee who made a house-hunting trip prior to issuance of written authorization for the trip and the transfer, may be reimbursed house-hunting expenses since evidence has been presented to show that she was verbally authorized the trip before it was taken by a responsible official with authority to authorize the trip. B-192440, August 8, 1979.

E. NATURE OF TRIP

Purpose of seeking residence

Travel for other purposes

Travel to settle house purchase (5-9)--An employee authorized a house-hunting trip upon a change of duty station who made a trip for the purpose of seeking such permanent residence and temporary quarters, is not entitled to an additional round trip by his spouse to culminate the purchase of the residence. B-192531, February 5, 1979.

CHAPTER 6

TEMPORARY QUARTERS SUBSISTENCE EXPENSES

Errata:

B-185281 should be B-195281 (6-3)
55 Comp. Gen. 110 should be 55 Comp. Gen. 1107 (6-8)

Prior decisions affected:

56 Comp. Gen. 151 (1976), amplified (6-37)

B. ELIGIBILITY

Incident to change of official station

Transfer with training en route (6-2)

Although a temporary quarters subsistence expenses allowance may not be paid incident to training, it may be paid in connection with a permanent change of station where the training assignment is tantamount to selection for transfer. B-194642, August 24, 1979, 58 Comp. Gen. ____.

Short-distance transfer (6-3)

Under FTR para. 2-5.2h, an employee is not entitled to temporary quarters subsistence expenses where the difference between the distance from his old station to his old residence (78 miles) and the distance from his old residence to his new station (60 miles) is only 18 miles. B-193903, June 19, 1979.

Measuring distance (6-3)--Although the distance between the employee's old and new stations was 38 miles, he may be allowed temporary quarters subsistence expenses since distances for determining eligibility are in accordance with map distances along usually traveled routes--which was 128 miles. B-192142, March 21, 1979.

Cancelled transfer (6-3)

After the employee had been ordered to transfer and vacated his home, the transfer was cancelled. The

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employee may be reimbursed 30 days temporary quarters subsistence expenses. B-192469, April 4, 1979.

Shortage-category appointment (6-5)

Manpower-shortage category appointees are not entitled to temporary quarters subsistence expenses, B-194270, May 9, 1979, and B-194341, May 22, 1979.

C. PROCEDURAL REQUIREMENTS

Authorization or approval (6-5)

Where the employee was not authorized temporary quarters subsistence expenses because his agency's policy was to authorize temporary quarters subsistence expenses or a house-hunting trip, but not both, the employee may not be paid a temporary quarters subsistence expenses allowance, even though his taking a house-hunting trip resulted in less cost to the Government. 58 Comp. Gen. 652 (1979).

D. PERIOD OF ENTITLEMENT

Limited to 30 days

Transfers to the United States (6-7)

Upon transfer from a duty station overseas to a duty station in the United States, reimbursement for temporary quarters subsistence expenses is limited to a period of 30 days. B-192199, January 31, 1979.

E. OCCUPANCY OF TEMPORARY QUARTERS

Occupancy incident to transfer

Occupancy caused by delay in en route travel (6-10)

An employee transferred from Washington, D.C., to Alaska was authorized to travel by POV and was authorized 15 days traveltime based on a driving distance of 300 miles per day. The trip in fact took 50 days. The employee may not be paid temporary quarters subsistence expenses for the 35 days delay en route, which he attributed to "a series of mishaps which required periodic layovers." He did not occupy temporary quarters at his old or new duty station and his occupancy of temporary quarters en route was

attributable to personal delays. B-193393, April 17, 1979. Compare B-193935, June 18, 1979.

What constitutes temporary quarters

Quarters that are temporary

Occupancy of travel trailer (6-14)--Although an employee certified that his travel trailer would be used as his residence at his new station, permitting him to be paid a trailer allowance, the certification did not specify that it was to be his permanent residence. Where the employee resided in the trailer only temporarily while actively seeking permanent residence quarters, he may be reimbursed temporary quarters subsistence expenses in connection with its occupancy. Because of the mistake in his travel orders, they may be retroactively corrected to authorize temporary quarters subsistence expenses and to cancel the trailer allowance. B-191831, May 8, 1979.

Occupancy of residence at old station--

Temporary duty at old station (6-16)

Upon verbal notification of transfer, an employee notified her landlord of the necessity to terminate her lease. After the landlord told her to vacate the relet apartment, her transfer was delayed and she was obliged to occupy temporary accommodations at the old duty station for 10 days. Although the employee may not be paid per diem for that period, she may be paid subsistence expenses for the days she was required to occupy temporary quarters. B-189580, March 31, 1978.

Occupancy of residence not at old station (6-17)--An employee was transferred from Bangkok to New Orleans in October 1975. For the period from November to December, his dependents moved from their temporary residence in Port Arthur, Texas, to a house which the employee owned and had theretofore rented out in Port Naches, Texas. Subsequently, the dependents joined him and the Port Naches residence was sold. Under the circumstances, the Port Naches residence appears to have been occupied temporarily and the dependents'

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temporary quarters subsistence expenses may be reimbursed. B-191597, November 8, 1978.

Quarters that are not temporary

Lack of intent to occupy temporarily (6-19)--An employee who rented an apartment, moved in his household goods and remained there for 1 year before buying a house may not be paid temporary quarters subsistence expenses while occupying the apartment since there is no indication he intended the apartment to be other than his permanent residence. B-194073, June 18, 1979. Where an employee moved into an apartment at his new station and, because he was dissatisfied with the management, moved to a second apartment, he may not be paid temporary quarters subsistence expenses for his occupancy of the first apartment. B-189743, July 10, 1978.

Vague intent to locate other quarters (6-19)--Where an employee moved into rented quarters 2 days after arrival at his new station and 3 months later evidenced no intent to vacate those quarters, they may not be regarded as temporary quarters for purposes of his entitlement to receive temporary quarters subsistence expenses. B-192343, November 15, 1978.

Occupancy of residence at new station--

Prior to arrival of furnishings (6-22)

An employee may not be reimbursed temporary quarters subsistence expenses for the period that he occupied the residence he purchased at his new duty station even though, during the period for which he claimed temporary quarters subsistence expenses, his furnishings had not arrived and he had to eat meals in restaurants. B-191626, November 20, 1978; B-194065, June 8, 1979; B-192011, December 12, 1978; and B-194837, August 8, 1979.

F. TIME LIMITATION

Time to begin occupancy

Dependents' early return from overseas (6-24)

Although subsistence expenses while occupying temporary quarters may not be paid on the basis of dependents' early return from overseas, temporary quarters subsistence expenses may be paid on their behalf when the employee performs his permanent change of station travel, provided that the dependents are required to occupy temporary quarters at the time of and in connection with the employee's transfer. 58 Comp. Gen. 606 (1979).

During period of travel to new station (6-24)

Where the employee did not occupy temporary quarters before he began his travel or following arrival at his new station, he may not be allowed temporary quarters subsistence expenses for the period that he was in transit in excess of the 15 days authorized travel-time, even though he incurred personal delays while traveling. B-193393, April 17, 1979.

Beginning the period of claim (6-25)

A transferred employee who occupied temporary quarters by himself from March 1 to May 3 and who, except for periods of temporary duty away, occupied temporary quarters with his family from May 1 through June, may be paid temporary quarters subsistence expenses for the period from May 1 to May 30. The employee has the discretion to claim the allowable 30-day period of his choice and may opt to claim when he begins to occupy temporary quarters or when his family vacates its residence at the old station. B-193412, August 3, 1979.

Running of the period of occupancy

Period not interrupted

Return to old station on weekends (6-27)--Since the employee's return to his family residence at his old duty station on weekends was a personal matter and not attributable to official necessity, the period for claiming temporary quarters continues to run

30 consecutive days without interruption for those weekends. 57 Comp. Gen. 696 (1978).

Period interrupted

Temporary duty (6-28)--While in temporary quarters, an employee performed temporary duty travel during three-fourths of 2 days, for which he was paid per diem. Since the running of the period of consecutive days for occupancy of temporary quarters may be interrupted for circumstances such as temporary duty, the employee may elect to extend his temporary quarters period by not claiming a temporary quarters subsistence expenses allowance on the days of his departure and return from temporary duty rather than be reimbursed for the interrupted days. Thus, if the employee chooses, he does not have to count the 2 days that he was on temporary duty as part of his 30-day entitlement and he may instead be paid temporary quarters subsistence expenses for the 2 days following the date on which the temporary quarters entitlement would otherwise have expired. 57 Comp. Gen. 700 (1978). However, an employee may claim temporary quarters subsistence expenses for his family although he is paid per diem while on temporary duty away from his official duty station. B-193412, August 3, 1979.

Travel to new station--

Delay in en route travel (6-29)

An employee who was authorized use of his automobile incident to his transfer from Honolulu to Atlanta and who incurred 2 additional days of living expenses in Los Angeles while awaiting delivery of his automobile at port, may not receive per diem for those 2 days since delivery of the automobile was not delayed due to circumstances beyond his control. However, since the employee claimed temporary quarters subsistence expenses at his old and new duty stations he may be paid for temporary quarters occupied in Los Angeles if no unwarranted extension of the temporary quarters allowance was involved. B-193935, June 18, 1979. Compare B-193393, April 17, 1979.

G. LOCATION OF TEMPORARY QUARTERS

Not at old or new station (6-29)

An employee is not required to stay in the vicinity of either his present or former duty station to be entitled to a temporary quarters subsistence expenses allowance. B-191374, September 21, 1978. Therefore, an employee transferred from New York to Georgia may be reimbursed temporary quarters subsistence expenses for his family while staying in Florida in the vicinity of the residence they ultimately purchased there, inasmuch as the record demonstrates that they necessarily occupied the temporary quarters. B-193885, June 8, 1979.

H. REIMBURSABLE EXPENSES

Reimbursable items of expense

Costs incident to rental (6-31)

Since charges for telephone calls or service are ordinarily included in the cost of lodging they may be reimbursed as part of the temporary quarters subsistence expenses allowance. B-193935, June 18, 1979. Similarly, a cable television rental fee incurred in authorized temporary quarters may be reimbursed. B-192723, February 14, 1979.

Nonreimbursable items of expense

Expenses for visitors (6-32)

An employee may not be reimbursed temporary quarters subsistence expenses for his mother-in-law who was visiting him on a 3-month visa at the time of his transfer. Although dependent on the employee for her support during the visit, the mother-in-law resided in Central America with her husband and six children and was not a member of his immediate family within the purview of 5 U.S.C. § 5724a(a)(3). B-194350, September 14, 1979.

Transportation expenses (6-32)

Where an employee temporarily lodged with a relative, his claim for temporary quarters subsistence expenses based on transportation expenses incurred as a result

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of increased use of his host's automobile may not be reimbursed. FTR para. 2-5.4b excludes expenses of local transportation. B-193331, April 25, 1979.

Snacks (6-32)

Expenditures for snacks in addition to regular meals may not be reimbursed since they are not necessary expenses of subsistence. B-193331, April 25, 1979.

Evidence of lodging expenses (6-33)

An employee who at first refused to transfer to Puerto Rico was nonetheless ordered to effect the transfer and reported there on October 23, 1973. Paperwork evidencing his transfer to Puerto Rico was not received until December. Notwithstanding the employee's claim that he did not obtain lodging receipts because he did not know he had been transferred until December, his inadequately documented claim for temporary quarters may not be allowed. B-188575, May 3, 1978.

Reasonableness of amounts claimed

Lodgings provided by friends and relatives (6-36)

Where an employee seeks reimbursement for temporary quarters occupied at the home of a friend or relative, his claim may not be paid where the employee has not furnished information as to whether the friend or relative incurred additional expenses to furnish the employee lodgings. B-193130, May 3, 1979, and B-190716, May 9, 1978. The burden is on the employee to supply necessary information and it is not sufficient to show merely that the amount claimed is less than commercial rates or the maximum allowable. B-191673, December 5, 1978.

An employee agreed to pay his mother-in-law \$10.50 per day for lodgings for his three children. The rate, which was considerably less than commercial rates, was reasonable since the employee's mother-in-law was inconvenienced by having to stay with neighbors, prepare meals, clean house and expend large amounts on utilities. 58 Comp. Gen. 177 (1978).

An employee's claim for \$20 per day lodgings expenses

while staying with relatives was disallowed for his failure to furnish sufficient information to prove the reasonableness of the amount claimed. However, he may be reimbursed the aggregate \$30 amount which he was stated represents the relative's increased utility costs attributable to his stay. His claim for \$5 per day for the time and labor of his relatives in caring for his wife and child are not reimbursable. B-193331, April 25, 1979.

Unreasonable food costs (6-36)

Where an employee occupied temporary quarters in Louisiana while his dependents occupied temporary quarters in Texas, the employee may not be reimbursed for his dependents' meals on the basis of his itemized statement showing that their daily meal expenses were twice the meal expenses he incurred. B-191597, November 8, 1978.

Although NSA used statistical data in concluding that an employee's claim for \$12 per day for meals for three children was unreasonable, his claim for temporary quarters subsistence expenses based upon that amount may be paid since it was arrived at by preparing a typical weeks shopping list using local market prices and an amount for energy and labor costs associated with food preparation. 58 Comp. Gen. 177 (1978).

I. COMPUTING REIMBURSEMENT

First day of entitlement

Whole-day concept (6-37)

Since temporary quarters subsistence expenses may be reimbursed only in increments of calendar days, occupancy of temporary quarters for even less than a full day constitutes 1 of the 30 calendar days. 57 Comp. Gen. 696 (1978). An employee began occupancy of temporary quarters at 6:45 p.m. after travel of less than 24 hours. Although he occupied quarters for only one-quarter day on the first day, that day is counted as a full day in computing the temporary quarters allowance. A calendar day is used to compute the number of days for which reimbursement may be made. Therefore, maximum reimbursement for the first

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10 days is 10 times the daily rate (not 9-1/4) since the FTR provides for a daily rate without proration. 56 Comp. Gen. 15 (1976) amplified. 57 Comp. Gen. 6 (1977).

J. RELATIONSHIP TO OTHER ALLOWANCES

Per diem allowance (6-40)

An employee cannot receive temporary quarters subsistence expenses for himself for the days on which he receives a per diem payment incident to official travel. However, the employee may claim temporary quarters subsistence expenses for his family while he is on temporary duty and receiving per diem. B-193412, August 3, 1979.

Spouse's temporary quarters subsistence expenses allowance (6-41)

FTR para. 2-1.5c provides that where members of the immediate family are entitled to allowances incident to transfer only one of the two is eligible. However, that restriction is applicable only to transfers which occur at the same time. Where a husband and wife, both employees, were given transfers between the same two duty stations, but the wife's transfer was delayed 2 weeks, she is entitled to temporary quarters subsistence expenses as an employee in her own right--not as a dependent at a reduced rate--as of the date her husband departed their shared temporary quarters at the old duty station. 57 Comp. Gen. 389 (1978).

CHAPTER 7

RESIDENCE TRANSACTION EXPENSES

Errata:

56 Comp. Gen. 287 should be 56 Comp. Gen. 298 (7-31)
B-181129, August 29, 1974, should be
August 19, 1974 (7-38)

Prior decisions affected:

B-188300, August 29, 1977 amplified (7-22)
54 Comp. Gen. 93 (1974) distinguished (7-56)
B-187493, April 1, 1977 modified (7-59)

SUBCHAPTER I--ENTITLEMENT

B. ELIGIBILITY

Old and new stations in United States (7-1)

An employee, who was transferred from Washington, D.C., to Australia, is not entitled to reimbursement for real estate expenses since both the old and new duty stations were not located within the United States, its territories and possessions, Puerto Rico, or the Canal Zone as required by 5 U.S.C. § 5724a. B-193728, August 10, 1979, and B-191121, March 20, 1979. The rule applies to lease transaction expenses as well. B-193138, April 3, 1979, and B-191135, March 14, 1978.

Change of official station

Employees not eligible

New appointees (7-4)--A manpower-shortage appointee is entitled to travel and transportation expenses only to the extent authorized by 5 U.S.C. § 5723. Since he is not entitled to residence transaction expenses under that section, erroneous administrative authorization of such expenses provides no basis for reimbursement. B-194341, May 22, 1979.

Intergovernment Personnel Act assignments (7-4)--An employee of HEW assigned to a state education agency under the Intergovernmental Personnel Act may not be reimbursed for lease termination expenses because

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5 U.S.C. § 3375, enumerating authorized relocation expenses incident to IPA assignments, does not include such expense. Since that authority is limited by statute, the fact that the agency terminated the assignment 1 year earlier than expected has no effect on the employee's entitlement. B-193443, June 7, 1979.

Return to United States for retirement (7-5)--An employee who was stationed in Guam and who returned to the continental United States upon voluntary retirement may not be reimbursed real estate expenses incurred in the sale of his Guam residence. The move, for a purpose other than assuming a new Government position, does not constitute a permanent change of station so as to entitle the employee to residence transaction expenses. B-192486, December 12, 1978.

E. SPECIFIC CONDITIONS OF ENTITLEMENT

Residence from which employee commutes daily

Generally (7-11)

An employee transferred from Washington, D.C., to Albany, Georgia, may not be reimbursed expenses incurred in selling his family's Alabama residence since that residence was not the one from which he commuted regularly to and from work. B-190981, April 6, 1978.

An FBI employee may be reimbursed for expenses of selling his Alexandria residence incident to his transfer from Alexandria, Virginia, to Baltimore, Maryland. The transfer was delayed by 14 weeks of training in Quantico, Virginia, during which period Washington, D.C., was designated as his permanent duty station for administrative purposes. Both Quantico and Washington were in fact temporary duty locations. Thus, the employee's change of station was from Alexandria to Baltimore and the employee may be reimbursed for selling his residence since it was "at his old station" as required by the regulations. B-192614, March 7, 1979.

Weekend commuter(7-12)--An employee claims reimbursement for real estate expenses incurred incident to the sale of his family residence in Lubbock, Texas,

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at the time of his transfer from Fort Worth, Texas, to Amarillo, Texas. Since the employee traveled to the family residence in Lubbock, 290 miles away, only on weekends, the real estate expenses may not be reimbursed since the FTR requires that the residence be the one from which the employee commutes regularly to and from work. B-192898, January 25, 1979.

Exceptions

No fixed duty station(7-14)--When an employee who is in a travel status more than 90 percent of the time is transferred, he may be reimbursed for the real estate expenses incurred in selling his former residence which is located at a point convenient to the places where the employee is required to perform temporary duty even though the home was not located at the place that was administratively designated as his duty station and he did not commute daily from that residence. B-188706, December 14, 1978, and B-193885, June 8, 1979.

Occupancy of residence when notified of transfer

Exceptions

Successive transfers(7-16)--While stationed in the Marshall Islands, an Army employee with reemployment rights to Huntsville, Alabama, was selected for a position with the DOE in Oak Ridge, Tennessee, but was not appointed pending receipt of a security clearance. He returned to Huntsville on reassignment with the Army and occupied his residence there. Upon subsequent appointment by DOE he transferred to Oak Ridge and sold his residence in Huntsville. Under the circumstances, the fact that the employee did not physically occupy his residence at Huntsville when he was first advised of his transfer, does not preclude reimbursement of real estate sales expenses. B-191478, December 7, 1978.

Illness of spouse(7-16)--There was substantial compliance with the requirement that the residence sold be the employee's actual residence when he was first notified of the transfer where the employee and his wife were living in a rented apartment because of the wife's illness and had not entirely vacated the house before the transfer notice. 58 Comp. Gen. 208 (1979).

Title requirements

Generally (7-16)

Under FTR para. 2-6.1c, an employee may not be reimbursed for expenses incurred in the purported sale of his former residence, which he occupied under a lease-purchase agreement. The record indicates that the employee never exercised his option to buy the real estate and, hence, did not hold title to the property he purported to sell. B-193004, April 10, 1979.

Title in nondependent's name only (7-17)

A transferred employee was purchasing a residence at his old station under a land contract at the time of his transfer. He "quit claimed" his interest under the contract to his seller (mother), who entered into a subsequent land contract for the sale of the property to a third party. Although the employee may be reimbursed for the expenses incurred incident to reconveyance of his interest to his mother, the expenses of his mother's subsequent sale to a third party may not be paid since the title requirements of FTR para. 2-6.1c are not met. B-189768, June 15, 1978.

Title in religious order (7-18)

A transferred Bureau of Prisons employee (chaplain) may not be reimbursed for real estate expenses claimed on the sale and purchase of residences since title to both residences was held by his religious order, which bore the expenses, and not by the employee (chaplain) or a member of his immediate family. B-192583, March 14, 1979.

Settlement date limitation

What is settlement

Contract for deed(7-22)--Incident to his transfer on August 18, 1975, an employee was reimbursed expenses for the sale of his residence through a "contract for deed" executed February 27, 1976. He may be reimbursed expenses incurred within 2 years, at the time legal title was transferred, without extension of the

time limit since the "contract for deed" date, which was within 1 year of the employee's transfer, is the settlement date under FTR para. 2-6.1e and since the additional expenses were incurred "within a reasonable amount of time." A reasonable time will be limited to the 2 years allowed for completion of real estate transactions. B-188300, August 29, 1977 amplified. 57 Comp. Gen. 770 (1978) and B-189824, September 7, 1978.

Limitation not subject to waiver

Circumstances not warranting extension--

Incorrect advice from agency officials (7-24)

A transferred employee reported to his new duty station on May 4, 1976. He purchased a residence there with settlement on May 5, 1978. He is not entitled to reimbursement of real estate expenses since the applicable regulations limit the maximum time for settlement to within 2 years of the effective date of the transfer. An error by the agency in extending the initial year to May 5, 1978, provides no authority to modify statutory regulations. 58 Comp. Gen. 539 (1979).

Delay caused by financing problems (7-25)

An employee, who was unable to complete settlement on the sale of his residence at the old duty station within 2 years of the effective date of transfer because his purchaser had difficulty in obtaining financing, may not be reimbursed real estate expenses. The 2-year time limitation imposed by FTR para. 2-6.1e has the force and effect of law and may not be waived or modified. B-191203, May 11, 1978, and B-193607, March 8, 1979.

Procedural requirements for extension

Agency discretion(7-25)--A VA employee was denied reimbursement of real estate expenses based on the VA's refusal to grant the employee an extension. It had determined that the request for extension was not related to the employee's transfer but to his subsequent marriage. VA did not abuse its discretion in

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refusing to grant the extension. B-191087,
February 28, 1979.

Computation of time period (7-26)

The 2-year time limitation under FTR para. 2-6.1(e), including a 1-year extension, for settlement of a residence sale is on or before the second anniversary of the date the employee reports for duty at his new duty station. Since settlement was 1 day after the second anniversary of the date the employee reported for duty, reimbursement of real estate expenses is denied. B-191018, December 26, 1978.

Beginning of time period (7-27)--An employee was assigned to a duty station on a temporary basis for a period not to exceed 8 months. After he had been at that duty station for 6-1/2 months, his assignment there was made permanent. The date of his permanent assignment should be used to compute the 2-year limitation for settlement. B-190891, October 2, 1978.

Successive transfers (7-27)

The fact that an employee was transferred twice and selected for training, all within 39 months, provides no basis for extending the settlement date. An employee may not be reimbursed for the sale of his home at his first duty station under a travel order for his second transfer because it was not the residence from which he commuted to work at the time of the second transfer. B-161795, December 18, 1978.

Expenses customarily paid

Seller pays buyer's closing costs (7-27)

An employee transferred from Oxon Hill, Maryland, may not be reimbursed for "buyer's closing costs" which he paid on the sale of his old residence. Although a seller may assume a purchaser's closing costs in a "buyer's market," the buyer's closing costs are not customarily paid by the seller in the locality of the employee's residence. B-190715, March 24, 1978.

Incident to VA financing (7-27)--An employee may be reimbursed for the buyer's closing costs he paid in connection with the sale of his residence at his old

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duty station. The Department of Housing and Urban Development area office has advised that in the locality the buyer's closing expenses are customarily paid by the seller incident to VA loan transactions. B-191402, November 22, 1978.

No clear local custom (7-28)

Where there is no definite local custom as to whether a particular expense is paid by the buyer or seller, the item may be reimbursed if the employee entered into a bona fide agreement for payment. B-194668, September 17, 1979.

Expenses payable upon sale OR purchase (7-28)

A transferred employee may be reimbursed for similar or identical expenses with respect to real estate transactions at the new as well as the old official duty station, if otherwise allowable. In both instances they must be expenses that are customarily paid by the seller at the old station and by the purchaser at the new station, not to exceed the amounts customarily paid in the locality of the residence being sold or purchased. B-163425, November 7, 1978.

Completed transaction (7-28)

Legal fees for the preparation of a sales contract are not reimbursable where the sale is not consummated. 57 Comp. Gen. 669 (1978).

Closing costs included in selling price (7-31)

In connection with the purchase of a residence at his new official station, an employee may be reimbursed closing costs paid by the seller but included in the purchase price of the house. The closing costs are clearly discernible and separable from the price allocable to the realty, both buyer and seller regard the costs as having been paid by the buyer, and the costs are properly documented. B-193665, June 27, 1979, and B-191235, October 25, 1978.

Maximum amount of reimbursement (7-32)

The Federal Travel Regulations were amended to increase the maximum amount of reimbursement allowable for a house sale from \$5,000 to \$8,000. The amendment specifically

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provided that it applies only to transferred employees who reported to their new duty stations after June 1, 1977. Where a transferred employee reported to his new duty station on June 20, 1976, his reimbursement is limited to \$5,000 even though settlement on the sale of his former residence did not occur until August 15, 1977. B-191485, November 21, 1978.

SUBCHAPTER II--REIMBURSABLE EXPENSES

A. REAL ESTATE BROKERS' COMMISSIONS

Who is a real estate broker

Relative as a broker (7-35)

A transferred employee may be reimbursed for the broker's commission that he paid to a realty firm which, in turn, paid the employee's wife a substantial part of the commission as an employee of the firm. The employee's wife, who was a licensed real estate agent, was employed by the firm and actually performed services for the realtor in selling the residence. The employee incurred a legally enforceable debt for payment of the commission. B-193201, June 19, 1979.

Transactions covered

Mobile home (7-35)

The amount claimed as a real estate commission for the sale of a mobile home may not be reimbursed where the claimant has not submitted a copy of the sales agreement, or established that he had title to the home at the time of the conveyance and where the record suggests the amount claimed may have been charged for a different purpose. B-190979, July 7, 1978.

Charges in addition to commissions

Tax on services rendered (7-38)

The real estate listing agreement signed by a transferred employee incident to the sale of his residence at his old duty station required payment of a 6 percent commission on the selling price, plus the applicable gross receipts tax on the commission. The employee may be reimbursed for the tax paid to the broker under FTR para. 2-6.2a if it is customary in the area for the tax to be passed through to the seller. The tax should be viewed as part of the cost of services rendered by the real estate broker, since it is neither levied on the property nor included in the purchase price. 58 Comp. Gen. 211 (1979).

Use of "scrip" issued in anti-trust judgment (7-39)

"Scrip" issued as part of a consent judgment in an anti-trust suit filed against local real estate brokers, which can be used to reduce real estate commissions in the Minneapolis area, can be used by the agency's transferred employees or can be transferred to other Government agencies for use by their employees or disposed of in any other manner in the interest of the Government. B-185076, March 21, 1977.

E. TITLE EXAMINATION AND INSURANCE

Paid for by purchaser

Examination in lieu of insurance (7-41)

Where a transferred employee sells his residence at his old duty station through a "contract for deed," and incurs an expense for "title insurance" at the time the contract was signed and a charge for "abstract or title search," when the existing loan was finally assumed by the buyer, both charges may be reimbursed if they are not duplicative. B-190547, September 8, 1978.

Title policy in favor of mortgagee (7-42)

A recertification charge, which is in the nature of a fee for updating the title search prior to closing on a conventional loan and which was required as a condition for obtaining financing, is reimbursable under FTR para. 2-6.2c as a legal or related expense customarily paid by the purchaser of a residence at the new duty station. B-194887, August 17, 1979.

Owner's title policy

Policy optional (7-42)--Under FTR para. 2-6.2d an employee may not be reimbursed for an owner's title policy, even though the purchase of such a policy is not uncommon. The fact that a HUD publication cautions home buyers that an owner's title policy should be purchased to protect their interests does not dictate a contrary result, since purchase of the policy was not legally required, but a matter of prudence. B-193750, August 28, 1979.

Allocation (7-43)--Of the \$196 amount paid by a transferred employee for title insurance, \$10 was attributable to mortgage insurance and \$186 was attributable to the owner's insurance. Where a mortgage title policy and an owner's title policy are purchased in a single transaction, the employee may be reimbursed for the cost of the mortgage insurance as if it had been purchased separately, regardless of how the cost of the policies might actually have been apportioned. Therefore, the employee's reimbursement is not limited to \$10. B-192593, January 16, 1979.

F. ATTORNEYS' FEES AND LEGAL EXPENSES

Rule for settlements after April 27, 1977 (7-44)

A transferred employee claimed reimbursement for fees for advisory legal services incurred incident to the purchase of a new residence on November 22, 1977. Under 56 Comp. Gen. 561 (1977), the employee is entitled to reimbursement to the extent that the fees are customarily paid and are within the customary range of charges in the locality of the residence. B-191745, September 29, 1978.

Rule applies prospectively (7-44)

An employee may not be reimbursed for unitemized legal fees for a settlement which occurred in 1974, but is required to furnish an itemized statement of legal services with amounts allocated to each item. The holding in 56 Comp. Gen. 561 (1977), is prospective and applies only to residence transactions in which settlement occurs on or after April 27, 1977. B-192472, March 21, 1979, and B-192593, January 16, 1979.

More than one attorney (7-44)

An employee incurred legal fees for both the lending institution's and his own attorney. He may be reimbursed for both legal fees if it is customary in the locality for the purchaser to be represented by his own attorney and to pay for services by the mortgagee's attorney, provided the fees are within the customary range of charges in the locality of the residence. B-191792, September 25, 1978.

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Fee for lender's attorney

Condominium review fee (7-44)--A transferred employee who purchased a condominium may be reimbursed the \$200 condominium review fee paid to the mortgage company for its attorney's review of condominium documents required for financing purposes. Although there is no definite custom in the local area as to whether the purchaser or seller pays the fee, the record does not show that the payment agreement was other than bona fide and the amount does not exceed the fee customarily paid in the locality. B-194668, September 17, 1979.

Fee included in loan-origination fee (7-44)--An employee may not be reimbursed for attorney fees assessed by a lending institution and initially characterized as part of the "loan origination fee" unless the certifying officer determines that such fees were incurred for the purposes specifically excluded from finance charges by Regulation Z, 12 C.F.R. § 226.4(e), are reasonable in amount, and insofar as the attorneys fees are sufficiently itemized to show the portion of the origination fee allocable to each excluded item. In such a case, the holding in 56 Comp. Gen. 561 (1977), allowing reimbursement of attorney fees without itemization, is inapplicable. B-193318, September 20, 1979, 58 Comp. Gen. ____.

Fees not duplicative of other expenses (7-44)

Where a transferred employee incurred costs for title insurance and attorneys' fees incident to the purchase of a home at his new duty station after April 27, 1977, the attorneys' fees are reimbursable to the extent that they do not include items included in the title insurance cost. B-192378, April 17, 1979.

Rules governing earlier settlements

Advisory services (7-45)

Attorneys' fees for services in connection with the closing on the purchase of the new residence prior to April 27, 1977, are reimbursable only to the extent that such fees represent the attorney's work in conducting the closing or preparing the closing

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documents. Charges for conferences, correspondence and review of documents are advisory in nature and are not reimbursable. 57 Comp. Gen. 669 (1978) and B-193566, May 11, 1979.

Notary and legal fees required by statute (7-47)

Under the laws of Puerto Rico the seller of a residence is required to pay a fee of 1/2 percent of the sale price for enumerated services of preparing conveyances and related legal, notary, and recording fees. Since the fee is in the nature of a notary fee and is required by law, it may be reimbursed under FTR para. 2-6.2c. B-189569, June 16, 1978.

G. FINANCE CHARGES

Current rule following Regulation Z (7-50)

A transferred employee paid a lump-sum loan origination fee that was described by the bank not as a finance charge but a service charge covering internal and administrative costs. Since there is no itemization of the costs included in the loan origination fee, and such a fee is generally a finance charge under Regulation Z, no reimbursement is permitted. The Government is not bound by the bank's characterization of the charge. B-191038, November 28, 1978, and B-194314, June 28, 1979.

Exclusions from finance charge

Survey fees (7-52)--Where the mortgage company provided a statement indicating that \$35 of the amount initially characterized as a loan-origination fee was in fact a survey fee, that fee is reimbursable. Although assessed by the lending institution, the survey fee is expressly excluded from the definition of a finance charge by Regulation Z, 12 C.F.R. § 226.4(e)(1). B-193318, September 20, 1979, 58 Comp. Gen. ____.

Recording fees (7-52)--Although assessed by the lending institution as part of a charge initially characterized as a "loan-origination fee," an employee may be reimbursed for an itemized recording fee if it is customarily paid by the purchaser and does not exceed amounts customarily charged in the locality. While recording fees are not expressly excluded from

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the definition of a finance charge under Regulation Z, they are not a condition for the extension of credit and, thus, are not part of the finance charge. B-193318, September 20, 1979, 58 Comp. Gen. ____.

Attorney's fees (7-52)--Unless sufficiently itemized to show the portion of the loan-origination fee allocable to each item excluded from the definition of a finance charge by Regulation Z, attorney's fees assessed by the lending institution and initially characterized as part of the finance charge may not be reimbursed. B-193318, September 20, 1979, 58 Comp. Gen. ____.

State VA loan fee (7-53)--The fee charged by the Department of Veterans' Affairs of the State of Oregon to cover costs of preparing closing documents, appraisal costs, credit checks, and similar services, is not a finance charge within the meaning of Regulation Z. Accordingly, it is reimbursable. B-191035, September 12, 1978.

Points or loan discount fee (7-53)

An employee, who was transferred incident to reduction-in-force, claimed reimbursement of a loan discount fee incurred upon purchasing a residence at his new duty station. Even though the employee was reassigned again when the CSC determined that his transfer violated the reduction-in-force regulations, payment of the claim is prohibited by the FTR. B-192186, October 23, 1978.

Commitment fee (7-54)

A transferred employee paid a lump-sum loan origination fee of \$525 that was described by the bank as including a \$175 commitment fee to reserve the funds for the loan. The commitment fee, required as an incident to the extension of credit, is part of the finance charge and not reimbursable. B-191040, November 29, 1978, and B-192851, May 11, 1979.

Loan transfer fee (7-54)

A loan transfer fee is a nonreimbursable finance charge within the meaning of Regulation Z. B-194203, May 7, 1979.

Tax service charge (7-54)

A tax service charge made by the lender incident to prorating the buyer's and seller's tax obligation for the year in which settlement is made is a finance charge under Regulation Z and not reimbursable under FTR para. 2-6.2d. B-192851, May 11, 1979.

Underwriting fee (7-54)

The underwriting fee charged by a financing institution to cover the fee charged by their underwriter for reviewing each loan is a charge paid by the borrower incident to and as a condition precedent to obtaining a loan and, thus, is a nonreimbursable finance charge. See B-192851, May 11, 1979.

Loan tie-in fee (7-54)

The loan tie-in fee paid to the lender is in the nature of a service charge and is not reimbursable. See B-192851, May 11, 1979.

H. MORTGAGE PREPAYMENT COSTS (7-54)

A transferred employee sold a residence at his old official station and incurred an expense for prepaying the mortgage. The prepayment expense is reimbursable to the extent provided in the mortgage. A copy of the original mortgage, a receipt to the employee's selling agent showing payment of the prepayment penalty, and a copy of the settlement sheet showing the charge to the employee are sufficient evidence to document the payment. B-194298, August 10, 1979.

I. TAXES

Tax on services rendered (7-56)

The real estate listing agreement signed by a transferred employee incident to the sale of his residence at his old duty station required payment of a 6 percent commission on the selling price, plus the applicable gross receipts tax on the commission. The employee may be reimbursed for the tax paid to the broker under FTR para. 2-6.2a, if it is customary in the area for the tax to be passed through to the seller. The tax should be viewed as part of the cost of services rendered by the real estate broker, since it

is neither levied on the property nor included in the purchase price. 54 Comp. Gen. 93 (1974), distinguished. 58 Comp. Gen. 211 (1979).

J. CONSTRUCTION OF NEW RESIDENCE (7-57)

A transferred employee who elected to have a residence constructed at his new duty station may not be reimbursed for amounts claimed for blueprints and plot plans, certificate of elevation, and building permit and development fees since those items of expense are not comparable to expenses incurred in the purchase of an existing residence under FTR para. 2-6.2d. B-192420, August 27, 1979.

K. OTHER RESIDENCE TRANSACTION EXPENSES

Insurance

Home warranty (7-59)

A transferred employee may not be reimbursed for the cost of a 1-year Homegard Home Maintenance Service Contract incident to the sale of his old residence. A Homegard Contract is insurance against a seller's contingent liability for defects in his home and, hence, is not allowable under FTR para. 2-6.2d, which precludes reimbursement of insurance expenses. Also, a Homegard Contract is intended to protect against future maintenance costs and the regulations preclude payment of maintenance costs. B-187493, April 1, 1977, modified. B-193578, August 20, 1979.

Incidental services

Termite inspection (7-60)

Where the cost of a termite inspection is required as a condition to obtaining a conventional loan, such expense is reimbursable as a required service customarily paid by the seller or buyer. B-194887, August 17, 1979.

Roof inspection (7-61)

Where a roof inspection was required as a precondition for obtaining financing on the purchase of a residence, the inspection fee is reimbursable as a

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required service customarily paid by the purchaser as contemplated by FTR para. 2-6.2f. B-194887, August 17, 1979.

Gas line inspection (7-61)

The cost of a gas line inspection incurred in connection with the sale of a transferred employee's home may not be reimbursed since the record does not show that the inspection was required for the sale of the residence. B-193578, August 20, 1979.

Escrow fees (7-61)

A transferred employee may be reimbursed for a \$5 sub-escrow fee paid at the time he purchased a residence under FTR para. 2-6.2f since the charge was customary in the area. B-192851, May 11, 1979.

Interest due to agency-caused delay (7-61)

A transferred employee claims reimbursement for the payment of his seller's mortgage interest due to a delay in settlement on his residence at his new duty station. Despite the employee's contention that the delay was due, in part, to his performing temporary duty away from the new duty station, the claim is not allowable as an incidental charge customarily paid in the area under FTR para. 2-6.2f. 57 Comp. Gen. 696 (1978).

M. LEASE TRANSACTIONS

Limited to old duty station (7-62)

The \$185 amount paid to settle a lease when the employee moved from private to Government quarters at his new station is not reimbursable since the statute and regulations provide for such reimbursement only at the old duty station. B-186435, February 23, 1979.

Duty to minimize termination costs (7-63)

A Drug Enforcement Administration policy requiring employees to obtain a no-penalty clause for breaking a lease may not be asserted as a bar to a transferred employee's claim for reimbursement of expenses incurred in terminating a lease. The FTR imposes no such requirement,

CHAPTER 8

TRANSPORTATION OF MOBILE HOMES

E. DETERMINING REIMBURSEMENT

Reimbursement limitation

Single method of reimbursement (8-7)

An employee transferred from Montana to North Carolina elected to ship his mobile home by a Government bill of lading but the mobile home was wrecked in Kansas. His household goods were placed in temporary storage and then shipped by a Government bill of lading from Kansas to North Carolina. In accordance with 39 Comp. Gen. 40 (1959) and 55 Comp. Gen. 526 (1975) the employee may be reimbursed for both the transportation of his mobile home to the point where it was wrecked and the cost of shipping his household goods from there to his new duty station, but the total payment to the employee may not exceed the cost which would have been incurred by the Government had either of the methods of transportation been used for the entire distance. In computing the constructive cost of the shipment of the household goods the 1,000 pound weight actually shipped plus storage for the total distance should be used as compared to the actual cost to the Government on the two Government bills of lading. B-189270, March 14, 1978.

H. RELATIONSHIP TO OTHER ALLOWANCES

Temporary quarters subsistence (8-10)

Incident to his permanent change of station an employee was reimbursed for the transportation of his trailer after he signed the required certification that it would be used as his residence at destination. Subsequently, the employee stated that he only intended to use the trailer as his temporary residence and requested reimbursement for temporary quarters subsistence expenses. When transportation of mobile homes is allowed it is usually contemplated that the mobile home will be used as a permanent residence and subsistence expenses are allowed only when the mobile home, for some reason, cannot be used as a permanent residence. However, upon recovery of the amount paid for transportation of the trailer, the employee

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may be paid temporary quarters subsistence expenses since it is clear the trailer was intended as his temporary quarters. The trailer was unsuitable as a permanent residence, the employee actively searched for a permanent home, and the agency states that temporary quarters subsistence expenses would have been authorized if requested, and the certification form was unclear that the term "residence" means permanent residence. In addition, the employee may submit claims for transportation and temporary storage of household goods, as well as expenses for purchasing a residence at his new duty station. B-191831, May 8, 1979.

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and the authority of DEA to impose the requirement is questionable under the FTR. B-190677, July 6, 1978.

A transferred employee who was forced to break the lease on his apartment at his old duty station, may be reimbursed the \$355 he paid his landlord as the result of a negotiated settlement, since the employee acted reasonably in the circumstances and reduced his possible liability in the matter. B-194555, September 21, 1979.

Security deposit (7-65)

As a result of his transfer, the claimant broke his lease, which, by its terms, required forfeiture of his security deposit. The claimant may be reimbursed for the loss of his security deposit and the interest accumulated thereon pursuant to FTR para. 2-2.6h. The withholding of interest represents a loss to the transferred employee resulting from breach of the lease agreement. B-192135, January 24, 1979.

A transferred employee who terminated an unexpired lease at his old duty station forfeited his security deposit of \$250 consisting of a \$100 premises deposit and a \$150 pet deposit. The employee may be reimbursed for the full amount forfeited pursuant to FTR para. 2-6.2h, since the security deposit agreement permitted the landlord's use of the pet deposit portion for any breach of the lease and forfeiture of the pet deposit was in fact incident to termination of the unexpired lease and in no way related to possession of a pet. B-192129, March 8, 1979.

Documentation required (7-66)

A transferred employee who claims the equivalent of 2 months rent as a lease-termination expense may not be reimbursed since she has not furnished a copy of her lease or other documentation showing her obligation under the lease in the event of termination. Submission of cancelled checks does not satisfy the documentation requirement of FTR para. 2-6.2h. B-193452, July 10, 1979.

CHAPTER 9

TRANSPORTATION OF HOUSEHOLD GOODS

Errata:

FTR para. 2-2.5 should be 2-1.5a(2) (9-22)

B. ELIGIBILITY

Relocation actions

Intergovernmental Personnel Act assignments (9-4)

Although an employee assigned under the Intergovernmental Personnel Act is eligible to be reimbursed for transportation of household goods, an employee given an Intergovernmental Personnel Act assignment from July 1976 to July 1977 in Washington, D.C., may not be reimbursed for shipment of household goods in August 1977 from her place of permanent employment in Louisiana to Pennsylvania. Transportation of the household goods to a destination other than the Intergovernmental Personnel Act assignment location, after completion of the assignment, is not transportation incident to the assignment and its cost may not be reimbursed. B-191517, September 29, 1978.

D. DEFINITION OF HOUSEHOLD GOODS

Items included

Swimming pool (9-9)

A swimming pool, which is in the nature of recreation equipment, may be included within the term "household goods" and the cost of its transportation may be reimbursed on the commuted rate basis if its weight is determined. B-191724, March 29, 1979.

E. WEIGHT LIMITATION

Applicable weight limitation

Limitation in effect at date of transfer (9-11)

After his transfer to Germany, an employee purchased goods believing he could later ship them home at

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Government expense when reassigned to the United States because a weight limitation of 2,750 pounds had been removed from the JTR effective July 1, 1972. However, the employee is indebted for shipment of household goods in excess of that weight limitation which was reimposed by the JTR effective January 1, 1973. The employee's shipment of household goods under travel orders dated in April of 1975 for transfer back to the United States was subject to the 1973 change. B-193780, August 16, 1979.

Employee without immediate family

Exception to limitation (9-12)--Because he was without immediate family, an employee was authorized to ship 5,000 pounds of household goods. He in fact shipped 5,250 pounds and claimed reimbursement for shipment of the 250 pounds excess based on the fact that he was the head of a household. In order for the head of a household to qualify for an exception to the 5,000-pound weight limitation, the agency must make a finding of hardship caused by the weight limit. Since the employee moved the additional 250 pounds in his car and did not incur any cost for its movement, the agency properly refused to apply the hardship provision of the FTR to increase the weight limit. B-191172, May 17, 1978.

Liability for excess weight

Not subject to waiver (9-14)

An employee who shipped household goods weighing 11,646 pounds may not be relieved of his liability for the cost of shipping the excess 646 pounds notwithstanding his claim that he did not receive his travel orders setting forth the maximum weight limitation until the day before he began his change of station travel. B-194441, September 18, 1979.

Computing liability (9-14)

Where the actual expense method is used, the applicable regulation requires that the computation of the employee's charges for excess weight be based on its ratio to the total weight shipped. The employee must pay the charges for the excess weight based on a ratio of the total weight shipped rather

than on a suggested formula subtracting the constructive cost of the authorized weight from the actual carrier charges. B-191518, October 10, 1978.

Determining weight

Evidence of weight

Bill of lading (9-16)--An employee's claim for reimbursement under the commuted rate system for the cost of commercial transportation of his household goods may not be allowed where he was unable to obtain a receipted copy of the bill of lading. B-191539, July 5, 1978.

Weight certificates (9-16)--As a minimum, to be a proper weight certificate within the regulations it must be obtained from a certified weighmaster or from a certified scale identifying the vehicle and showing its gross and tare weights. A Receipt from a private wrecking company which fails to certify the identity of the vehicle by its tare and gross weights is not a proper weight certificate to support payment of the commuted rate. B-193133, April 24, 1979.

Constructive weight (9-18)

An employee who is unable to provide weight certificates may not be reimbursed on a commuted rate basis for transportation of household goods by a U-Haul trailer and private truck based on the estimated weight and itemization of effects transported, without showing the properly loaded van space. B-193133, August 13, 1979.

Proper evidence lacking (9-20)

Although an employee may not be reimbursed under the commuted rate system for transportation of household goods by U-Haul trailer and truck based on weight receipts prepared by a wrecking company, the agency does not question the reasonableness of the weights shown. Thus, the employee may be reimbursed for his actual expenses. B-193133, April 24, 1979.

F. TIME LIMITATION (9-22)

The 2-year period is not controlling where, incident to

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separation, an agency has established a shorter period, such as 6 months, within which transportation must begin. 52 Comp. Gen. 407 (1973).

Two-year limit not waivable (9-22)

A scarce-category employee who was authorized transportation of household goods incident to his appointment may not be reimbursed for transportation initiated 26 months after appointment. The 2-year limitation for beginning transportation prescribed in FTR para. 2-1.5a(2) may not be waived. B-190202, August 14, 1978.

G. ORIGIN AND DESTINATION OF SHIPMENT

To other than new duty station (9-25)

A civilian employee of HUD was transferred from Jacksonville Beach, Florida, to Atlanta, Georgia. He sold his old residence in Jacksonville Beach but, due to the unexpected illness of his wife, his family remained in Jacksonville Beach when he moved to Atlanta. The employee placed his household goods in storage and subsequently had them moved to a new residence he purchased in Jacksonville Beach. Under FTR para. 2-8.2d, an employee may be reimbursed for the cost of transporting household effects to his new duty station or some other point selected by him. Accordingly, his claim for reimbursement for shipment and storage of household goods may be allowed. However, the claim for shipment of household goods may not exceed the constructive cost of shipment to Atlanta. B-186338, December 7, 1978. Cf. B-191517, September 29, 1978.

To other than place of residence (9-25)

Incident to his disability retirement an employee's household goods were shipped to Ocala, Florida, from his last duty station in Hawaii. The employee claimed that the goods should have been shipped to Texas, his last place of residence before being assigned to Hawaii, and that he did not authorize shipment to Florida. Since the travel orders and documents the employee signed stated that Ocala was the destination of his household goods and in view of the fact that travel orders may not be retroactively modified once travel is performed to change the employee's benefits, the household goods were correctly shipped to

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Ocala and he may not be reimbursed the additional cost of shipping the goods from Florida to Texas. B-191143, January 3, 1979.

I. TRANSPORTATION WITHIN THE UNITED STATES

Commuted rate system

Determining reimbursement

Determining distance (9-32)--An employee was transferred from Avery, Idaho, to Silverton, Idaho, which are 38 miles apart by a direct route that is not open year round and that is unsafe because of steep slopes, narrowness and an unsafe bridge. He is entitled to reimbursement for transportation of his household goods based on the 106-mile distance determined in accordance with ICC mileage regulations. B-192142, March 21, 1979.

Determining commuted rate--

Area rates and surcharge allowances (9-34)

There is no entitlement to the additional allowance to the commuted rate for shipments of household goods originating in or terminating in certain metropolitan areas, prescribed in GSA Bulletin FPMR A-2, Supp. 67, Attachment A, where the employee moves his household goods himself. The additional allowance applies only when the shipment moves by common carrier. 57 Comp. Gen. 700 (1978).

CHAPTER 10

STORAGE OF HOUSEHOLD GOODS

SUBCHAPTER I--TEMPORARY STORAGE

B. ELIGIBILITY

Incident to relocation

Storage for personal reasons (10-2)

An employee was reimbursed for 25 days temporary storage at the designated place of delivery. Although regulations entitle a separated employee returning from overseas to reimbursement for 60 days temporary storage, the employee may not be reimbursed for the cost of 35 days of additional storage at a second location entirely removed from the designated place of delivery. The Government's liability ends when household goods are delivered to the designated place of delivery and costs associated with subsequent shipment of the household goods, including the additional 35-day storage period, are personal to the employee. B-191143, January 3, 1979.

Storage in anticipation of transfer (10-2)

An employee placed his household goods in temporary storage in anticipation of transfer upon completion of a training course. He may not be reimbursed for temporary storage expenses incurred prior to actual notice of the transfer, in the absence of evidence clearly establishing an earlier intent by the agency to transfer the employee. B-190282, March 14, 1978.

G. DETERMINING AMOUNT OF REIMBURSEMENT

Documentation requirements (10-11)

A transferred employee's claim for reimbursement under the commuted rate system for costs of temporary storage of his household goods may not be paid since he cannot present a bill for the storage costs. B-191539, July 5, 1978.

SUBCHAPTER II--NONTEMPORARY STORAGE

B. ELIGIBILITY

Overseas assignments

Assignments for training (10-14)

Where an employee is sent on a 2-year training assignment overseas under 5 U.S.C. § 4109 and is authorized to have his immediate family accompany him, his entitlement to travel and transportation allowances at Government expense is limited to those allowances specifically prescribed in that section. Since reimbursement of the nontemporary storage allowance is not prescribed by that section, the employee may not be reimbursed for nontemporary storage of his household goods incident to the training assignment. 58 Comp. Gen. 253 (1979).

CHAPTER 11

TRANSPORTATION AND STORAGE OF

PRIVATELY OWNED VEHICLE

Prior decisions affected:

B-186115, February 4, 1977, distinguished (11-3)

B. ELIGIBILITY

Assignment overseas

Assignment for training (11-2)

Under 5 U.S.C. § 4109(a)(2)(B), employees assigned to training may not be reimbursed expenses associated with relocation other than for transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying and unpacking. Thus, an employee assigned to training overseas for a 2-year period under 5 U.S.C. § 4109 is not entitled to have his POV shipped at Government expense. 58 Comp. Gen. 253 (1979).

Transfer within the United States (11-3)

An employee who transferred in August 1977 from San Diego, California, to Denver, Colorado, drove to his new station. Although he was authorized the use of a second automobile, his wife and children traveled by air and he shipped the second car by commercial carrier. In the absence of specific statutory authorization, as required by 5 U.S.C. § 5727(a), the employee's claim for the cost of shipping the second privately owned vehicle from San Diego to Denver may not be paid. 58 Comp. Gen. 249 (1979).

POV shipped by Auto-Train (11-3)

An employee transferred from Florida to Connecticut was authorized use of his automobile. He drove from Miami to Sanford, Florida, took Auto-Train to Lorton, Virginia, and drove from there to Danbury. Since the cost of travel as performed by the employee and his dependents was less than if they had driven the entire distance, and since they could not have used Auto-Train without the automobile, he was properly

reimbursed the total Auto-Train fare, including the \$159 amount allocable to shipment of the automobile. As distinguished from B-186115, February 4, 1977, the cost of transportation of the automobile was incident to transportation of the employee and his family. B-194267, September 6, 1979.

C. PROCEDURAL REQUIREMENTS

Determination and authorization

Agency discretion (11-6)

Under 5 U.S.C. § 5727(b)(2), as implemented by FTR para. 2-10.2(c), the agency head has discretion to determine whether transportation of privately owned vehicles is in the Government's interest. The determination is a factual matter to be decided on a case-by-case basis. The claim of a transferred Federal employee for reimbursement for shipment of his privately owned vehicle to his new official station in Guam in 1975 was properly denied based on the determination by the Government Comptroller of Guam not to authorize transportation as in the Government's interest. The fact that the Comptroller's successor authorized shipment of privately owned vehicles for other employees in 1978 does not provide a basis for payment of the transportation expenses claimed. B-192445, November 6, 1978.

F. SHIPMENT BY UNITED STATES FLAG VESSELS (11-9)

An employee was not entitled to reimbursement for the cost of shipping her privately owned vehicle from overseas to Baltimore, Maryland, by a vessel of foreign registry. Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a), makes use of American flag ships mandatory unless it can be proven that it was necessary to use a foreign flag ship. Lack of knowledge concerning the law and implementing regulations does not relieve the employee from her obligation to pay for transporting her privately owned vehicle on a foreign flag vessel when American flag ships were available. B-194940, July 18, 1979.

G. TRAVEL TO PORT TO SHIP POV

Entitlement

DOD employees prior to September 1, 1976 (11-9)

Expenses incurred by a DOD employee prior to September 1, 1976, for travel to the port of debarkation to reclaim a privately owned vehicle are not allowable, since 2 JTR Para. C7154-3, as in effect prior to that date, expressly prohibited travel allowances for a separate trip to deliver or pick up a vehicle. The change in regulations allowing such expenses is not retroactive. B-190854, July 7, 1978.

Transportation of POV not authorized (11-9)

Since an employee assigned to training overseas is not entitled to transportation of his privately owned vehicle at Government expense, he may not be reimbursed for the expense of round-trip travel to the port of debarkation to pick up his automobile. 58 Comp. Gen. 253 (1979).

Payment of mileage expenses

POV driven by other than employee (11-9)

A DOD civilian employee authorized to transport his POV at Government expense on an overseas permanent change of station did not personally pick up his POV at the port of debarkation, but hired another individual to pick it up at Bremerhaven and drive it to Frankfurt for a fee of \$50. The employee may not be reimbursed the \$50 fee. However, under FTR para. 2-10.4c he may be paid mileage for the transportation of his POV from Bremerhaven to Frankfurt since the mileage payment authorized by that regulation is not limited to the situation in which the employee himself drives his POV from the port of debarkation. B-193837, July 17, 1979.

CHAPTER 12

OVERSEAS ALLOWANCES

C. HOME SERVICE TRANSFER ALLOWANCE

Eligibility

Between overseas assignments (12-5)

A Foreign Service employee transferred from Laramie, Wyoming, to Washington, D.C, submitted a claim for temporary lodgings in the Washington, D.C., area. His claim for temporary lodgings expenses was disallowed since the transfer was between two posts within the United States. The home service transfer allowance payable under section 250 of the Standardized Regulations is authorized only where there is a transfer from a foreign post to a post within the United States. B-192231, February 5, 1979.

CHAPTER 13

RELOCATION OF FOREIGN SERVICE OFFICERS AND OTHERS

Errata:

B-161662 should be B-162662 (13-9)

C. TRAVEL OF EMPLOYEE AND FAMILY

Transportation costs

Travel by POV

Distances (13-9)--Under travel orders authorizing the use of a POV, an employee traveled from Copenhagen, Denmark, to Southampton, England, and claimed reimbursement for travel of 902 miles for the overland portion of the trip based on his odometer reading. Under 6 FAM 145.4-1, the employee is entitled to reimbursement for mileage based on standard highway mileage guides or odometer readings, except that any substantial deviation from distances shown in a standard highway mileage guide must be explained. Accordingly, the employee may only be reimbursed for travel over the 724-mile distance shown in the Official Table of Distances, Foreign Travel, used by the Department of State to determine mileage distances, since he failed to explain the reason for the excess mileage. B-194254, June 18, 1979.

Use of two vehicles (13-9)--A transferred employee with six family members may receive reimbursement for travel expenses for the use of two privately owned vehicles. Although 6 FAM 165.1 precludes shipment of more than one automobile at Government expense, no such restriction is contained in 6 FAM 165.1 which authorizes the use of a privately owned vehicle for transportation incident to a transfer of official station. B-192231, February 5, 1979.

Per diem

Travel by POV (13-10)

Under 6 FAM 145.4-2, 350 miles is established as the normal driving distance per day for travel in the United States and per diem for traveltime is based

upon that rate per day. Thus, based on standard mileage guides and required daily travel of 350 miles, an employee transferred from Laramie, Wyoming, to Washington, D.C., may only receive 4-1/2 days per diem and not the 6 days per diem claimed for his actual traveltime. B-192231, February 5, 1979.

Per diem for delay (13-11)

Upon arrival in New York City at 9 a.m. from overseas, it took until the afternoon for the employee to clear customs. For this reason the employee could not arrange to rent a car and ship his baggage on that day. He spent the night in New York and continued his journey at 9 a.m. the following day. While he was not authorized a rest stop, the employee may receive per diem for the 24-hour delay since the delay in clearing customs is the type of circumstance contemplated by 6 FAM 156.4, which provides for per diem while awaiting onward transportation. B-194254, June 18, 1979.