GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-259071

November 30, 1994

The Honorable Charles S. Robb
United States Senator
Old City Hall
1001 East Broad Street
Richmond, Virginia 23219

Dear Senator Robb:

This further responds to your letter of October 12, 1994, with enclosures, regarding whether Mr. is entitled to reimbursement of home sale expenses incident to his transfer of duty stations.

Information provided by Mr. shows that he is a civilian employee of the Department of Defense who transferred in 1990 to the Defense Systems Management College (DSMC) at Fort Belvoir, Virginia, from Norton Air Force Base, California, incident to the closure of Norton under the Defense Base Closure and Realignment Act of 1990.[1] The DSMC authorized full relocation allowances for Mr. including reimbursement for the real estate expenses incurred in the sale of his old residence and the purchase of a new residence. Mr. states that because of the depressed real estate market, caused at least in part by the base closure, he did not receive a firm bid on his old residence until September 1994, over 4 years after his transfer to DSMC. He further states that DSMC has advised him that he is no longer eligible for reimbursement of the real estate sale expenses because the sale was not completed within the 3-year time limit prescribed in the applicable regulations. He feels that there should be some form of redress for his situation because of the difficulty he encountered in selling his residence and because he was not aware of the time limitation prescribed by the regulations.

The regulation to which Mr. refers is prescribed by the General Services Administration (GSA) in the Federal Travel Regulation (FTR), 41 C.F.R. § 302-6.1(e)

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[1]Pub. L. 101-510, title XXIX, §§ 2901-2910, 104 Stat. 1808 (1990).

(1993).[2] This provision requires that the settlement dates for real estate transactions for which reimbursement is authorized must occur not more than 2 years after the date the employee reported for duty at the new duty station, but this period may be extended for 1 additional year under certain conditions. FTR § 302-6.1(e). This maximum 3-year limit has the force and effect of law and may not be waived or modified by the agency concerned or this Office. , 67 Comp. Gen. 395, 400 (1988).

Although it is unfortunate that Mr. was unable to sell his house within the 3-year limit due to the impact of the base closing, we are aware of no authority under which the time limit can be extended, even in unusual circumstances or where the employee is not aware of the deadline. See e.g., , 58 Comp. Gen. 539 (1979); and , B-207730, July 7, 1982.[3]

Accordingly, the advice Mr. states he received from DSMC that he is no longer eligible for reimbursement for the real estate expenses incurred in the sale of his old residence appears correct.

As you requested, we are returning the correspondence sent to your office by Mr. , which was enclosed with your letter. We also are enclosing copies of the Comptroller General decisions cited above. We trust this is responsive to your inquiry.

Sincerely yours,

Seymour Efros

for Robert P. Murphy
Acting General Counsel

Enclosures

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[2]This provision is restated in the Joint Travel Regulations, Volume 2, para. C14000-2, applicable to DOD civilian employees.

[3]The maximum time period applicable in the and cases was 2 years. The FTR was subsequently amended to provide the current 3-year maximum period.

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DIGEST

A civilian Department of Defense employee who transferred to a new duty station following a base closure was unable to sell his old residence within the maximum 3-year time limit prescribed by the Federal Travel Regulation. 41 C.F.R. Sec. 302-6.1(e) (1993). Although the base closure may have depressed the market and contributed to the employee's inability to sell his residence within the time limit, that does not provide any grounds on which to extend the time limit which has the force and effect of law.