



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

31155

JUL 9 1973

D-178374

Mr. Robert P. Craig  
3904 Davenport  
Erie, Pennsylvania 16509

Dear Mr. Craig:

Reference is made to your letter of January 16, 1973, requesting reconsideration of the settlement of November 15, 1972, by our Transportation and Claims Division, which affirmed the determination by the Veterans Administration Hospital, in Erie, Pennsylvania, that you had been overpaid in the amount of \$539 for real estate expenses, and consequently advising you that collection action for this amount appeared to be proper.

The record shows that you were initially reimbursed \$568.75 for real estate closing costs incident to the purchase of a residence in connection with a change of official duty station in June 1970. As a result of a subsequent internal audit, however, it was determined that you had been overpaid in the amount of \$539. The basis of this conclusion was a determination that the seller paid \$550 of the total amount of your closing costs (\$579.75).

You contend that the term "closing costs" includes any amount above the selling price which is required to consummate a real estate transaction. You state in this regard that your total amount of expenses above the selling price was \$1,238.97 and therefore your actual expenses were \$688.97 (\$1,238.97 less the \$550 that the seller paid).

We agree with your statement that the decisive factor in the present case is the meaning of the term "closing costs" for the purposes of the settlement agreement. The audit report treated your closing costs as including the first 10 items listed as charges to the buyer and the settlement fee of \$25. According to your interpretation, your closing costs included the following other items listed in the settlement agreement as "Charges to Buyer":

taxes (7 months)	\$293.33
water rent	4.00
fire insurance premium	39.00
interest (26 days)	96.64

720940  
091388

B-178374

**Escrow**

taxes (5 months)	\$212.35
fire insurance (2 months)	6.50
mortgage insurance premium (1 month)	<u>7.40</u>

While recognizing that there is a technical distinction between closing costs (credit report fee, recording, deed fee, appraisal fee, etc.) and prepaid items (escrow items, fire insurance premium, interest expense), the term "closing costs" as used in the present settlement agreement may reasonably be viewed as including the above prepaid items. All of the items were listed in the "Buyer's Settlement" schedule as costs payable by the buyer. The \$550 paid by the seller, and described as "Buyer's Closing Costs paid by Seller," was thereupon deducted from the total amount of these items. In this light we do not think a fine technical distinction should be made so as to apply to the entire amount paid by the seller in such a manner that would deprive the employee of otherwise reimbursable real estate expenses. See B-163701, March 25, 1968; B-176200, July 28, 1972; B-174634, January 20, 1972.

Thus, we will consider the total amount of your closing costs to have been \$1,238.97 of which \$550 was paid by the seller and \$688.97 by you. However, the prepaid items (\$659.22) and the mortgagee's service charge (\$178.50), presumably a finance charge since it appears to have been based on 1 percent of the mortgage proceeds, for a total of \$837.72, are not allowable expenses under section 4.2d of Office of Management and Budget Circular No. A-56. Of the total amount of closing costs only \$401.25 (\$1,238.97 less \$837.72) represents reimbursable items under the applicable regulations. Since you have been paid \$568.75, you are indebted to the Government in the amount of \$167.50.

A copy of this letter is being sent to the Veterans Administration Hospital in order that appropriate action will be taken to reduce your indebtedness from \$539 to \$167.50 and institute collection action for that amount.

Sincerely yours,

Acting PAUL G. DEMBING  
Comptroller General  
of the United States