

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

50698 97279

FILE: B-183699

DATE: May 23, 1975

MATTER OF: Precision Electronics Laboratories

DIGEST:

Protest filed in GAO more than 5 days after basis for protest is known or should have been known is untimely and therefore inappropriate for consideration under 4 C.F.R. § 20.2(a) (1974).

The Army Missile Command (AMC) issued IFB DAAH01-75-B-0152 for a quantity of electronic component assemblies on February 18, 1975. Ten bids were opened on March 12, 1975, including a bid from Precision Electronics Laboratories (PEL). On March 28, 1975, DAAH01-75-C-0741 was awarded to PBR Electronics, Inc. of Athens, Alabama. By letter of March 28, 1975, the Contracting Officer, L. F. Paris, notified PEL of this award. In this regard, AMC states that on April 2, 1975, Mr. L. E. Kuhlberg of PEL attended a meeting at which the contracting officer explained in detail why award was not made to that concern. Protester asserts that the meeting with the contracting officer took place on April 4, 1975. In any event, PEL's letter of protest, dated April 15, 1975, was received by the GAO on April 22, 1975.

Section 20.2(a) of 4 C.F.R. provides in pertinent part that bid protests shall be filed not later than 5 days after the basis for the protest is known or should have been known, whichever is earlier. For purposes of this requirement "days" refer to "working days" of the agencies of the Federal Government (4 C.F.R. § 20.12 (1974)) and "filed" means receipt by the GAO (4 C.F.R. § 20.2(a) (1974)). Since the protest of PEL was filed more than 5 days after the protester knew or should have known the basis for its protest, it is untimely under 4 C.F.R. § 20.2(a) (1974).

Accordingly, the protest is dismissed.

A handwritten signature in cursive script that reads "Paul G. Dembling".
Paul G. Dembling
General Counsel

new duty station in Amman, Jordan, as an FC Schedule employee. The employment agreement signed by claimant stipulated that the Government would reimburse travel and transportation expenses for the claimant and family from Philadelphia to Amman, Jordan, and return to Washington, D. C.

Claimant recognizes that the provision of OMB Circular No. A-56 are not applicable to foreign service employees since their assignment to foreign posts and return do not involve geographical changes of duty stations within the continental United States. However, since the personnel action appointing him to foreign service also showed his employing office as Washington, D. C., claimant maintains he was effectively transferred to a new duty station within the United States without the normal compensation incident to such move. The employee states that all actions were made for the benefit of the Government and favorable consideration is requested of claimed expenses pursuant to OMB Circular No. A-56. The matter has been referred to us for decision by the NPS.

Subsection 5724a(a)(4) of title 5, United States Code, provides that an employee transferred in the interest of the Government from one official station to another for permanent duty may be reimbursed the expenses of the sale of his residence at the old station and the purchase of a home at the new official station when both the old and new duty stations are located within the United States.

Since the claimant's old official duty station before transfer to Amman was Philadelphia and before his transfer to Washington, D. C., was Ankara, Turkey, claimant does not qualify for reimbursement for the real estate expense he incurred in connection with the sale of residence at Philadelphia and purchase of a new residence in Washington, D. C.

It has been informally ascertained from the NPS that Mr. Miller was not assigned to duty in Washington, D. C., in 1966, although the NPS, Division of International Affairs, Washington, D. C., was shown on the Notification of Personnel Action issued November 30, 1966, as the employing office. Furthermore, no travel orders were issued authorizing Mr. Miller to travel to Washington, D. C., incident to a change of station. The only travel order issued incident to his move from Philadelphia was for his direct travel from Philadelphia to Amman. The travel order authorized travel and necessary expenses in accordance with AID Manual Order 560.2. The copy of the travel order

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on file dated July 20, 1971, authorizing Mr. Miller to travel from Ankara, Turkey, to Washington, D. C., for separation and reassignment in Washington, D. C., also contained the provision that travel and necessary expenses were authorized in accordance with AID Manual Order 560.2. Therefore, Federal travel regulations contained in OMB Circular No. A-56 would not be applicable in Mr. Miller's case.

Section 111 of AID Manual Order 560.2 provides that those regulations also cover FC Schedule employees of participating agencies. Section 112 provides that the Federal Travel Regulations do not apply to Foreign Service personnel except in two instances not applicable here. While the AID Manual Order 560.2 provides for payment of certain travel and transportation expenses of employees incident to a transfer of station, no provisions are made therein for reimbursement of miscellaneous expenses and subsistence expenses while occupying temporary quarters.

Accordingly, the voucher may not be certified for payment.

R.F. KELLER

Deputy Comptroller General
of the United States

DECISION

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

58718 97259

FILE:

DATE: **MAY 29 1975**MATTER OF: **B-182002****DIGEST:**

Hugh C. Miller - Reimbursement for relocation expenses incident to transfers to and from an overseas duty station.

1. Claim for expenses incurred in sale and purchase of residences incident to transfers of official station to and from an overseas location is not allowable since 5 U.S.C. 5724a(4) authorizes reimbursement of such expenses only when both old and new duty stations are located in the United States.
2. Claim of employee who transferred from overseas duty station to the U.S. where travel and transportation expenses were authorized in accordance with AID Manual Order 560.2, may not be reimbursed for miscellaneous expenses incurred incident to the purchase of a residence nor would he be entitled to reimbursement of subsistence expenses while occupying temporary quarters since no provisions are made in AID Manual Order 560.2 for reimbursement of such expenses.

The Department of the Interior, National Park Service (NPS), requests a decision as to whether an employee, Mr. Hugh C. Miller, transferred from Philadelphia, Pennsylvania, to Amman, Jordan, to Ankara, Turkey, to Washington, D. C., may be reimbursed for expenses incurred in the sale of his house in Philadelphia and purchase of a new house in Washington, D. C., pursuant to Office of Management and Budget (OMB) Circular No. A-56. Mr. Miller is also claiming subsistence expenses for quarters while occupying temporary quarters for the period from September 10, 1971, through November 9, 1971, as well as \$200 miscellaneous expenses.

It appears that the claimant was selected as the Supervising Architect on the National Park Service team assigned to Jordan through an agreement with the Agency for International Development (AID). Incident to this appointment, effective October 9, 1966, the claimant was required to voluntarily relinquish his competitive position at his old NPS duty station in Philadelphia. His personnel action placed him in an excepted Foreign Service position, with a