

# DECISION



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

FILE: B-185344

DATE:

SEP 23 1976

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MATTER OF: Ray K. Monaghan

## DIGEST:

1. Transferred employee may be reimbursed for payment of one-half of escrow fees incurred incident to sale of former residence and purchase of new residence since escrow fees are negotiable items in each location and employee appears to have negotiated in good faith.
2. Hypothetical question pertaining to negotiability of real estate expenses is not for consideration since GAO is not required to render decisions to certifying officers on hypothetical questions.

This action is in response to a request, dated November 6, 1975, by Ruth W. Oxley, Certifying Officer, Department of the Interior, for a decision on the propriety of certifying for payment a reclaim voucher for Ray K. Monaghan for real estate expenses incurred incident to his official transfer from Shiprock, New Mexico to Albuquerque, New Mexico.

The amount in question is \$82.68, representing \$34.84 in escrow fees incurred incident to the sale of his former residence in Farmington, New Mexico, and \$47.84 in escrow fees incurred on the purchase of a residence in Albuquerque, New Mexico.

Under Federal Travel Regulations (FPMR 101-7), para. 2-6.2, these items are reimbursable if they are customarily paid by the seller of a residence at the old official station or customarily paid by the purchaser of a residence at the new official station. Since there is no clear custom in either Farmington or Albuquerque as to who is responsible for the payment of escrow fees, reimbursement for these payments has been questioned. The agency has informed us that "in each locale they are negotiable items." Since the items are negotiable, and Mr. Monaghan has paid half the cost in each case, the agency recommends allowance.

We have held that when a locality is devoid of custom in the usual sense, and the parties negotiated otherwise allowable costs in good faith, allowance may be made. B-182076,

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February 5, 1975. In view of the agency recommendation and the absence of any indication of bad faith on the part of Mr. Monaghan, the voucher may be certified for payment if otherwise proper.

The certifying officer has also requested that we respond to the following question:

"Are negotiable items payable, and if so, does the percentage the employee negotiates enter into the decision as to whether he can be reimbursed, i.e., (1) had the escrow fee been negotiable and employee paid entire amount rather than one half; (2) had the escrow fee been negotiable and only paid on purchase or sale and not on both transactions."

This is a hypothetical question. Our Office is not required to render advance decisions to certifying officers on hypothetical questions. We point out, however, that the answer to your question would be controlled by the specific facts of the case.

R.F. KELLER

Deputy

Comptroller General  
of the United States