PLM I

30601

DECISION

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

FILE: B-216343 **DATE:** March 4, 1985

MATTER OF: Hernan Rosado and Sonia M. Terron - House-hunting Trip - Erroneous Authorization

DIGEST:

Two employees who were permanently transferred from Mayaquez and Arecibo, Puerto Rico, respectively, to San Juan, Puerto Rico, are not entitled to reimbursement for house-hunting trips since both old and new official stations were located outside of conterminous (continental) United States. 5 U.S.C. § 5724a(a)(2), and Federal Travel Regulations para. 2-4.1c(3). Erroneous advice and authorization by agency officials does not create right to reimbursement where expense claimed is precluded by law.

The issue decided here is whether two Government employees may be authorized and reimbursed expenses incurred for house-hunting trips performed in connection with an official transfer to and from duty stations outside the conterminous (continental) United States. Under the express terms of paragraph 2-4.1c(3) of the Federal Travel Regulations (FTR)[1/], which implements 5 U.S.C. § 5724a(a)(2) (1982), reimbursement for travel and transportation expenses for trips to seek permanent residence quarters shall not be authorized when either the old or new duty station or both duty stations are located outside the conterminous (continental) United States.

This decision is in response to a request for an advance decision from W. D. Moorman, an authorized certifying officer, Department of Agriculture, Office of Finance and Management, National Finance Center, concerning the entitlement of Mr. Hernan Rosado and Ms. Sonia M. Terron, employees of the Food and Nutrition Service, to reimbursement for relocation expenses for house-hunting trips in September 1982, incident to a permanent change of station from Mayaquez and Arecibo, Puerto Rico, respectively, to San Juan, Puerto Rico.

1/ 41 C.F.R. § 101-7 031385

Reimbursement for travel and transportation expenses to seek a new permanent residence at a new official station is authorized by 5 U.S.C. § 5724a(a)(2) (1982), which provides in part as follows:

> "(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of * * *
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> "(2) * * * Expenses of transportation to seek permanent residence quarters at a new official station when both the old and new stations are located within the continental United States. * * *" (Emphasis added.)2/

This statutory provision has been implemented by paragraph 2-4.1c(3) of the Federal Travel Regulations which states that an employee shall not be reimbursed for such a house-hunting trip when either the old or new official duty station or both are located outside the conterminous United States. See 52 Comp. Gen. 834 (1973) involving a transfer from Alaska to the conterminous United States; Paul L. Guidry, B-203645, October 9, 1981, concerning a house-hunting trip performed by an employee's spouse for a transfer from Paris, France, to Washington, D.C.; and Eugene B. Roche, B-205041, May 28, 1982, concerning a house-hunting trip performed by an employee's spouse for a transfer from Kansas City to Alaska.

Accordingly, there is no lawful authority for reimbursement of the costs of either Mr. Rosado's or Ms. Terron's house-hunting trips.

2/ The definition of "continental United States" in 5 U.S.C. § 5721 states that it "means the several States and the District of Columbia, but does not include Alaska or Hawaii; * * *." The definition of "conterminous United States" in FTR para. 2-1.4a states that it means "the 48 contiguous States and the District of Columbia." Hence, the two terms mean the same thing and may be used interchangeably.

The authorized certifying officer has stressed the existence of certain mitigating factors in the employees' claims which follow from the agency's admission that the granting of approval of the round trips to seek new quarters was an administrative error. The authorized certifying officer points out as follows:

> "The agency states that they believe the intent of the regulations, concerning a househunting trip outside the conterminous United States, is to prevent an employee from taking a paid vacation at Government expense. However, they state that no consideration is given to a situation where both the old and new station is located on the same island, and no excessive transportation costs are incurred. Also, they state that the enactment of the Puerto Rico Block Grant, Section 19 of the Food Stamp Act, necessitated the centralization of the Puerto Rico field office. The agency contends that by allowing the employees to incur expenses for a househunting trip, the need for allowing more costly temporary quarters expenses was eliminated. Temporary quarters expenses are allowable in accordance with Paragraph 2-5.2a of the FTR."

We cannot agree with the proposition that the situation here where both the old and new duty stations are located on an island outside the conterminous United States is not covered by the statute and regulations. The statute specifically requires both the old and new stations to be located within the continental United States. The regulations specifically bar reimbursement when both stations are located outside the conterminous United States. Therefore, it is clear that when both of the stations are located in Puerto Rico, house-hunting trips may not be reimbursed. Further, we are not aware of any provisions of the Puerto Rico Block Grant, Section 19 of the Food Stamp Act, Pub. L. 88-525 and Pub. L. 97-35, 7 U.S.C. § 2028 (1982), or its legislative history which would affect the relocation entitlements of the affected employees.

We recognize that both Mr. Rosado and Ms. Terron relied on the misinformation and erroneous authorization given to them concerning their entitlements to reimbursement for house-hunting trips. However, as we pointed out in Eugene B. Roche, supra, we have consistently held that the erroneous advice or authorization does not in itself create a right to reimbursement where the expense claimed is precluded by law.

for Comptroller General
of the United States