

*Selden*



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Proper Appropriation to Charge for Third Party  
Relocation Service Costs

File: B-223848

Date: July 2, 1987

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## DIGEST

Amounts the Veterans Administration (VA) pays to a third party relocation firm under a contract with the firm for purchasing transferred employees' old residences should be paid from appropriations available when the purchase order under the contract is awarded. The VA typically incurs these discretionary expenses a year or two after a transfer is authorized, and thus they reflect new contractual commitments not based on preexisting obligations.

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## DECISION

The Veterans Administration (VA) asks about the proper appropriation to charge for payments to third party relocation firms for purchasing the old residences of transferred employees who have been unsuccessful in finding a buyer themselves. For the reasons given below, we conclude that these payments should be made from appropriations available when these expenses are incurred.

## BACKGROUND

The VA states that when one of its employees is transferred, the estimated expenses for authorized relocation services are recorded as obligations against the appropriation current when the employee is issued travel orders. These expenses include real estate costs covering sale of the old residence and purchase of a new one. The statutory limit for the former is 10 percent of the sale price or \$15,000, whichever is less; and, for the latter, the lesser of 5 percent of the purchase price or \$7,500. 5 U.S.C. § 5724a(a)(4)(B). The amount initially obligated reflects the maximum which the VA estimates the transfer may cost.

In addition, pursuant to 5 U.S.C. § 5724c, agencies have discretionary authority to contract with private firms for arranging the purchase of an employee's old residence. We understand that some agencies do have regular programs where employees are given the option, at the time of transfer, of

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requesting that third party relocation services arrange for purchase of their residences. These agencies regularly do obligate estimated amounts for these services when employees are transferred.

The VA, however, does not offer these services at the time of transfer nor does it obligate estimated amounts for these services at that time. The VA provides these services only on a discretionary basis and only after employees have not been able to sell their old residences by themselves or through real estate agents. This generally occurs a year or two after the transfer.<sup>1/</sup> We understand that the additional expenses incurred generally exceed the amounts initially obligated for relocation costs such as real estate agent fees and commissions.

The VA states that it has been paying for third party relocation services from appropriations available when the transfer is authorized rather than when the expense is incurred. It believes these additional expenses are another way of paying transferred employees' real estate costs, and thus maintains they should continue to be paid from those appropriations rather than appropriations available when the expense is incurred.

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#### LEGAL DISCUSSION

Section 5724c of title 5 of the United States Code authorizes Federal agencies to enter into contracts to provide relocation services to employees including, but not limited to, arranging for purchase of a transferred employee's residence. Federal Travel Regulations implementing the law describe it as providing agencies with discretionary authority to provide such services. Federal Travel Regulations ¶ 2-12.1 (Supp. 11, July 25, 1984), incorp. by ref., 41 C.F.R. § 101-7.003. The regulations provide that once a contract with a third party relocation contractor is used, reimbursement to the employee is not to be allowed for expenses that are analogous or similar to expenses for services that the agency will pay for under the relocation service contract. Id. ¶ 2-12.5.

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<sup>1/</sup> The VA informs us that it does not contract with third party relocation firms directly but does so under a Federal Aviation Administration contract which specifically allows other Federal agencies to avail themselves by purchase order of the services provided to the FAA.

The VA only provides relocation services for arranging the purchase of a transferred employee's residence upon employee request a year or two after the transfer. The VA's determination to provide these services is purely discretionary. Since there is no way of knowing whether an employee will request these discretionary services, and the VA does not obligate monies for them at the time of transfer, it would be impractical to charge appropriations available at the time of transfer for their cost. The proper appropriation to charge is that available when the VA enters into the contract with the third party relocation service. Only at that time does the VA exercise its discretion to provide the services. Furthermore, these services are not based on any preexisting obligation owed to the transferred employee.

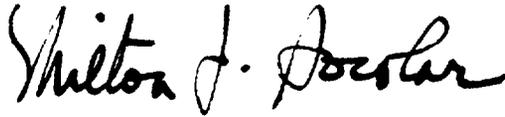
We distinguish our conclusion from that in 64 Comp. Gen. 901, 902 (1985), in which we held that extensions for Temporary Quarters Subsistence Expenses (TQSE)<sup>2</sup>/should be paid from appropriations available when an employee's transfer order is issued since the entitlement to the initial TQSE arises in that fiscal year and the extension relates back to the initial TQSE expenditure. Although the TQSE extension is discretionary in a broad sense, the regulations state that it may be provided if the agency head or appropriate designee finds that there are compelling reasons to do so for the continued occupancy of the temporary quarters. Federal Travel Regulations ¶ 2-5.2a (2)(Supp. 10, Mar. 13, 1984).

Arguably, once the "compelling reasons" test is satisfied, for all practical purposes the extension expenses are required. Conversely, under 5 U.S.C. § 5724c and the VA implementation of that statute, VA contracts with relocation firms for arranging purchases of transferred employees' residences are totally discretionary. There are no statutory or regulatory criteria like the "compelling reasons"

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2/ A transferred employee is ordinarily allowed up to 60 days of Temporary Quarters Subsistence Expenses upon relocation. Federal Travel Regulations ¶ 2-5.2a(1) (Supp. 10, Mar. 13, 1984). Extensions are authorized only under circumstances that have occurred during the initial 60-day period of temporary quarters occupancy and which are determined to be beyond the employee's control and acceptable to the agency. Id. ¶ 5.2a(2).

condition that, effectively, would render these services entitlements. Moreover, there is no initial expenditure for these services to relate back to.

*for*   
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