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*DECISIONS OF*

**THE COMPTROLLER GENERAL OF THE UNITED STATES**

*RELATING TO BENEFITS  
PROVIDED FOR TRANSFERRED EMPLOYEES  
UNDER PUBLIC LAW 89 - 516  
JULY 21, 1966*

**Reference**

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**UNITED STATES GENERAL ACCOUNTING OFFICE**

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UNITED STATES  
GENERAL ACCOUNTING OFFICE

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## FOREWORD

Although the need for legislation to authorize reimbursement to civilian officers and employees for relocation expenses when they are transferred in the interest of the Government to new duty stations was recognized for some years, it was not until 1963 when the Civil Service Commission completed a survey of actual moving expenses incurred by more than 5,000 employees that the losses being incurred were adequately documented.

On July 21, 1966, the President approved H.R. 10607, 89th Congress, and it became "Public Law 89-516," 80 Stat. 323, now popularly referred to by that designation.

The Bureau of the Budget issued the implementing regulations in the form of Circular No. A-56, revised, to the heads of departments and establishments, setting forth guidelines for the allowances and benefits authorized under Public Law 89-516.

As agencies began to include the relocation costs in their budget estimates in anticipation of transfers, the Congress and particularly the House Committee on Appropriations noted the considerable variances among the departments and agencies of the average transfer costs.

The General Accounting Office undertook a selected review of expenditures incident to the sale or purchase of real estate, settlements of lease terminations and miscellaneous expenses and issued a report to the Congress on April 30, 1968 (B-160026).

As a result of the recent study by General Accounting Office, it was concluded that a digest of selected opinions would be of assistance to the certifying and disbursing officers in ascertaining the propriety of payments under the law.

This manual contains digests of those decisions rendered under Public Law 89-516 through June 1968 that establish precedents and guidelines for payments. Subsequent decisions in this area will appear in our usual

publications. The material is arranged according to the format of Bureau of the Budget Circular No. A-56. The pertinent BOB Circular No. A-56 regulation is quoted followed by digests of the applicable decisions of the Comptroller General. A subject index and tables of decisions cited, are included at the end of this pamphlet.



Public Law 89-516  
89th Congress, H. R. 10607  
July 21, 1966

**An Act**

80 STAT. 323

To amend the Administrative Expenses Act of 1946, as amended, to provide for reimbursement of certain moving expenses of employees, and to authorize payment of expenses for storage of household goods and personal effects of employees assigned to isolated duty stations within the continental United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 1 of the Administrative Expenses Act of 1946 (60 Stat. 806, as amended; 5 U.S.C. 73b-1(a)), is amended by—

Administrative Expenses Act of 1946, amendments.

(1) striking the words "the Act of February 14, 1931" appearing in the first parentheses contained therein, and inserting in lieu thereof "section 4 of the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 837)";

46 Stat. 1103;  
63 Stat. 167.

(2) striking the word "seven" appearing in the second parentheses contained therein, and inserting in lieu thereof the word "eleven";

(3) striking out the first proviso contained therein the words "the Subsistence Expense Act of 1926 (5 U.S.C. 828)" and inserting in lieu thereof the words "section 5 of the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 838)".

44 Stat. 688;  
63 Stat. 167.

(b) Subsection (b) of section 1 of the Administrative Expenses Act of 1946 (60 Stat. 807, as amended; 5 U.S.C. 73b-1(b)), is amended by adding the following words immediately before the period at the end of the first sentence in the subsection "except that payment of actual expenses may be made whenever, under regulations prescribed by the President, the head of the agency determines that such method of payment is more economical to the Government."

SEC. 2. The Administrative Expenses Act of 1946 (60 Stat. 806), as amended, is further amended by adding the following new sections:

"SEC. 23. Under such regulations as the President may prescribe and to the extent deemed necessary and appropriate, as provided therein, appropriations or other funds available to the departments for administrative expenses shall be available for the reimbursement of all or part of the following expenses of officers or employees for whom the Government pays expenses of travel and transportation under subsection (a) of section 1 of this Act:

Administrative expenses funds, availability for certain other costs.

"(1) The expenses of per diem allowance in lieu of the subsistence expenses of the immediate family of the officer or employee while en route between his old and new official stations, not in excess of the maximum per diem rates prescribed in or pursuant to section 3 of the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 836).

Per diem.

"(2) The expenses of per diem allowance in lieu of subsistence of the officer or employee and his spouse, not in excess of the maximum per diem rates prescribed in the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 836), and the 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, excluding Alaska, provided that such expenses may be allowed only for one round trip in connection with each change of station of the officer or employee.

Locating residence.

"(3) The subsistence expenses of the officer or employee and his immediate family for a period of thirty days while occupying temporary quarters when the new official station is located within the United States (including the District of Columbia, its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone: *Provided*, That the period of residence in temporary quarters may

Temporary quarters.

be extended for an additional thirty days when the officer or employee moves to or from Hawaii, Alaska, the territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone: *Provided further*. That reimbursement for subsistence expenses actually incurred may not exceed an amount determined from such average daily rates per person as may be prescribed in such regulations, but not in excess of the maximum per diem rates prescribed in or pursuant to section 3 of the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 836), for the localities in which the temporary quarters are located, for the first ten days of such period, two-thirds of such rates for the second ten days, and one-half for the balance of such period, including the additional thirty days.

Sale of residence.

"(4) The expenses of the sale of the residence (or the settlement of an unexpired lease) of the officer or employee at the old official station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States (including the District of Columbia), its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone, but reimbursement for brokerage fees on the sale of the residence and other expenses under this subsection shall not exceed those customarily charged in the locality where the residence is located and no reimbursement shall be made for losses on the sale of the residence. This provision applies regardless of whether the title to the residence or the unexpired lease is in the name of the officer or employee alone, in the joint names of the officer or employee and a member of his immediate family, or in the name of a member of his immediate family alone.

Family or self, allowance.

"Sec. 24. Under such regulations as the President may prescribe and to the extent deemed necessary and appropriate, as provided therein, and notwithstanding other reimbursement authorized under this Act, an officer or employee who is reimbursed under section 1(a) or section 23 of this Act shall, if he has an immediate family, receive an amount not to exceed two weeks' basic compensation, or, if he does not have an immediate family, an amount not to exceed one week's basic compensation: *Provided*, That such amounts shall not exceed amounts determined from the maximum rate of grade GS-13 in the General Schedule of the Classification Act of 1949, as amended.

Ante, p. 288.

Storage.

72 Stat. 843.  
5 USC 73b-3.

"Sec. 25. Under such regulations as the President may prescribe—  
"(a) Whenever any civilian officer or employee (including any new appointee in accordance with section 7(b) of this Act, as amended) is assigned to a permanent duty station at an isolated location in the continental United States, excluding Alaska, to which he cannot take or at which he is unable to use his household goods and personal effects because of the absence of residence quarters at such location, nontemporary storage expenses or storage at Government expense in Government-owned facilities (including related transportation and other expenses), whichever is more economical, may be allowed such officer or employee under regulations issued by the head of the Executive Department or agency concerned. In no instance shall the weight of the property stored under this subsection, together with the weight transported under section 1 or section 7(b) of this Act, exceed the total maximum weight the officer or employee would be entitled to have moved, and the period of nontemporary storage shall not exceed three years.

60 Stat. 806.  
5 USC 73b-1.

"(b) This section does not authorize reimbursement to officers and employees traveling under orders issued more than sixty days prior to the effective date of this section.

Transfers between departments.

"Sec. 26. Under such regulations as the President may prescribe and notwithstanding the provisions of the fourth proviso of section 1(a)

of this Act, in transfers between departments for reasons of reduction in force or transfer of function, expenses authorized under section 1, subsections (a) and (b) and subsections (e) and (f) other than expenses authorized in connection with transfers to foreign countries, and under sections 23 and 24 of this Act may be paid in whole or in part by the department from which the officer or employee is transferred or by the department to which he is transferred, as may be agreed upon by the heads of the departments concerned.

60 Stat. 608;  
74 Stat. 796,  
797.  
5 USC 73b-1.

"SEC. 27. Under such regulations as the President may prescribe, a former officer or employee separated by reason of reduction in force or transfer of function who is reemployed within one year of the date of such separation by a nontemporary appointment at a different geographical location from that where such separation occurred may be allowed and paid the expenses authorized by section 1 of this Act, and may receive the benefits authorized by sections 23 and 24 of this Act, in the same manner as though he had been transferred to the location of reemployment from the location where separated in the interest of the Government without a break in service.

Separations.

"SEC. 28. Notwithstanding the provisions of subsections (a) and (b) of section 1, and of sections 23, 24, 25, and 27 of this Act, the travel and transportation expenses, including storage of household goods and personal effects, and other relocation allowances shall not be allowed thereunder when a civilian officer or employee is transferred within the continental United States, excluding Alaska, unless and until such officer or employee shall agree in writing to remain in the Government service for twelve months following his transfer, unless separated for reasons beyond his control and acceptable to the department or agency concerned. In case of violation of such agreement, any moneys expended by the United States under said sections of this Act on account of such officer or employee shall be recoverable from him as a debt due the United States."

Conditions.

SEC. 3. Regulations under this Act shall be prescribed within ninety days following the date of enactment but shall be retroactive to such date.

Effective date.

Approved July 21, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 1199 (Comm. on Government Operations).  
SENATE REPORT No. 1357 (Comm. on Government Operations).  
CONGRESSIONAL RECORD, Vol. 112 (1966):  
Mar. 23: Considered and passed House.  
July 11: Considered and passed Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

WASHINGTON, D C. 20503

October 12, 1966

CIRCULAR NO. A-56  
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Regulations governing payment of travel and transportation expenses of civilian officers and employees of the United States

1. Purpose. In accordance with the authority vested in the President which has been delegated to the Director of the Bureau of the Budget by Executive Order No. 11230 of June 28, 1965, as amended by Executive Order No. 11290, dated July 21, 1966, this Circular prescribes regulations contained in Attachment A, governing the payment of:

a. Travel and transportation expenses of civilian officers and employees authorized in sections 1 and 7 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-1, 3 and 4); and as further amended by sections 1 and 2 of P.L. 89-516 (80 Stat. 323).

b. Expenses for storage of household goods and personal effects of overseas teachers authorized in section 7 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (5 U.S.C. 2355).

2. Effect on prior regulations. This revision of the regulations consolidates and supersedes those contained in the earlier version of this Circular, dated April 30, 1962, as amended by Transmittal Memorandums Nos. 1 through 6.

3. Allowances and benefits under P.L. 89-516. P.L. 89-516, as implemented by these regulations, provides the following entitlements, conditioned upon the civilian officer or employee having signed the appropriate agreement specified in subsection 1.3c of the regulations, (Attachment A):

a. Allowable expenses of moving in connection with former employees separated by reason of reduction in force or transfer of function who are reemployed within one year of the separation date (subsection 1.3a).

b. Allowable expenses of moving in connection with transfers between departments for reasons of reduction in force or transfer of function, to be paid by either of the departments concerned, or partially by each, as the department heads may agree (subsection 1.3b).

c. Expenses of per diem allowance in lieu of the subsistence expenses of the immediate family of the employee while en route between his old and new official stations (section 2.2).

d. Expenses of per diem allowance in lieu of subsistence of the employee and his spouse, together with the expenses of their transportation to seek permanent residence quarters at a new official station (section 2.4).

e. Subsistence expenses of the employee and his immediate family while occupying temporary quarters (section 2.5).

f. Miscellaneous expenses resulting from a change of residence in connection with a permanent change of station (section 3).

g. Expenses of the sale or purchase of a dwelling belonging to the employee (or the settlement of his unexpired lease) in connection with his transfer to a new official station (section 4).

h. An increase in the maximum weight limit from 7,000 to 11,000 pounds in the net weight of household goods and personal effects which employees and certain new appointees may have transported or stored (subsection 6.2a).

i. Use of the actual expense method (involving use of a Government Bill of Lading) for transporting and storing household goods and personal effects when that method is more economical to the Government (section 6.4).

j. Expenses of non-temporary storage of household goods and personal effects (or, their storage at Government expense in Government-owned facilities) in connection with the assignment of employees and certain new appointees to permanent duty stations at isolated locations (section 6.5).

4. Other significant additions and revisions. In addition to those revisions and additions resulting from enactment of P.L. 89-516, certain other changes have been made, among the most significant of which are:

a. Revision of the definition of "immediate family" to include dependent parents of an employee's spouse (subsection 1.2d).

b. Addition of a definition of "household goods and personal effects" (subsection 1.2h).

c. Addition of a provision covering the use of more than one privately owned automobile in connection with a permanent change of station (subsection 2.3b).

d. Revision of the "weight allowance and determination of weight" provision to allow an increase from 2,500 to 5,000 pounds in the net weight of household goods and personal effects which employees or certain new appointees without immediate families may have transported or stored (subsection 6.2a).

e. Revision of the regulations concerned with "home leave" which (1) broadens the categories of persons hired locally at a post of duty outside the continental United States who are ineligible for payment of travel and transportation expenses (subsection 7.3b) and (2) authorizes the employing department to extend or deny eligibility for payment of these expenses to employees hired locally, thereby clarifying the department's authority to decide whether such employees are eligible to enter into agreements concerning the length of their service and to receive allowances for home leave (subsection 7.3c).

f. Addition of a provision defining the term "privately owned motor vehicle" (section 10.1).

g. Addition of a section which provides for the designation of the place of actual residence of employees and furnishes guidelines for use by department officials who may be called upon to make determinations of the place of actual residence of an employee (section 11).

5. Effective dates. This revision of the Circular and accompanying regulations is effective on the date of issuance except for those portions which implement the provisions contained in P.L. 89-516 and which are listed in paragraph 3 of this Circular.

The portions of the regulations which implement provisions of P.L. 89-516 are effective retroactively to July 21, 1966, except for a special retroactive feature set forth in subsection 6.5c of the regulations (Attachment A) pertaining to non-temporary storage of household goods which may apply when travel orders are issued on or after May 22, 1966. Entitlement to the allowances provided under P.L. 89-516 is conditioned upon (a) an employee or new appointee reporting for duty at his new official station (which constitutes the effective date of the transfer or appointment) on or after July 21, 1966, and (b) expenses that are reimbursable under the provisions of the statute and implementing regulations being incurred on or after July 21, 1966.

CHARLES L. SCHULTZE  
Director

Attachment

## CHAPTER 1

### EFFECTIVE DATE

#### REGULATIONS

The portions of BOB Circular No. A-56, Revised, October 12, 1966, which implement provisions of Public Law 89-516 are effective retroactively to July 21, 1966, except for a special retroactive feature set forth in subsection 6.5c of the regulations pertaining to nontemporary storage of household goods which may apply when travel orders are issued on or after May 22, 1966.

Entitlement to the allowances provided under Public Law 89-516 is conditioned upon

- (a) an employee or new appointee reporting for duty at his new official station (which constitutes the effective date of the transfer or appointment) on or after July 21, 1966, and
- (b) expenses that are reimbursable under the provisions of the statute and implementing regulations being incurred on or after July 21, 1966.

#### DECISIONS

##### Reporting for duty July 21, 1966 notice after reporting

Employees who were ordered to report and reported for duty at their new official duty station on July 18, 1966, are not entitled to the benefits provided by Public Law 89-516. The issuance of a formal documentation of the change of station on July 22, 1966, after the employees had begun to work at the new station does not prevent the change from becoming effective on the date the employees actually reported for duty. 46 Comp. Gen. 595.

##### Appointment in new position prior to July 21, 1966,--leave effect

Where employee accepted an appointment with another agency prior to July 21, 1966, but was immediately granted

leave and did not report to the new duty station until July 25, 1966, he is eligible for benefits under Public Law 89-516. B-161859, July 11, 1967.

Leave effect

Employee who was on sick leave from July 13 through August 13, 1966, and did not report to his new duty station until August 15, 1966, is eligible for benefits under Public Law 89-516, even though, if he had not been ill, he would have reported to his new station on July 18, 1966, which would have precluded entitlement under Public Law 89-516. B-161919, August 4, 1967.

Training visit prior to July 21, 1966

Where employee traveled to his new station on July 13, 1966, to confer with his predecessor until July 15, then returned to his former station to bring his family to the new station, arriving at the new station with his family on July 26 and reporting for duty July 27, 1966, it was held that the employee actually reported for duty on July 13, 1966. Accordingly, the change of station became effective on that date rather than July 27, 1966, and the employee was not entitled to benefits under Public Law 89-516. B-162137, October 13, 1967.

Movement of dependents and household goods after July 21, 1966

Although employees who were transferred to new stations on January 14 and February 13, 1966, were unable to move their families and effects until permanent quarters were constructed and available at the new station after July 21, 1966, they are not entitled to the additional benefits under Public Law 89-516. B-161050, May 8, 1967.

Notification of transfer prior to July 21, 1966

Employee who did not actually report for duty at new station until September 26, 1966, although he had confirmed acceptance of the transfer at the new station on June 8, 1966, is eligible for benefits of Public Law 89-516. In

this case the official approval for the employee's transfer was June 27, 1966, when he was at another location. B-161303-O.M., May 2, 1967.

Expenses prior to July 21, 1966

There are two conditions for entitlement to benefits under Public Law 89-516; (1) reporting for duty on or after July 21, 1966, and (2) incurrence of expenses on or after July 21, 1966, and both must be met before an employee is entitled to the benefits of the act.

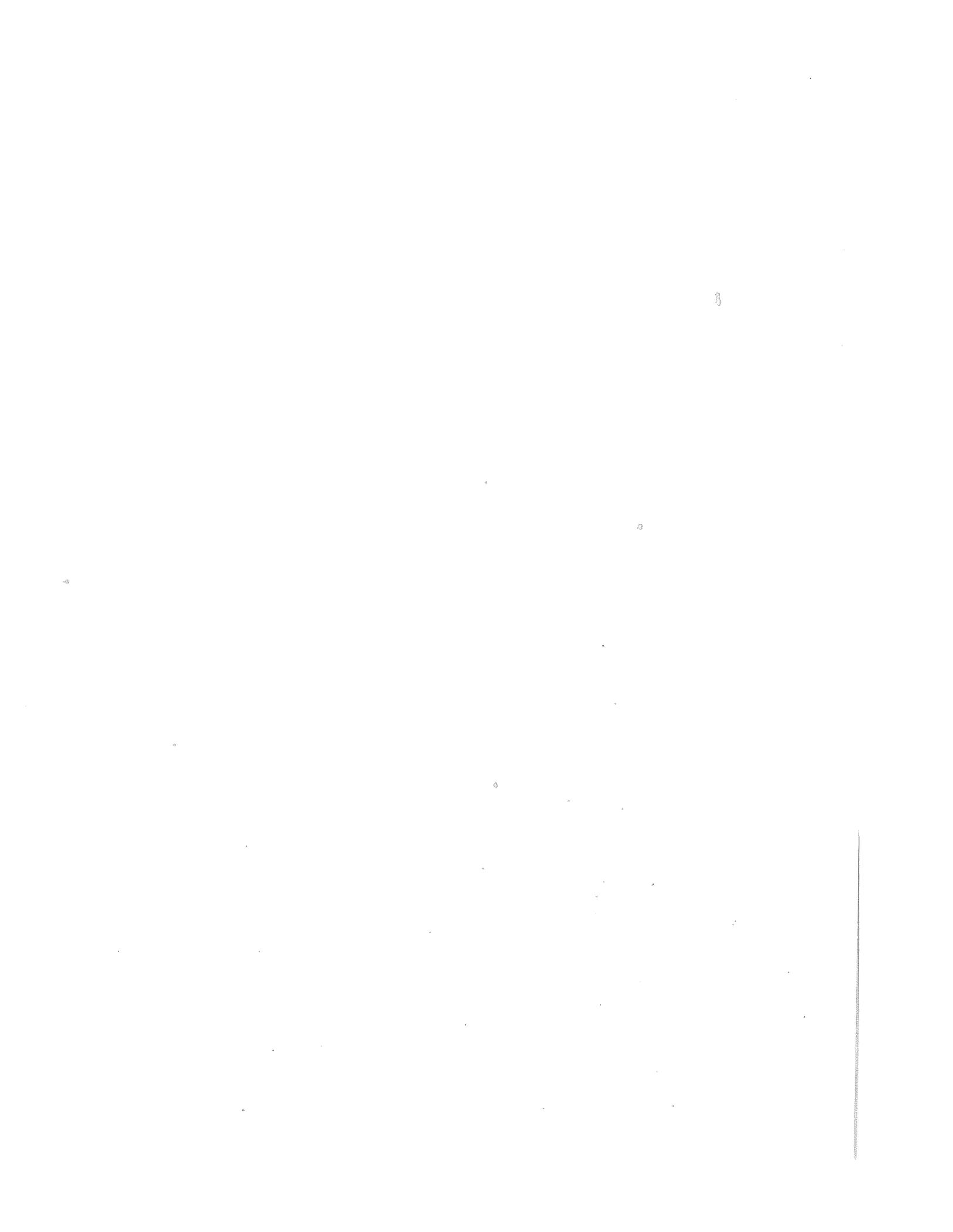
Where an employee incurred expenses for a house-hunting trip prior to July 21, 1966, in connection with a transfer which was effective on July 31, 1966, he has not met one of the conditions of entitlement; namely, the incurrence of the expenses on and after July 21, 1966. B-161699, June 27, 1967.

Expenses prior to July 21, 1966

Employee who incurred expenses in connection with sale of home at former station prior to July 21, 1966--effective date of Public Law 89-516 benefits--and who, in connection with his transfer under a personnel action dated July 14, 1966, arrived at new station on July 19 but was on leave until July 25, 1966, must have July 25, 1966, regarded as the effective date of transfer for entitlement to allowances under Public Law 89-516. However, per diem and expenses of home sale incurred prior to July 21, 1966, are not for allowance. B-161266, May 1, 1967.

House hunting trip prior to effective date of Public Law 89-516

Since only section 25 of Public Law 89-516, relating to certain storage expenses is retroactive prior to July 21, 1966, the date of approval of the law, an employee who was reimbursed for a house-hunting trip made during July 15 to 17, 1966, must refund the payment. B-161887, August 14, 1967.



## CHAPTER 2

### COVERAGE

#### REGULATIONS

BOB Circular No. A-56--Section 1. GENERAL

#### 1.1 Applicability.

a. Persons covered. Except as otherwise provided in these regulations, the following persons are covered:

(1) Civilian officers and employees upon permanent transfer from one official station to another.

(2) Civilian officers and employees returning to places of residence for leave between tours of overseas duty or upon return from official duty stations outside the continental United States to be separated.

(3) New appointees to any positions outside the continental United States and new appointees to positions within the continental United States for which the Civil Service Commission has determined that a manpower shortage exists.

(4) Student trainees assigned upon completion of college work to positions within the 50 States and the District of Columbia for which the Civil Service Commission has determined that a manpower shortage exists.

(5) Defense department overseas dependents school system teachers.

b. Persons excluded. These regulations shall not apply to:

(1) Officers and employees transferred in accordance with the provisions of the Foreign Service Act of 1946, as amended.

(2) Officers and employees transferred in accordance with the provisions of the Central Intelligence Agency Act of 1949, as amended.

(3) Persons whose pay and allowances are established by Title 37, United States Code, "Pay and Allowances of the Uniformed Services."

(4) Personnel of the Veterans Administration to whom the provisions of the Act of July 28, 1959 (38 U.S.C. 235) apply.

1.2 Definitions. As used in these regulations, and unless otherwise specifically provided in these regulations, the following definitions apply:

a. "Continental United States" means the 48 contiguous States and the District of Columbia.

b. "Employee" means a civilian officer or employee of a department as defined herein. The term also includes new appointees to permanent positions outside the continental United States, and to certain positions within the continental United States described in section 5.

c. "Department" means an executive department, independent establishment or other executive agency, wholly owned Government corporation, as defined in section 101 of the Government Corporation Control Act, as amended, or the Government of the District of Columbia.

d. "Immediate family" means any of the following named members of the employee's household at the time he reports for duty at his new permanent duty station: spouse, children (including stepchildren and adopted children) unmarried and under twenty-one years of age or physically or mentally incapable of supporting themselves regardless of age, or dependent parents of the employee and of the employee's spouse.

## DECISIONS

### Dependent parent

The mother of an employee's former wife who was included in the employee's household when he was transferred notwithstanding that the employee's marriage had been terminated by divorce, may not be regarded as "dependent parent"

of the employee. In view of the definition of term "spouse" as requiring an existing legal marriage, the employee whose marriage was terminated by divorce may not be regarded as having a spouse. Therefore, the mother of a former wife would not qualify as a member of the employee's immediate family. B-160638, January 23, 1967.

Where the mother-in-law of an employee was in fact dependent upon the employee at the time of his transfer to a new duty station, and traveled with employee to the new station although her effects were shipped from a former residence, the employee was entitled to the allowances for her transportation and per diem under sections 2.2 and 2.3 of the regulations. B-163107, January 30, 1968.

#### Dependent parent not at employee's old duty station

Where employee's mother was hospitalized at the employee's new duty station before permanent change of station and did not actually reside with son until 10 days after the employee reported to the new station, the mother may be regarded as being a member of the employee's household at the time the permanent change of station occurred since record shows that mother was fully dependent upon the employee and were it not for her hospitalization she would have lived with the employee from the time he arrived at the new station. Therefore, the employee is entitled to benefits on account of his dependent mother. B-161408, June 1, 1967.

#### Persons other than specified

Notwithstanding that an employee was responsible for the support of his brother, and the brother was considered a dependent for purpose of attendance at an overseas Government school for dependents and for purpose of group insurance, a brother is not within the purview of the term "immediate family" as defined in section 1.2d of the regulations. Therefore, the employee is not entitled to travel and transportation benefits on behalf of the brother.  
47 Comp. Gen. 121.

## CHAPTER 3

### HOUSEHOLD GOODS

#### REGULATIONS

BOB Circular A-56--Section 1.2

e. "Temporary storage" means storage at point of departure, destination, or way station for not more than 60 days, except that an additional period of 30 days may be allowed where an employee returns for leave prior to serving a new period of service outside the continental United States at a different post of duty or, if at the same post of duty, where such storage is in lieu of payment of quarters allowance.

f. "Non-temporary storage" means any storage of household goods and personal effects which does not meet all of the characteristics of temporary storage as defined in subsection 1.2e above.

g. "House trailer" means all types of mobile dwellings constructed for use as residences and designed to be moved overland, either by being self-propelled or towed.

h. "Household goods and personal effects" means personal property which may be transported legally in interstate commerce and which belongs to, and is in the possession of, an employee and his immediate family at the time shipment or storage begins. The term includes household furnishings, equipment and appliances, furniture, clothing, books, and similar property. It does not include property which is for resale or disposal rather than for use by the employee or members of his immediate family; nor does it include such items as automobiles, station wagons, motorcycles and similar motor vehicles, airplanes, house trailers, boats, livestock, property belonging to any persons other than the employee or his immediate family, or any property intended for use in conducting a business or other commercial enterprise.

## DECISIONS

### Household goods sale

Employee who after transporting a stove and two air conditioners from his old duty station to his new duty station sold the items because due to a change of plans they were not needed in either his temporary or newly constructed home need not have the items considered as property for "resale or disposal" as used in section 1.2h of BOB Circular No. A-56, and, therefore such regulatory provision does not preclude reimbursing the employee for the costs of transportation of the two items. 47 Comp. Gen. \_\_\_\_\_ (B-163373, February 27, 1968).

## CHAPTER 4

### ELIGIBILITY

#### REGULATIONS

BOB Circular No. A-56--Section 1.3

#### Conditions and limitations regarding payment of allowances

a. Eligibility conditions. When authorized or approved by such official or officials as the head of the department may designate, travel and transportation expenses and applicable allowances as provided in these regulations shall be paid in the case of (1) transfer of an employee in the interest of the Government from one official station to another for permanent duty, but in no case in which the transfer is primarily for the convenience or benefit of the employee or at his request; (2) new appointees from their places of actual residence at the time of appointment to permanent duty at official stations outside the continental United States; (3) new appointees, as provided in section 5 of these regulations, from their places of actual residence at the time of appointment to permanent duty at official stations within the 50 States and the District of Columbia; and (4) eligible employees outside the continental United States in connection with round trip travel between tours of overseas duty. In addition, some travel and transportation expenses may be paid to employees who return from posts of duty outside the continental United States to places of actual residence for separation. (See exclusions in applicable sections.)

When an employee is assigned to a new official station after having been notified of involuntary separation, not for cause, incident to the reduction, cessation, or transfer of the work at the station where he was employed, the transfer of the employee is deemed to be in the interest of the Government unless there is an affirmative administrative determination that the transfer is primarily for the employee's convenience or benefit.

A former employee separated by reason of reduction in force or transfer of function who, within one year of the date of separation, is reemployed by a department for a non-temporary appointment effective on or after July 21, 1966, at a different permanent duty station from that where the separation occurred, may be allowed and paid the expenses and other allowances (excluding non-temporary storage when assigned to an isolated permanent duty station within the continental United States) in the same manner as though he had been transferred in the interest of the Government to the permanent duty station where reemployed, from the permanent duty station where separated, without a break in service, and subject to the eligibility limitations as prescribed in these regulations.

b. Transfers between departments. In the case of transfer from one department to another, allowable expenses shall be paid from the funds of the department to which the employee is transferred. However, in transfers between departments for reasons of reduction in force or transfer of functions, expenses allowable under these regulations (excluding non-temporary storage when assigned to an isolated permanent duty station within the continental United States), in connection with transfer between permanent duty stations located within the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone, may be paid in whole or in part by the department from which the employee is transferred or by the department to which he is transferred as may be agreed upon by the heads of the departments concerned.

## DECISIONS

### Application of benefits not limited to shortage category employees

An agency determination not to authorize or approve reimbursement of real estate transaction expenses or payment of miscellaneous expenses to transferred employees unless the transfer is to a manpower shortage category position and unless there is competition for the employee's services from private industry is not in accord with the intent of Congress in enacting Public Law 89-516. There is no

indication that Congress intended the new benefits to be used as a recruitment incentive. The law and regulations contemplate uniform application to all employees although agencies are given discretionary authority with regard to allowing househunting trips and expenses of subsistence while occupying temporary lodging. Agency action denying payment of miscellaneous expense allowance and expenses of real estate transaction when they were incurred by an employee incident to transfer after July 21, 1966, but before issuance of BOB Circular No. A-56, issued October 22, 1966, was not approved and payment of those items was allowed. B-161583, June 15, 1967.

#### Transfer between stations

Although employee who moved from private quarters to Government-owned house to be on call may have relocation considered in interest of Government, it is not a transfer of official station under Public Law 89-516.

However, since move was in interest of Government expenses of moving effects may be considered transportation expense and employee reimbursed therefor. B-163088, February 28, 1968.

## CHAPTER 5

### SERVICE AGREEMENT

#### REGULATIONS

BOB Circular No. A-56--Section 1.3c

#### Agreement requirement and liability

(1) Transfers within continental United States and appointments and assignments of new appointees and student trainees to certain positions within the 50 States and the District of Columbia. In connection with the transfer of employees between official stations within the continental United States, expenses for travel, transportation, moving and/or storage of household goods and personal effects, and allowances as provided in these regulations shall not be allowed unless and until the employee selected for such transfer shall agree in writing to remain in the service of the Government for twelve months following the effective date of transfer, unless separated for reasons beyond his control and acceptable to the department concerned. In case of violation of such agreement, any moneys expended by the United States for such travel, transportation, and allowances will be recoverable from the individual concerned as a debt due the United States. Such an agreement also is required from certain new appointees and student trainees appointed or assigned to positions in the 50 States and the District of Columbia (see section 5). A signed agreement for twelve months shall be required in connection with each permanent change of station.

#### DECISIONS

#### Service agreement

The execution of an employment agreement is required as a condition to entitlement to allowances. However, section 28 of the Administrative Expenses Act of 1946, as added by Public Law 89-516 (and 5 U.S.C. 5724(i)) and section 1.3c(1) of BOB Circular No. A-56, require only that an employee agree to remain in the "service of the Government for 12 months."

Decisions of the Comptroller General have indicated that such an agreement may be worded to require service with the particular agency concerned. See 46 Comp. Gen. 738.

A Defense Supply Agency employee who did not sign an employment agreement when he was transferred from Fort Worth, Texas, to Battle Creek, Michigan, and who shortly after arrival at Battle Creek transferred to the Office of Economic Opportunity may, if he will now sign an employment agreement to remain in the Government service (as distinguished from D.S.A.) be allowed to apply to the liquidation of the travel and transportation advance he received the allowances provided by Public Law 89-516 to which he is otherwise entitled. B-163153, February 6, 1968.

#### Particular agency v. Government service

An employee after completion of his transfer altered the agreement form presented for his signature at that time by substituting a promise to remain in the employ of the Federal Government for 12 months following the date of transfer for a provision requiring him to remain in the employ of the agency for 12 months. The altered agreement is construed as compliance with the requirement of section 28 of the Administrative Expenses Act of 1946, as added by Public Law 89-516 to entitle the employee to transfer expense reimbursement since the agency concerned did not require that employees sign the more restrictive agreement at the time transfer travel was performed. B-161860, September 5, 1967.

An employee who, after executing an agreement to remain in the Government service for 12 months following a transfer voluntarily returned to his former agency after only a week of service may be regarded as having complied with the service agreement requirements of the law. The employee executed the agreement required and has remained continuously in the Government service since the transfer. That is all he was required to do.

While a transfer for only a week may not be in the interest of the Government, and while service agreements requiring only "Government service" do not protect the employing agency against a transfer (with no break in service)

of the employee prior to completion of the agreed service period, such facts do not justify the conclusion that transfer to another agency is a breach of such an agreement.

To avoid such situations the service agreement required of employees in the future could be changed to specify that the required period of service be served in the particular agency rather than in the "Government service." 46 Comp. Gen. 738.

#### Service agreement requirement and liability

#### Multiple transfers

A transportation agreement in connection with one transfer of official station is binding upon the employee after he has transferred to another official station within the 12 months covered by the original agreement. The law and regulations do not contain an exception to the requirement that an employee remain in the Government service for 12 months after transfer other than in the case of a separation which is beyond the control of the employee and acceptable to the agency. Therefore, an employee is liable for refund of the costs incident to the transfer if he voluntarily resigns within the 12-month service period, notwithstanding that he had been transferred to another duty station. B-162159, August 23, 1967.

#### Conditions beyond control of employee

While the primary responsibility for the determination that an employee's separation prior to completion of an agreed period of service was for reasons beyond his control and acceptable to the agency rests with administrative officials of the agency, in cases of doubt as to whether the necessary conditions of the law and regulations have been met, the matter may be submitted to the Comptroller General for decision. B-160785, February 16, 1967.

## Interest of the Government transfers

Department of Defense service agreements provide that the agreement will not be enforced if the employee is separated from the department or agency for reasons beyond his control and acceptable to the Department. Although the transfer of an employee to another department or agency within the Department of Defense or to a department outside the Department which is incident to a promotion of the employee may be considered as in the interest of the Government so as to relieve the employee of his obligation to refund the costs of his prior transfer, if the agency is not willing to regard the transfer prior to the expiration of the service agreement period, as in the interest of the Government, it may refuse to release the employee from his obligation.

If it is determined that a uniform rule should be followed in promotion transfer cases, a provision should be included in the Joint Travel Regulations specifying the use of a particular type agreement under which an employee would be relieved if he transfers to another agency to accept a promotion. 47 Comp. Gen. 125.

## Retirement

An employee who refused to sign a service agreement upon transfer of station because he would reach retirement age before the expiration of the required service period may not be allowed travel expenses until the execution of the service agreement. The law makes the execution of a 12-months' service agreement a condition precedent to allowance of travel and transportation expenses. However, the signing of the agreement does not constitute a bar to the right of the employee to voluntarily retire when he becomes eligible for retirement.

A voluntary separation of an employee upon satisfying the age and service requirements for optional retirement may be considered as a reason beyond the control of the employee.

However, it is within the discretion of the agency to determine whether the separation incident to fulfilling the terms of the agreement is a reason acceptable to the agency to relieve the employee of the obligation to refund the transfer allowances. 46 Comp. Gen. 724.

Conditions beyond control of employee

An employee who after transfer and agreement to remain in the service for twelve months was given a choice to resign or face charges resulting from a misconduct investigation may not have such a voluntary resignation regarded as for a "reason beyond the control of the employee" as used in section 1.3c(1) of the regulations. Therefore, travel and transportation expenses paid by the Government are recoverable. 47 Comp. Gen. \_\_\_\_\_ (B-163664, March 28, 1968)

While the acceptance of a resignation would ordinarily mean that the reason for the resignation would be acceptable it does not necessarily mean that the reason for resignation is acceptable to the Government for retention of transfer expenses under BOB Circular No. A-56. Therefore, it is within the discretion of the agency to determine whether the reason for the separation is acceptable for such purpose.

Accordingly, it is necessary that both conditions, i.e., "separated for reasons beyond his control" and, "acceptable to the department" be satisfied before expenses incident to the transfer be allowed. 47 Comp. Gen. \_\_\_\_\_ (B-163664, March 28, 1968)

## CHAPTER 6

### TRANSFERS, ETC., OUTSIDE

#### UNITED STATES AND TIME LIMITATIONS

##### REGULATIONS

BOB Circular No. A-56--Sections 1.3c(2) and d

c(2) Transferees and new appointees to posts of duty outside continental United States and return for separation. The expenses of travel, transportation, moving, and/or storage of household goods and personal effects and applicable allowances as provided in these regulations in connection with the transfer or appointment of employees to posts of duty outside the continental United States shall not be allowed unless and until the employee selected for such transfer or appointment shall agree in writing to remain in the service of the Government for twelve months following the effective date of the transfer or appointment (or for one school year for Defense Department overseas dependents school system teachers as determined under chapter 25 of title 20 of the United States Code), unless separated for reasons beyond his control and acceptable to the department concerned. In case of violation of such agreement, any money expended by the United States for such travel, transportation, and allowances shall be recoverable from the individual concerned as a debt due the United States. Except as precluded by these regulations, the expenses of return travel and transportation upon separation from service shall be allowed whether the separation is for the purposes of the Government or for personal convenience. However, such expenses shall not be allowed unless the employee transferred or appointed to posts of duty outside the continental United States shall have served for a minimum period of not less than one, nor more than three, years prescribed in advance by the head of the department (or for one school year for Defense Department overseas dependents school system teachers as determined under chapter 25 of title 20 of the United States Code) or unless separation is for reasons beyond the control of the individual and acceptable to the department concerned."

d. Time limits for travel and transportation. All travel, including that for the immediate family, and transportation, including that for household goods and personal effects allowed under these regulations, should be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed two years from the effective date of the employee's transfer or appointment, except that

(1) the two-year period is exclusive of the time spent on furlough for an employee who begins active military service before the expiration of such period and who is furloughed for the duration of his assignment to the post of duty for which transportation and travel expenses are allowed, and

(2) the two-year period does not include any time during which travel and transportation is not feasible due to shipping restrictions for an employee who is transferred or appointed to or from a post of duty outside the continental United States.

## CHAPTER 7

### AUTHORIZED ALLOWANCES FOR

### SUBSISTENCE AND TRANSPORTATION

#### REGULATIONS

BOB Circular No. A-56--Sections 2.1, 2.2a and b

2.1 For the employee. Except as specifically provided in these regulations, per diem in lieu of subsistence expenses, transportation costs and other travel expenses of the employee, shall be allowed in accordance with the provisions in the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations. This applies to transferred employees, new appointees, including those covered in section 5, and employees assigned to posts of duty outside the continental United States in connection with round trip travel for leave purposes between tours of duty and upon return to places of residence for the purpose of separation.

2.2 For members of an employee's immediate family

a. Transportation. Except as specifically provided in these regulations, allowable travel expenses for the employee's immediate family, including transportation, are governed by the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations. Travel of the immediate family may begin at the employee's old official station or some other point, or partially at both, or may end at the new official station or some other place selected by the employee, or partially at both. However, the cost to the Government for transportation of the immediate family will not exceed the allowable cost by usually traveled route between the employee's old and new official stations.

b. Per diem allowance when en route between employee's old and new official station. When an employee is transferred, an allowance shall be paid for per diem in lieu of subsistence expenses incurred by the employee's immediate family while traveling between the old and new official

stations, regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance will not exceed the amount to which members of the immediate family would have been entitled if they had traveled by usually traveled route between the old and new official stations. The maximum per diem allowances are as follows:

(1) For the spouse.

(a) When the spouse is accompanied by the employee, three-fourths of the per diem rate to which the employee is entitled under section 2.1. However, under this provision the minimum per diem allowance will be \$6 unless the employee receives a per diem of less than \$6 and, in that case, the spouse will receive the same rate as the employee.

(b) When the spouse is unaccompanied by the employee, the per diem amount to which the employee would have been entitled had the employee and spouse traveled together. (When more than one privately owned automobile is used, the spouse will be considered to have been accompanied by the employee if travel is performed on the same days along the same general route.)

(2) For each other member of the employee's immediate family. For each other member age 12 or older, three-fourths of the per diem rate to which the employee is entitled; and for each child under 12 years of age, one-half of the per diem to which the employee is entitled. However, under this provision the minimum per diem allowance will be \$6 unless the employee receives a per diem of less than \$6 and, in that case, the member will receive the same rate as the employee.

## DECISIONS

### Routes

Sections 2.1 and 2.2a of the regulations provide that except as otherwise specifically provided allowable travel

expenses for an employee and his immediate family are governed by Standardized Government Travel Regulations. Section 3.5(b)(1) of the SGTR specifies standard highway mileage guides or speedometer readings and section 3.2 of that regulation provides that all travel will be by the usually traveled route.

Where an employee claims additional mileage based on use of a longer but safer interstate highway system such route may be considered a usually traveled route if it was administratively approved, before or after travel and the employee may be entitled to the excess mileage and tolls. However, in absence of speedometer readings the employee may not be allowed mileage in excess of that shown by a standard highway mileage guide. B-162506, October 20, 1967.

#### More than one round trip between stations

The travel and transportation expense regulations clearly have no round-trip concept or intent. Travel by an employee back to his old official station must be regarded as personal travel and not official business travel.

Accordingly, the retroactive amendment of an employee's travel orders to specify two round trips instead of one one-way trip by automobile to move a family to the new station was not proper and the employee's claim for additional mileage must be disallowed. B-162843, January 10, 1968.

CHAPTER 8

USE OF PRIVATELY OWNED AUTOMOBILE

REGULATIONS

BOB Circular No. A-56--Section 2.3a

For the use of privately owned automobile in connection with permanent change of station

a. When an employee, with or without an immediate family, who is eligible for travel allowances under section 1.3, uses a privately owned automobile for permanent change of station travel, such use is deemed to be advantageous to the Government. The provisions in this subsection also apply to new appointees, including those covered in section 5 and employees returning from posts of duty outside the continental United States to places of actual residence for separation. The provisions do not apply to employees assigned to posts of duty outside the continental United States in connection with round-trip travel for leave purposes between tours of duty.

Payment of mileage and per diem allowances, when authorized or approved in connection with the transfer, will be allowed as follows:

(1) Mileage allowances:

<u>Occupants of automobile</u>	<u>Mileage rate (cents)</u>
Employee only, or one member of immediate family	6
Employee and one member, or two members of immediate family	8
Employee and two members, or three members of immediate family	10
Employee and three or more members, or four or more members of immediate family	12

Heads of departments may, however, prescribe that travel orders or other administrative determinations may specify higher mileage rates, not in excess of 12 cents, for individual transfers of employees or transfers of groups of employees when--

(a) employees are expected to use the privately owned automobiles on official business while assigned to the new duty stations, or

(b) the common carrier rates for the facilities provided between the old and new stations, the related constructive taxicab fares to and from terminals, and the per diem allowances prescribed under subsection 2.3a(2) below justify a higher mileage rate as advantageous to the Government (See subsection 3.5b(2)(a) of the Standardized Government Travel Regulations for meaning of transportation facilities being "provided"), or

(c) the costs of driving the privately owned automobile to, from, or between official stations located outside the continental United States justify a higher mileage rate as advantageous to the Government.

(2) Per diem allowances. The per diem allowance for the employee, while en route between the old and new duty stations, will be at appropriate rates, as prescribed by the department concerned, within the applicable maximums. The per diem allowances prescribed in subsection 2.2b apply for members of an employee's immediate family except as excluded in subsection 2.2c.

Per diem allowances will be computed on the basis of reasonable driving distance per day, as established by the department concerned but not less than an average of 300 miles per calendar day. However, the payment will not exceed an amount computed in the manner prescribed in section 6.11 of the Standardized Government Travel Regulations, excluding the proviso contained therein.

When the distance between the old and new official stations is not evenly divisible by the prescribed minimum distance per day, one-fourth of the prescribed per diem rate will be allowed for each one-fourth of the prescribed

minimum distance. For example, if a department prescribes a per diem rate of \$16 for the employee and an average minimum distance of 300 miles a day, the per diem payment will be \$4 for each 75 miles, or fraction of 75 miles, traveled between the old and new official stations, subject to the limitation contained in the preceding paragraph.

## DECISIONS

### Per diem

For per diem en route, section 2.3a(2) provides that payment will not exceed an amount computed in the manner prescribed in section 6.11, SGTR, excluding the proviso. For travel of 24 hours or less said section provides for allowance of one-fourth of the per diem for each 6-hour portion of the period or fraction of such portion. The proviso which would prevent payment of per diem for travel of 10 hours or less in certain cases is not applicable to travel by privately owned automobile incident to a change of station. Thus, where travel of employee's family by automobile to new station involved only 3-1/2 hours, one-fourth of a day's per diem at the rate applicable to each member would be allowable. B-162641, November 27, 1967.

CHAPTER 9

HOUSE HUNTING TRIPS

REGULATIONS

BOB Circular No. A-56--Section 2.4

For round trip between old and new official stations to seek permanent residence quarters

a. Applicability of and general policy for authorizing travel to seek residence quarters. Payment of travel and transportation expenses of the employee and spouse traveling together, or either one of them, for one round trip between the localities of the old and new duty stations for the purpose of seeking residence quarters may be authorized when circumstances warrant. An appropriate official of the department which will be responsible for payment of the travel and transportation allowances for the employee will make the decision as to whether such a trip should be authorized. It is the general policy in administering this provision to authorize a trip for this purpose only when the circumstances indicate that it is actually needed and to minimize or avoid the expense involved whenever satisfactory and more economical arrangements can be made. For example, if the employee has a large family, and must promptly vacate the residence at his old post of duty, it may be less costly to the Government, as well as more convenient to the employee, to complete arrangements for new residence quarters before the move actually takes place. A trip for the purpose of finding and arranging new residence quarters may be justified in such circumstances. But if the employee has no family, or a small family, it may be less costly to allow the employee and his family to remain in temporary quarters at the new official station for a longer period than might otherwise normally be required, subject to the limitations of section 2.5, until permanent quarters are found. If temporary quarters are to be authorized a trip for seeking permanent residence quarters may be avoided. Similarly, it may be less costly to the Government, and more satisfactory to the employee, for the employee's immediate family to remain at the residence in the old official station locality while the employee occupies temporary quarters at the new official station, during which time he can select permanent quarters

after he has had an opportunity to become more familiar with neighborhoods, local transportation facilities, schools and the housing market. In some instances the employee may be on temporary duty at the new station for a period before the actual transfer becomes effective. Under these circumstances a special trip by the employee to the new official station for the purpose of finding quarters should not be necessary. It may also be possible for the agency to avoid or shorten the duration of a trip by providing assistance and information to the employee concerning local housing conditions and markets.

In addition to these general guidelines, which should be observed in order to eliminate wasteful or unnecessary trips, reimbursement for travel and transportation expenses for trips to seek permanent quarters shall not be authorized under the following circumstances:

(1) When an employee will be assigned to Government or other prearranged residence quarters at the new official station location.

(2) When the employee has not yet formally agreed to transfer to the new station. (See subsection 1.3c(1).)

(3) When either the old or new duty station or both the old and new duty stations are located outside the continental United States.

(4) When the map distance between the old and new stations is less than 75 miles via a usually traveled surface route.

b. Duration of trip. The advance trip should be allowed for a reasonable period of time considering distance between the old and new official stations, mode of transportation to be used, and housing situation at the new official station location. In no case will the period of the advance round trip at Government expense be allowed in excess of 6 calendar days, including travel time. In authorizing or allowing a mode of transportation, consideration will be given to providing minimum time en route and maximum time at the new official station locality. Accordingly, if the use of a privately owned automobile is permitted such

use is deemed to be advantageous to the Government and the mileage allowance while en route between the old and new official station locations will be as provided in subsection 2.3a. No reimbursement will be made for expenses of local transportation in the locality of the new official station, except that normal costs of transportation between depots, airports, etc., and place of lodging will be allowed.

c. Procedural requirements

(1) A trip for finding residence quarters will not be permitted at Government expense until after an employee has agreed to the transfer and the date of the transfer has been established, and shall not be authorized under circumstances where a purpose of the trip is to permit the employee to decide whether he will accept the transfer. If an employee accepts a transfer and, after making a trip to the new station for the purpose of finding permanent quarters, or after the spouse has made such a trip, declines the transfer, he is liable under the provisions of subsection 1.3c(1).

(2) The provisions in section 2.4 apply only in connection with a permanent change of station. Per diem allowances for the employee and/or spouse during the round trip will be as prescribed in subsections 2.1, 2.2b, and 2.3a. New appointees covered under section 5 and employees assigned under the Government Employees Training Act (See 5 U.S.C. 2309), or their spouses, will not be allowed such round trip travel.

(3) A permanent change of station travel order should be issued which includes authorization for the advance round trip, mode of transportation and period of time allowed for the trip. The trip shall not be made at Government expense unless the travel order includes the duty reporting date at the new official station and indicates that the employee has signed the required agreement. An employee will be in a duty status during the authorized or approved round trip period of absence.

## DECISIONS

### New appointees

The law and regulations do not authorize payments for round trip travel to the first duty station to seek suitable housing. B-162215, September 6, 1967.

### Retroactive approval of travel

Where house-hunting trip was not authorized but employee signed required service agreement and made house-hunting trip in good faith based on administrative advice or other dependable knowledge that adequate housing might be difficult to find at new duty station the employee may be reimbursed for the house-hunting trip if administrative approval is given in view of the fact that BOB regulation requiring prior approval of house-hunting trips had not been issued when transfer was authorized. B-162505, November 8, 1967.

### Cancellation of orders

An employee who prior to issuance of BOB regulations made a house-hunting trip in good faith and arranged for rental of residence at new station but who had transfer orders subsequently canceled may be allowed travel and transportation expenses. B-161300-O.M., May 10, 1967.

### Expenses prior to notification of transfer

Employee who incurred expenses for house-hunting trip and temporary lodging at new station prior to official authorization for transfer may not have such expenses regarded as reimbursable under Public Law 89-516. B-162478, December 26, 1967.

### Selection of site for house trailer

Section 9.1c of the regulations relating to transportation of house trailers recognizes that there may be payment of travel allowances under section 2.4 even though the trailer being used as a residence at the old station would continue to be the residence at the new station.

Accordingly, the statute and regulations which authorize reimbursement of traveling expenses incurred in "seeking permanent residence quarters" at the new station may be regarded as embracing a trip to locate a lot on which to move a trailer for use as a permanent residence. 47 Comp. Gen. 119.

#### Number of trips

In answer to the question of whether house-hunting trip expenses may extend over several trips so long as transportation expenses are paid only for the first trip and per diem reimbursement for the several trips does not exceed 6-calendar days, the Comptroller General stated that the law and regulations contemplate only one round trip, not several trips with the per diem extending over a 6-day period. 47 Comp. Gen. 189.

#### Mode of transportation

Although the language of subsections 2.4b and 2.4c(3) refers to "mode of transportation" in the singular, it is not considered that such words are intended to be restrictive but merely to provide for the most usual situation, which is that the majority of employees traveling to locate a residence would use the same mode of transportation both ways.

Therefore, travel in both directions on a house-hunting trip is not required to be made by the same mode of transportation. 47 Comp. Gen. 189.

#### Mileage for house-hunting trip

A NASA employee who was authorized to travel by privately owned automobile for advance trip for house-hunting purposes may not be allowed mileage at the 12-cent rate since under Circular No. A-56 and applicable administrative regulations the 8-cent rate prescribed for travel by employee and one member of his family on change of station by section 2.3a is applicable to travel by employee and spouse when on a house-hunting trip. B-162521, October 19, 1967.

### Distance between stations

Section 2.4 of BOB Circular No. A-56 which prohibits reimbursement for travel expenses when the map distance between the old and new stations is less than 75 miles via a usually traveled surface route must be regarded as having force and effect of law, so that an employee who incurred expenses for trips incident to change of station of less than 75 miles may not be reimbursed. B-163491, February 27, 1968.

### Time for trip

A house hunting trip which was made by an employee's spouse after the employee had reported for duty at the new station but before the employee's family moved to the new station is a proper trip for expense reimbursement under the regulations. While subsections 2.4b and c of the regulations as well as the legislative history of Public Law 89-516 refer to house hunting trips as "advance" trips there is no basis to require that such trips be made in advance of the effective date of the employee's transfer. B-162197-O.M., September 29, 1967.

## CHAPTER 10

### TEMPORARY QUARTERS

#### REGULATIONS

BOB Circular No. A-56--Section 2.5

For subsistence expenses of the employee and his immediate family while occupying temporary quarters when an employee is transferred to a new official station

a. Policy. Heads of departments will prescribe procedures for administration of these provisions to ensure reasonable and equitable application so that the necessity and length of time for allowing subsistence expenses while an employee and members of his immediate family are using temporary quarters is justified in connection with the employee's transfer to a new official station. As a general policy, allowances for temporary quarters should be reduced or avoided if a round trip to seek permanent residence quarters has been made or if, as a result of extended temporary duty at the new official station or other circumstances, the employee has had adequate opportunity to complete arrangements for permanent quarters.

b. Conditions and limitations for eligibility.

(1) Subsistence expenses of the employee, for whom a permanent change of station is authorized or approved, and each member of his immediate family (defined in subsection 1.2d), for a period of not more than 30 days while necessarily occupying temporary quarters shall be allowed when the new official station is located in the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico and the Canal Zone, provided a written agreement as required in subsection 1.3c is signed in connection with such transfer.

(2) Such expenses as provided in (1) above may be allowed for a period of not to exceed an additional 30 days while occupying temporary quarters when the employee is transferred either to or from Hawaii, Alaska, the territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone to the extent determined to be necessary.

(3) Temporary quarters refer to lodging obtained temporarily, after a transfer has been authorized or approved and after the employee and/or members of his immediate family vacate the residence quarters in which they were residing at the time of the transfer, until the employee moves, within the allowable 30 or 60 days' time limit, into permanent residence quarters.

(4) The specified time limits are maximum periods and the normal length of necessary occupancy of temporary quarters is expected to average much less. Temporary quarters should be regarded as an expedient, to be used only if, or for as long as, necessary until the employee concerned can move into residence quarters of a permanent type.

(5) In computing the length of time allowed for temporary quarters at Government expense under the 30 or 60 day limitations specified herein, such time shall begin to run for the employee, spouse, and all members of the immediate family when either the employee, the spouse, or any member of the immediate family starts to occupy such quarters and the time shall run concurrently. If the employee occupies temporary quarters at one location while the spouse and/or members of the immediate family occupy quarters at another location the time shall terminate when the employee concerned moves into permanent type residence quarters or the allowable time limit expires, whichever occurs first.

(6) The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized and the written agreement required in subsection 1.3c has been signed. In order to be eligible for the temporary quarters allowance use of such quarters must begin not later than 30 days from the date the employee reported for duty at his new official station.

(7) An employee and/or members of his immediate family will not be eligible for temporary quarters expenses when the employee's new official station, in relation to his old residence, is less than 40 miles farther than the distance between the old residence and the employee's old official station. However, the employee and immediate family will be eligible for the expenses of temporary quarters

occupied for the period during which the employee is awaiting the arrival of his household goods shipped from the old residence. All measurements will be made according to map distance along a usually traveled surface route.

(8) In no case shall subsistence expenses under these provisions be allowed which duplicate in whole or in part payments received under other laws or regulations covering similar costs.

c. Exclusions. The provisions of section 2.5 do not apply for new appointees, including those covered in section 5; employees assigned under the Government Employees Training Act (See 5 U.S.C. 2309); or employees returning from overseas assignments for the purpose of separation.

d. Allowable amount.

(1) Reimbursement shall be only for actual subsistence expenses incurred provided these are directly related to occupancy of temporary quarters and are reasonable both as to amount and duration. Allowable subsistence expenses include only charges for meals, lodging, fees and tips incident to meals and lodging, laundry, cleaning and pressing of clothing. The actual expenses shall be supported as provided in subsection 6.12f of the Standardized Government Travel Regulations. Expenses of local transportation incurred for any purpose during occupancy of temporary quarters shall be disallowed.

(2) The amount which may be reimbursed for subsistence expenses for temporary quarters shall be the lesser of either (a) the actual amount of allowable expense incurred for each ten-day period or (b) the following:

(a) For the first 10 days

(i) For the employee, 75 percent of the maximum per diem rate allowed under section 2.1 for the locality in which temporary quarters are located.

(ii) For each member of the employee's immediate family, 50 percent of the maximum per diem rate allowed under section 2.1 for the locality in which temporary quarters are located.

(b) For the second 10 days

(i) For the employee, two-thirds of the rate as determined in subsection 2.5d(2)(a)(i) above.

(ii) For each member of the employee's immediate family, two-thirds of the rate as determined in subsection 2.5d(2)(a)(ii) above.

(c) For the third 10 days, and for any portion of the additional 30-day period.

(i) For the employee, one-half of the rate as determined in subsection 2.5d(2)(a)(i) above.

(ii) For each member of his immediate family, one-half of the rate as determined in subsection 2.5d(2)(a)(ii) above.

2.6 Advance of funds. Under the provisions of section 13 of the Standardized Government Travel Regulations advance of funds may be allowed for per diem and mileage allowances as provided in subsections 2.1, 2.2b, 2.3, and 2.4 except in connection with employees assigned to posts of duty outside the continental United States performing round trip travel for leave purposes between tours of duty and upon return to places of residence for the purpose of separation. An advance of funds also may be authorized in connection with subsistence expenses allowed under section 2.5.

## DECISIONS

### Dependents at another location

The primary responsibility for determining whether subsistence expenses under given circumstances should be allowed is that of the employing agency.

An employee whose daughters were furnished lodging and subsistence at the employee's old station after the other members of the family moved to the new station because the daughters were to attend school in the vicinity of the old station could not have his daughters considered as occupying

temporary quarters pending movement into permanent quarters at the new official station. Therefore, the employee's claim for subsistence while occupying temporary lodgings on account of his daughters must be disallowed. B-162513, October 11, 1967.

#### Time limitation in orders

Where travel orders authorize subsistence for a specified number of days for occupancy of temporary quarters, there is a clear intent to place a maximum limitation on the number of days for subsistence payment.

In the absence of any provision in section 2.5 of the regulations indicating an intent to permit an administrative redetermination of the period specified in the travel orders or of any indication of administrative error, there is no authority for the payment of subsistence for a period in excess of the time specified in the orders. B-163025, January 18, 1968.

#### Temporary v. permanent quarters

In the absence of any definition of temporary quarters in the law or regulation and in view of the many different situations which may arise a comprehensive definition cannot be written. Therefore, each case must be treated on the basis of the particular facts involved. 47 Comp. Gen. 84.

Factors for consideration include (a) the duration of a lease, (b) movement of household effects into the quarters, (c) type of quarters, (d) expressions of intent and (e) period of stay on part of an employee. B-162239, August 28, 1967.

Employee who, incident to transfer from Vandenberg Air Force Base, Colorado, to Ellsworth Air Force Base, South Dakota, moved his family into a furnished apartment with some of his household effects for a month before moving into a rented home may have apartment considered temporary quarters. B-162239, August 28, 1967.

While it is not a prerequisite for reimbursement under section 2.5 that the employee be actively engaged in seeking

permanent quarters for immediate occupancy, the lack of such action together with other circumstances may tend to show that the quarters being occupied are not temporary. 47 Comp. Gen. 84.

An employee who incident to a transfer from Pueblo, Colorado, to Amarillo, Texas, occupied an apartment at his new station alone for four months until his children finished school at the old station and moved with his wife to permanent quarters at the new station may be regarded as occupying temporary quarters for reimbursement for subsistence. 47 Comp. Gen. 84.

### Utilities

In answer to whether furnished apartments, without utilities being furnished, are considered temporary the Comptroller General concluded that the nature of the quarters occupied and the question of payment of utilities are not determinative of whether quarters are temporary or permanent. B-161816, August 4, 1967.

An employee who incident to transfer occupied a furnished apartment for which he paid rent and utilities for more than 30 days while he was looking for a home prior to moving his family and effects to the new station may be considered to have occupied the apartment on a temporary basis for allowance of subsistence expenses. If utilities were essential to the occupancy of the quarters he may be reimbursed therefor. B-161816, August 4, 1967.

### Time for commencement

An employee who, when he arrived at his new station, lodged in a motel for two nights and then moved to a furnished apartment until his family and effects were moved may have entitlement to temporary quarters and subsistence considered to begin on day of arrival when he lodged at the motel. B-161816, August 4, 1967.

### Temporary quarters occupancy--length of time

Where an employee upon arrival at the new duty station rented an unfurnished apartment and moved his household

goods into the apartment until larger and more suitable quarters were available may not be regarded as occupying temporary quarters for subsistence expenses for 30 days, in the absence of any information as to the length of time the employee intends to occupy the quarters and an explanation as to why larger and more suitable quarters were not available at time of transfer. B-163043, January 12, 1968.

#### Rent of home prior to purchase

Employee who contracted for purchase of residence at new official station and moved family into the residence under a rental arrangement until purchase arrangements were consummated may not have the fact that he was paying rent affect the status of the quarters as permanent rather than temporary. Therefore, employee's claim for subsistence for occupancy of temporary quarters must be denied. B-160904, March 7, 1967.

#### Mobile home as temporary quarters

Employee who leased a mobile home for temporary occupancy at his new station until the home he was to purchase became available and then when home plans were further delayed purchased mobile home, may be regarded as having occupied mobile home on temporary basis until he decided to purchase it for entitlement to reimbursement under section 2.5 of BOB Circular No. A-56. B-163307, February 7, 1968.

#### Delayed travel

An employee who, incident to transfer from Columbus, Ohio, to Battle Creek, Michigan, delayed travel by privately owned automobile en route because his household effects would not arrive at the new duty station until the following day, may not have delay regarded as warranted for additional per diem. However, if employee had actually proceeded to the new duty station he would have incurred expenses for lodging and subsistence prior to occupying permanent quarters and, therefore, if actual expenses were properly itemized he would be entitled to reimbursement under section 2.5. B-161887, August 14, 1967.

Television and telephone in temporary quarters

Rental of a television and installation of a telephone in temporary quarters are not items essential to "subsistence" or official business but are for personal pleasure and convenience of employee and, therefore, may not be considered reimbursable under section 2.5d(1). B-160914, March 20, 1967.

Death of employee

The subsistence allowance benefit authorized by 5 U.S.C. 5724a(a)(3) for transferred employees occupying temporary quarters at the new station is a benefit allowable only to the employee and does not run directly to members of his immediate family. Accordingly, the surviving members of an employee's family who incurred subsistence expenses for temporary quarters for a period subsequent to the employee's death are not for allowance. B-163442, February 8, 1968.

## CHAPTER 11

### MISCELLANEOUS EXPENSES ALLOWANCE

#### REGULATIONS

##### BOB Circular No. A-56--Section 3.1

a. The miscellaneous expenses allowance is for the purpose of defraying various contingent costs associated with discontinuing residence at one location and establishing residence at a new location in connection with an authorized or approved permanent change of station.

b. The allowance is related to expenses that are common to living quarters furnishings and household appliances and other general types of costs inherent in relocation of a place of residence. The types of costs intended to be reimbursed under the allowance include, but are not limited to, the following:

(1) Disconnecting and connecting appliances, equipment and utilities involved in relocation, and cost of converting appliances for operation on available utilities.

(2) Cutting and fitting rugs, draperies and curtains moved from one residence quarters to another.

(3) Utility fees or deposits that are not offset by eventual refunds.

(4) Forfeiture losses on medical, dental and food locker contracts that are not transferable.

(5) Automobile registration, driver's license and use taxes imposed when bringing automobiles into some jurisdictions.

#### DECISIONS

##### Expense requirement

Although neither Public Law 89-516 nor the regulations specifies that employees must incur some expense of the

miscellaneous category before becoming entitled to the minimum allowance both contemplate that at least some expense--no matter how small--will have been incurred in order for an employee to be entitled to the miscellaneous expenses allowance. In most cases, particularly where there is a change of residence involving movement of household effects or transfer from one State to another it may be assumed that miscellaneous expense has been incurred so as to warrant payment of the allowance without regard to any statement from the employee.

However, if it appears that an employee has not incurred some expense that falls under the category of "miscellaneous expenses" payment may not be made in the absence of a showing that some expense of that type was incurred. B-163632, April 9, 1968.

Itemization

Neither the submission of receipts nor an itemization of expenses is required for entitlement to the minimum (commuted) allowance specified under section 3.2 of the regulations. B-161304, May 4, 1967.

An employee who incurred costs for transportation, labor, and materials for converting and connecting an electric stove and refrigerator and for pipes and fittings to connect a washing machine to water outlets has met the criteria of subsections 3.1a and b insofar as incurrence of expenses are concerned and such items of expense entitle the employee to the minimum expense allowance. B-161240, June 20, 1967.

Personal property

The list of expenses in the above regulation is not all-inclusive but only represents the types of expenses for which an employee may be reimbursed. An examination of the nature of the expenses enumerated reveals that none of the items include the cost of personal property purchased incident to a change of station.

Therefore, the cost of snow tires which an employee purchased for use on his automobile at his new duty station

in Baltimore, Maryland, does not come within the purview of the regulations to entitle the employee to reimbursement even though under the law in Baltimore automobiles without snow tires or chains may not be used on many Baltimore streets during snow conditions. B-161785, July 10, 1967.

#### New furnishings

Section 3.1b(2) of the Regulations does not contemplate the purchase of new furnishings such as rugs and drapes for a new residence but provides for reimbursing an employee for the cost of modifying furnishings which were in use at the old residence to accommodate such furnishings at the new residence. B-163449, March 4, 1968.

#### Structural changes

Although a charge for connecting a washer is a reimbursable item under section 3.1c(12) of the Regulations, the cost of installing plumbing and adding electrical circuits for a washer and dryer are prohibited because such costs represent structural alterations and remodeling to accommodate the electrical appliances prohibited by the Regulation. B-163449, March 4, 1968.

#### Use tax on mobile home

A use tax an employee was required to pay in California to register his new mobile home which he purchased in Utah incident to his transfer to California may not be regarded as being paid in connection with a "real estate transaction" to be reimbursable under section 4.2g of BOB Circular No. A-56.

However, since use taxes imposed on automobiles are enumerated as a type of reimbursable item under the miscellaneous expense allowance provision in section 3.1 of the regulations and a use tax on an item other than an automobile is not excluded, such a use tax on a mobile home may be considered in determining the amount of the miscellaneous expenses allowance reimbursable to the employee. 47 Comp. Gen. \_\_\_\_ (B-164078, May 28, 1968).

## CHAPTER 12

### REAL ESTATE EXPENSES

#### REGULATIONS

BOB Circular A-56--Section 4.

Allowances for expenses incurred in connection with real estate transactions and unexpired leases

4.1 Conditions and requirements under which allowances may be paid. To the extent allowable under this provision, the Government will reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station; purchase of one dwelling at his new official station; or the settlement of an unexpired lease at his place of residence at the old official station; provided that:

a. A permanent change of station is authorized or approved and the old and new official stations are located within the 50 States, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, or the Canal Zone, and the employee has signed an agreement as required in subsection 1.3c. (See exclusions in subsection 4.4.)

#### DECISIONS

##### Death of employee or separation

Section 23(4) of the act and subsections 4.1 and 4.1e provide only for reimbursement of expenses that have been incurred by the employee in connection with the sale or purchase of a residence. Thus it may be that reimbursement would be proper if a transferred employee prior to his death or separation through no fault of his own incurred certain expenses or became obligated for the purchase or sale of a residence. However, if no expenses have been incurred or binding obligations entered into prior to death or separation it is doubtful that reimbursement could be made.

Any actual cases of this nature should be submitted to the Comptroller General for consideration. 46 Comp. Gen. 189.

### Construction of home

Employee who purchases a lot and had home constructed thereon may have various transactions regarded as a single transaction involving the purchase of a residence for purposes of section 4 of BOB Cir. No. A-56. The controlling date for application of the time limitation in section 4.1d would be the date on which the employee accepted the completed residence. B-164044, June 7, 1968.

Certifying officers should have specific information as to date on which employee accepts completed residence and moves in prior to certifying any amount for payment. B-164044 June 7, 1968.

### REGULATIONS

#### BOB Circular No. A-56--Section 4.1b

The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family. In order to be eligible for reimbursement of costs of selling a dwelling or terminating a lease at the employee's old official station, acquisition of the employee's interest in the property must have occurred prior to the date when the employee was first definitely informed that he is to be transferred to the new official station.

#### BOB Circular No. A-56--Section 4.1c

The dwelling at the old official station was the employee's actual residence at the time he was first definitely informed that he is to be transferred to the new official station.

### DECISIONS

#### Residence at other than old station training duty effect

An employee who after completion of initial training of 14 weeks and transfer from Washington, D.C., to another

official station sells his home at the place where he resided at time of appointment may not have such residence regarded as his actual residence at the old official station at time of transfer to be entitled to reimbursement for expenses incident to the sale. 46 Comp. Gen. 703.

Selectees in the Executive Selection and Development Program IRS, who are assigned to training away from their official stations for a period of 6 months and who are advised that upon completion of the training they will be assigned to other permanent stations may be considered to have been definitely informed that they would be transferred at the time they are assigned to training. Thus, employees who sell their homes after they are assigned to such training may be reimbursed for authorized expenses incident to such sale after the transfer is completed and a transportation agreement is signed. B-161795, June 29, 1967.

#### Residence within commuting distance

Employee who incident to transfer sold his home which was 300 miles from his old station may not have such home regarded as his dwelling at his old official station for reimbursement for costs incident to sale because a residence not at employee's station or at a place to which he commutes daily, generally may not be regarded as covered by section 4.1c. However, if from all the facts it is established that the employee could not have obtained a residence for himself and family within daily commuting distance the applicable costs incident to sale may be reimbursed. 47 Comp. Gen. 109.

#### House in process of construction

Where employee is in process of building a home and the concrete foundation had been poured when he receives notice of transfer of official station, and the lot and slab are sold to another buyer such partially constructed residence would not constitute the sale of a residence or dwelling at the official station under section 4.1c of the regulations. B-162443, September 26, 1967.

### Time of sale

Employee who was advised that consideration was being given to the discontinuance of his one-man office and who sold his home prior to formal advice of transfer may be allowed costs incident to the sale since sale was made because of belief that transfer had been officially determined and since actual transfer was officially ordered shortly thereafter. B-163043, January 31, 1968.

### Sale without purchase

Employees who do not sell a home at the old station but purchase a residence at the new station or conversely sell but do not purchase may nevertheless be reimbursed for the costs incident to the transaction. 47 Comp. Gen. 93.

### Rented quarters v. owned residence at old station

The fact that an employee occupied rented quarters at the old duty station and the fact that there were available rental quarters at the new duty station would not preclude the employee's entitlement to the benefits incident to the purchase of a residence at the new duty station. B-161640, August 2, 1967.

## CHAPTER 13

### SETTLEMENT DATE

#### REGULATIONS

BOB Circular No. A-56--Section 4.1d

The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than one year after the date on which the employee reported for duty at the new official station, except that an appropriate extension of time may be authorized by the head of the department or his designee when settlement is necessarily delayed because of litigation.

#### DECISIONS

##### Date of contract for deed v. date of title transfer

Under a home sale contract which provided for transfer of title by general warranty deed when the purchaser completed payment of the second lien note on the basis of 48 monthly installments, the sale of the property may be considered to have been accomplished at the time of execution of the "contract for deed" since the employee took possession of the property and equitable title at that time and since no other "settlement date" was involved in the transaction. In such a case the employee selling home may be allowed costs in selling his home on the basis of the date of the contract for deed. 46 Comp. Gen. 677.

##### Date of sales contract

Where under sales contract for the construction of a residence reference is made to "time of settlement" and "date of settlement" which occurred more than one year after date of transfer the day of the settlement must be regarded as controlling, therefore reimbursement for costs must be disallowed. B-160799, May 20, 1968.

This case is to be distinguished from 46 Comptroller General 677 where no separate settlement date was involved

because the transaction was consummated at the time the deed was signed.

Employee who signed a real estate purchase contract and moved into a new home before the expiration of one year after reporting to the new duty station but who did not make settlement until approximately three (3) weeks after the one year period expired may not have the signing of the agreement for purchase of real estate regarded as tantamount to "settlement" as that term is ordinarily used. Therefore the settlement which was delayed because of appraisal error and lengthy title search is not delayed for litigation and the employee may not be reimbursed for expenses incident to the purchase. B-163700, May 6, 1968.

#### Litigation

A delay in the settlement on the sale of an employee's residence beyond one year after the effective date of an employee's transfer because the purchaser could not get V.A. approval of the loan, is not a delay caused by "litigation" as used in section 4.1d of BOB Circular No. A-56. The word "litigation" may not be construed as other than "action before the courts" therefore, costs incident to the sale of a residence more than one year after transfer may not be regarded as reimbursable. B-163955, May 20, 1968.

#### Retransfers

Where an employer was unable to complete the purchase of a residence at a new station because of a second transfer and in attempting to withdraw from the purchase transaction forfeited an earnest money deposit, was required to pay the building associates for actual expenses, incident to the loan, and attorney's fees in effecting the settlement, the employee may be reimbursed to the extent that such expenses would otherwise be reimbursable under section 4 of the regulations. While the earnest money forfeiture is not a reimbursable item, the building association expense settlement may be reimbursed. However, attorney's fees incident to settlement of potential litigation are not properly reimbursable. B-162274, September 11, 1967.

### Successive transfers

Employee who incident to a transfer from Chicago, Illinois, to Mt. Vernon, Illinois, on July 21, 1966, and then to Hannibal, Missouri, on February 20, 1967, did not sell his home or move his family from Chicago to Hannibal until September 20, 1967, may not have the settlement date which occurred more than one year after the date he reported to Mt. Vernon used as a basis for payment of real estate expenses. Nor can the second transfer be used as a basis for payment because the home at Chicago was not an actual residence at his old station since the employee did not commute daily between Chicago to Mt. Vernon. B-163788, June 7, 1968.

### One year limitation

An employee who signed a real estate purchase contract and moved into the new home a day before the expiration of one year from the date of reporting to the new station but who did not effect a closing settlement until three weeks later may not have the signing of the purchase agreement considered tantamount to "settlement" as that term is ordinarily used and understood. The regulation provides a one-year period for settlement and prescribes only one exception whereby the one-year period can be extended. Since the situation that caused the delay was not due to litigation reimbursement for the real estate costs is precluded. B-163700, May 6, 1968.

Where because of adverse weather and inadequate labor a home constructed at the employee's new station was not completed and final settlement was not accomplished until more than a year after the employee's transfer, reimbursement for expenses incident to the purchase of the residence is precluded. B-164393, June 18, 1968.

To determine when a real property transaction is consummated it is necessary to examine the purchase agreement. Where the purchase agreement indicates that consummation is contingent upon such factors as the purchaser obtaining a loan and the seller completing the house within six months, the date of the purchase contract may not be considered as the settlement date. Therefore, an employee who, incident

to a transfer effective on October 17, 1966, signed a purchase agreement on September 30, 1967, and a closing statement on March 21, 1968, may not be reimbursed for a loan origination fee. 47 Comp. Gen.\_\_(B-164383, June 27, 1968.)

## CHAPTER 14

### EXPENSE DISTRIBUTION AND PAYMENT

#### REGULATIONS

BOB Circular No. A-56--Section 4.1e

The expenses for which reimbursement is claimed were paid by the employee. If any expenses were shared by persons other than the employee, reimbursement is limited to the portion actually paid by the employee. If the residence is a duplex or another type of multiple occupancy dwelling which is occupied only partially by the employee, or whenever the employee shares responsibility for a leased property (such as a shared apartment arrangement), expenses will be reimbursed on a pro rata basis.

#### DECISIONS

##### Sale of property in addition to residence

This regulatory provision directing reimbursement on a pro rata basis governs when an employee sells something in addition to his residence. B-163187, February 19, 1968.

##### Farm sale

Where an employee sold a farm, outbuildings and 40 acres of land, the appraised value of the productive farmland being \$9,900 and of the house, outbuildings, and non-productive land \$9,600, the employee may be reimbursed only the pro rata costs in the sale of the residence. In this decision assuming that the value of the residence and appurtenances was virtually the same as that placed on the residence, outbuildings and nonproductive land by FHA, the employee may be reimbursed 96/195ths of otherwise reimbursable costs. B-163187, February 19, 1968.

##### Payment requirement

Employee who, incident to transfer from Sante Fe, New Mexico, to Denver, Colorado, sold his home in Santa Fe to

an individual who agreed to pay the balance of the purchase price in monthly installments to the real estate broker in payment of the broker's fee owed by the employee is only entitled to reimbursement to the extent of the amount actually received by the broker, since under 4.1e reimbursement may not be made until the allowable item has actually been paid. B-161910, July 26, 1967.

## CHAPTER 15

### BROKER'S FEES AND REAL ESTATE COMMISSIONS

#### REGULATIONS

BOB Circular No. A-56--Section 4.2a

Broker's fees and real estate commissions. A broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable but not in excess of rates generally charged for such services by the broker or by brokers in the locality of the old official station. No such fee or commission is reimbursable in connection with the purchase of a home at the new official station.

#### DECISIONS

##### Broker's fees in installments

Where an employee sold his home in Santa Fe, New Mexico, to an individual who agreed to pay the balance of the purchase price in monthly installments to the real estate broker until the broker's fee owed by the employee was paid in full, the employee is only entitled to reimbursement to the extent of the amount actually received by the broker rather than the full fee. The employee's claim must be supported by receipts and invoices. B-161910, July 26, 1967.

##### Broker's fee as including all costs

In the absence of a showing of a custom to the contrary prevailing in the area of the employee's residence or a specific provision in the contract with the broker that the broker is charging less than the customary fee in consideration of the employee's paying advertising and other costs, the fee paid the broker is presumed to represent full payment for all costs and services connected with the procuring of a purchaser for the residence. B-161320, September 5, 1967.

### Real estate commission

Where a real estate firm to facilitate the sale of an employee's residence absorbed one-half of the seller's 2-percent cost or mortgage fee ("points") by paying the fee out of the commission and the employee did not actually pay the full commission, the amount of such mortgage fee absorbed by the real estate firm should not have been reimbursed and must be recovered from the employee. B-163253, February 27, 1968.

### Realtors fee not actually paid

Where an employee sold his residence privately after a realty company had not been able to sell it for the appraised value and the employee was not required to pay a realtor's commission, the employee may not be reimbursed for the normal realtor's fee. Under section 23(4) of the Administrative Expenses Act of 1946, as added by Public Law 89-516, payment at commuted rates for expenses not incurred is not authorized. B-161687-O.M., July 21, 1967.

### Effect of broker purchasing home

Where after an employee's home was placed with a real estate broker and no buyers were found the broker purchased the home for himself at the original sale price, the effect insofar as the commission is concerned is the same as if a third party had purchased the home. Therefore, since the facts do not show an inflated price, the proceeds being reduced by the commission, the commission is an expense borne by the seller and reimbursable under section 4.2a of the regulations. 47 Comp. Gen. \_\_\_\_\_ (B-163299, April 17, 1968).

## CHAPTER 16

### ADVERTISING AND SELLING EXPENSES

#### REGULATIONS

BOB Circular No. A-56--Section 4.2b

Other advertising and selling expenses. Costs of newspaper, bulletin board, multiple-listing services, or other advertising for sale of the residence at the old official station are reimbursable if the employee has not paid for such services in the form of a broker's fee or real estate agent's commission. Customary costs of appraisal also may be reimbursed.

#### DECISIONS

##### Advertising costs prior to hiring a broker

Advertising expenses incurred prior to placing a residence in the hands of a broker for sale are not reimbursable in addition to the broker's fee. 46 Comp. Gen. 812.

Even though in a particular case the real estate agent does not advertise or incur expenses of a similar nature in the sale of an employee's home, after the employee had incurred an advertising expense incident to his unsuccessful attempt to sell his home before hiring a real estate broker, the employee may not be reimbursed for such expense. The full fee for selling the house is regarded as including all advertising costs.

##### Multiple listing service fee

Where it is the custom of the area for a seller to pay a multiple-listing service fee in addition to a commission when he gives a real estate firm an exclusive agency to sell his property, the fee may be considered an allowable expense under section 4.2b. B-163253, February 27, 1968.

The factual situation in this decision involved the sale of a residence in Atlantic City, New Jersey.

## CHAPTER 17

### LEGAL AND RELATED COSTS

#### REGULATIONS

BOB Circular No. A-56--Section 4.2c.

Legal and related costs. To the extent such costs have not been included in brokers' or similar services for which reimbursement is claimed under other categories, customary costs of searching title, preparing conveyances and other instruments, and preparing contracts, related notary fees, recording fees, making surveys, preparing drawings or plats when required for legal or financing purposes, and similar expenses, may be reimbursed either with respect to sale of the residence at the old official station or purchase of a dwelling at the new official station, but the same types of costs shall not be paid at both locations. Costs of litigation are not reimbursable.

#### DECISIONS

##### Legal services--advisory

Employee who paid attorney for examination of contract, correspondence regarding mortgage commitment, affidavits, closing title and adjusting taxes incident to purchase of home at new official station must have such attorney's services regarded as advisory in nature concerning documents rather than as services in searching title and preparing conveyance instruments which would be allowable under 4.2c of BOB Circular No. A-56. Therefore, employee may not be reimbursed for attorney fee. B-163203, March 1, 1968.

Expenses for legal services that were of an advisory nature concerning the propriety of the terms of a contract for the sale of a residence at the old duty station and other instruments, including examination of title papers and preparation of a title opinion letter, are to be distinguished from services in searching of title and preparation of a purchase contract for a house at the new station. The expenses for such legal services may not be considered

as normal or usual expenses incident to the purchase or sale of moderately priced residential housing and, therefore, such expenses are not reimbursable under section 4.2c of the regulations. B-161891, August 21, 1967.

Title insurance provided by seller

In connection with the sale of an employee's residence, if the custom of the area is that the seller purchase a title insurance policy for the benefit of the buyer in lieu of showing a marketable title by a title search, an abstract of title or a legal opinion, the cost of such insurance is reimbursable. 46 Comp. Gen. 884; 47 Comp. Gen. \_\_\_\_ (B-163299, April 17, 1968).

The factual situation in this decision involved the sale of a residence in Dallas, Texas, and it was shown that in the Dallas area in real estate transactions the purchase of a title insurance policy by the seller for the benefit of the buyer is the customary method of insuring that the seller has a marketable title. 46 Comp. Gen. 884.

Prohibition against same type costs at old and new duty station

Title insurance

The fact that an employee is reimbursed for the cost of the premium on title insurance purchased in connection with the sale of his residence at his old station does not preclude reimbursement of the cost of mortgagee's title insurance in connection with the purchase of a residence at the new duty station. B-163000, January 17, 1968.

The factual situation in this decision involved the sale of a residence in Colorado Springs, Colorado, and the purchase of a residence at Denver, Colorado. B-163000, January 17, 1968.

Legal services for title search

An employee who incurred legal expenses in connection with record title examinations and documents incident to the sale of a dwelling at his old station (Utica, N.Y.) and

incident to the purchase of a home in Silver Spring, Maryland, may not be reimbursed for such costs at both locations. However, the employee may elect to be reimbursed the larger amount for such legal services. B-161562, November 2, 1967.

## CHAPTER 18

### FINANCING COSTS

#### REGULATIONS

BOB Circular No. A-56--Section 4.2d

Financing costs. A charge made for prepayment of a mortgage in connection with the sale of a residence at the old official station is reimbursable if the terms in the original contract or mortgage instrument provide for such a cost, but not otherwise. Fees for loan applications, lender's loan origination, credit reports, mortgage and transfer taxes, State and Federal revenue stamps, and similar fees and charges, are reimbursable to the extent such costs are customarily paid by the seller at the location of the old official station or by the purchaser at the location of the new official station, but the same types of costs are not reimbursable at both locations. The cost of a mortgage title policy on the dwelling purchased by the employee is also reimbursable. Costs of other types of insurance, including "record title" policies, owners' title policies, mortgage insurance, and insurance against damage or loss of property are not reimbursable. Mortgage discounts ("points"), interest on loans at the old and new posts of duty, property taxes, and operating or maintenance costs are not reimbursable.

#### DECISIONS

##### Expenses normally paid by other party

Section 4.2 generally contemplates reimbursement of items of expense to the purchases which customarily are borne by the purchaser at the new station. If a claimant purchaser is unable to explain a statement on a voucher to the effect that they are "items which normally are paid by the seller in the area," the employing agency should contact the local office of the Federal Housing Administration to ascertain whether the expenses are normally borne by the seller or the purchaser. B-161640, August 2, 1967.

The factual situation involved the transfer of an employee from Red Bluff, California, to Sacramento, California, and the purchase of a home in Sacramento. B-161640, August 2, 1967.

#### Escrow fees

Where an employee incident to the sale of a residence at his old duty station (Roseburg, Oregon) was reimbursed one-half of the escrow fee, he may not be reimbursed for one-half the escrow fee paid incident to the purchase of a residence at his new duty station (Portland, Oregon). B-162948, December 20, 1967.

Similarly an employee who was reimbursed for one-half of escrow fee incident to purchase of residence at new duty station, Reno, Nevada, may not be reimbursed for escrow fee paid incident to sale of residence at old station, Boulder City, Nevada. B-162511, October 13, 1967.

#### Veterans Administration loan charge

Where it is the customary practice in the area (Hyattsville, Maryland) for the purchaser rather than the seller to bear the charge for procuring a loan, the employee who claims such loan charge incident to the sale of his home may not be reimbursed for such cost. B-163013, January 9, 1968.

#### Mortgage payments

Mortgage payments made by an employee after he was transferred to a new station but before he executed a contract for deed for the sale of his home at the old station are costs to increase his equity in the property and such payments may not be considered an expense incident to the sale. 46 Comp. Gen. 677.

#### Title insurance

In connection with the sale of an employee's residence, if the custom of the area is that the seller purchase a title insurance policy for the benefit of the buyer in lieu

of showing a marketable title by a title search, an abstract of title or a legal opinion, the cost of such insurance is reimbursable. 46 Comp. Gen. 884. See also page 56.

The factual situation in this decision involved the sale of a residence in Dallas, Texas, and it was shown that in the Dallas area in real estate transactions the purchase of a title insurance policy by the seller for the benefit of the buyer is the customary method of insuring that the seller has a marketable title. 46 Comp. Gen. 884.

#### Title insurance costs

An inspection fee charged by a title company incident to issuance to an owner's title insurance policy on the residence purchased by an employee is a cost incident to owners title insurance coverage and like the insurance premium such cost is not a reimbursable item of expense since section 4.2d specifically prohibits reimbursement to employees for the cost of an owner's title policy on a residence purchased at the new duty station. B-161886, July 21, 1967.

The factual situation in this decision involved the sale of a residence at an employee's old station, Portland, Oregon, and the purchase of a new residence at Redding, California. A statement from a title insurance company in Oregon indicated that the general practice in Oregon is for the seller to furnish title insurance for the benefit of the buyer. Therefore, cost of title insurance on the property sold was allowed. B-161886, July 21, 1967.

#### Mortgage guaranty insurance

A mortgage guaranty insurance policy which is designed to make the mortgagee whole, if in the event of foreclosure, insufficient monies are realized to liquidate the mortgage indebtedness, is not a type of insurance for which reimbursement is authorized under the regulation. B-162673, November 13, 1967.

### Charge for prepayment of a mortgage

An employee who incident to the sale of a residence at his old duty station was assessed a 4 percent penalty charge for prepayment of the mortgage loan during the first year of the mortgage term although the mortgage instrument did not give the mortgagor any right to pay off the mortgage during the first two years of the term may be reimbursed to the extent of the prepayment penalty which would have been assessed under the mortgage if it had been retired after two years. In that case the prepayment penalty would have been 2-1/2 percent of the original amount of the loan reduced by 10 percent of the prepayment consideration for each full year of the expired term and reimbursement to that extent is authorized. B-162956-O.M., December 19, 1967.

### Fees

If various fees referred to as "placement fee," "commission loan fee," or "origination fee" represent charges made by a mortgagee to compensate for expenses incurred in originating and closing a loan incident to the purchase of a home at an employee's new duty station as distinguished from "points" which is a part of the price for the hire of the money, they may be considered reimbursable items of expense. 47 Comp. Gen. 213.

### Insurance fee

An insurance fee charged by a mortgage company for insuring the top 20 percent of a loan which fee is for benefit of the employee borrower to the extent that he may get a loan in excess of 80 percent of the appraisal of the home is a charge for mortgage guaranty insurance which is for the protection of the mortgagee against loss in case of default and it is not the type of insurance authorized to be reimbursable under section 4.2d of BOB Circular No. A-56. B-163419, February 26, 1968.

## Taxes

An employee who had to pay a county real property tax incident to sale of residence at former duty station and a real property transfer tax incident to purchase of residence at new station must have such taxes regarded as the same type of cost within the meaning of section 4.2d BOB Circular No. A-56 which precludes payments for the same type of cost at both the old and the new duty stations. Therefore the employee may be reimbursed for only one tax, the higher of the two. B-163425, February 29, 1968.

An employee who had to pay a real property sales tax incident to the sale of a residence at his old station (Harrisburg, Pennsylvania) and to the purchase of a residence at his new station (Villanova, Pennsylvania) which tax was split between the buyer and seller according to custom in the area may be reimbursed in the amount of the higher expense only since entitlement to reimbursement is subject to the condition that the same types of costs are not reimbursable at both the old and new stations. 47 Comp. Gen. \_\_\_\_\_ (B-164146, June 3, 1968).

## Custom of the locality

The practice of the seller of real estate furnishing title insurance for the benefit of the buyer must be determined from the custom at the place where the sale occurs prior to reimbursing an employee for the cost of title insurance. It may be considered the custom of the locality only if it would be unusual for residential property to be sold in the particular area without payment by the seller of the cost of title insurance. B-161620, July 25, 1967.

The factual situation involved the sale of a residence in Oregon.

An employee who incurred in expense for title insurance incident to the sale of a residence in Sacramento may be reimbursed for such expense. The voucher was accompanied by a report from the Sacramento Federal Housing Administration showing that in the Sacramento area the seller of real property pays for the usual "owner-lender policy" of title

insurance and the buyer pays the cost of additional title coverage if it is required in connection with the making of a new loan. The Federal Housing Administration also reported that the amount claimed was the standard rate charged for the regular owner-lender policy in the area.  
B-161527, July 21, 1967.

## Personal Property Tax

A State intangible personal property tax (Florida) paid incident to the purchase of a home in Miami by an employee transferred from Jacksonville to Miami is not a tax levied on a mortgage but is a tax on the promissory note in the hands of a holder which note is secured by a mortgage and the fact that the tax is levied at the time of recordation of a real estate transaction or that it is customary for the holder to pass the cost of the initial tax payment on to the purchaser is not a basis for reimbursing the employee for the tax under section 4.2d of BOB Circular No. A-56. B-160040, February 5, 1968.

## Escrow fee included in title insurance

Where title insurance companies, as in a case in northern California, do not separate the escrow cost from the owner's title policy premium, a stated percentage of the title insurance premium may be allocated to the escrow cost and the employee may be reimbursed such escrow fee incident to the purchase of a residence. In this case, involving the purchase of a home at Orinda, California, the record indicated that it was customary in northern California when one company handled the escrow work and another company issued the owner's title insurance policy to assign a flat 40 percent of the title costs to the escrow fee. Since this percentage is close to the average escrow costs in southern California when title companies separate the two costs, such percentage may be regarded as the reimbursable escrow fee. B-162738, January 10, 1968.

## Mortgage discount (points)

Mortgage discount (points) have been defined as the difference between par (100) and a lower price that an investor pays for a residential mortgage. Points are calculated to produce a net yield commensurate with that available from alternative investment opportunities, after considering risk, liquidity, and the costs of origination and servicing.

A service fee charged by a savings and loan association incident to the purchase of a residence, which fee according to regulations of the Federal Home Loan Bank must be taken into a deferred income account to be credited to income over a period of years is in the nature of a discount or points and is a part of the price for the hire of the money loaned. Accordingly, under section 4.2d such a fee is not a reimbursable item of expense. B-162494, October 26, 1967.

## CHAPTER 19

### LOSSES

#### REGULATIONS

BOB Circular No. A-56--Section 4.2e

Losses due to prices or market conditions at the old and new posts of duty. Losses due to failure to sell a residence at the old official station at the price asked, or at its current appraised value, or at its original cost, or due to failure to buy a dwelling at the new official station at a price comparable to the selling price of the residence at the old official station, and any similar losses, are not reimbursable.

#### DECISIONS

Where an employee sells his home for less than the appraised value, the difference between the appraised value and the sale price is in the nature of a loss on the sale of the residence for which reimbursement is specifically prohibited. B-161687-O.M., July 21, 1967.

## CHAPTER 20

### UNEXPIRED LEASE EXPENSE

#### REGULATIONS

BOB Circular No. A-56--Section 4.2f

Settlement of an unexpired lease. Expenses incurred for settling an unexpired lease on residence quarters occupied by the employee at the old official station are reimbursable when (1) the terms of the lease provide for payment of such expenses, (2) such costs cannot be avoided by subleasing or other arrangements, and (3) the employee has not contributed to the cost by failing to give timely notice of intent to move promptly after he has knowledge of the transfer to a new official station.

#### DECISIONS

##### Evidence

Where an employee submits a statement signed by himself and the lessor to the effect that he was required by the terms of the lease to pay for termination of his lease and a certification that he could not have avoided liability by giving earlier notice of his intention to terminate or by subletting such evidence together with receipt for payment is sufficient to establish compliance with the regulations and entitle the employee to reimbursement. B-161348, May 31, 1967.

Employee who under oral lease agreement paid rent in advance for each calendar month and who was transferred in the middle of a month may not be reimbursed rent paid for balance of month since the record does not show that employee could not have avoided the payment of rent for the full month by a sublease arrangement or that he did not know of the proposed transfer in sufficient time to avoid payment of full rent for month. B-160959, March 23, 1967.

Date for vacation premises

Employee who gave notice of termination of lease on the earliest date possible under the lease agreement, March 3, 1967, but who actually departed from old station February 27, 1967, and was on annual leave February 28 and March 1, may only be reimbursed for rent forfeited on March 2, 1967, since he was not regarded as forfeiting rent on day of departure or on days in leave status. B-161524, June 6, 1967.

Since tenant employee was required to pay one month's rent to terminate lease in accordance with law of State (Missouri) and due to short period of time employee could not sublet his apartment, information satisfies requirements of section 4.2f of BOB Circular No. A-56 and claim may be allowed. B-162889-O.M., February 29, 1968.

## CHAPTER 21

### OTHER EXPENSES AND LIMITATIONS

#### REGULATIONS

BOB Circular No. A-56--Section 4.2

g. Other expenses of sale and purchase of dwellings.

Incidental charges made for required services in buying and selling dwellings may be reimbursable, provided they are customarily paid by the seller at the old official station and by the buyer at the new official station; provided further that they may be reimbursed in connection with either the sale at the old official station or purchase at the new official station, but not at both.

h. Overall limitations. The aggregate amount of expenses which may be reimbursed in connection with sale of the residence at the old official station shall not exceed 10 percent of the actual sale price, or \$5,000, whichever is the smaller amount; and for the purchase of the home at the new official station, the aggregate amount of expenses which may be reimbursed shall not exceed 5 percent of the purchase price, or \$2,500, whichever is the smaller amount.

#### DECISIONS

Termite inspection fee v. extermination cost

A termite inspection fee which is a real estate expense customarily incurred in the sale of a residence and reimbursable under section 4.2 of the regulations is to be distinguished from the cost of exterminating termites which is considered an item of maintenance. Therefore, the cost of termite extermination required to be paid by an employee incident to the sale of his residence is not reimbursable.  
B-163801, May 1, 1968.

## CHAPTER 22

### DOCUMENTATION OF EXPENSES

#### REGULATIONS

BOB Circular No. A-56--Section 4.3a

a. Application for reimbursement and documentation of expenses. In order to be reimbursed, the employee must submit an application for reimbursement. The application must describe each of the items of expense incurred. Each item must be supported by documentation showing that the expense was in fact incurred. Included the required supporting documents are a copy of (1) the purchase agreement, (2) the sales agreement, (3) property settlement documents, (4) loan closing statements, and (5) invoices or receipts for bills paid. Reimbursement may be in two parts: (1) an initial payment for eligible expenses incurred in the sale of the former residence or the cost incident to settling an unexpired lease, and (2) a subsequent payment for expenses incurred in the purchase of a new dwelling.

#### DECISIONS

Where an employee purchasing a home at his new official station did not have readily available funds to pay the closing charges and the seller arranged to increase the selling price of the house, to include the charges, the result is that the employee incurred an obligation to pay over the period of the mortgage (30 years) an amount equal to the closing charges. Under such an arrangement there is no basis to treat any part of the increased sale price as other than the sale price. Since the employee has not paid the closing charges as required under 4.1e and 4.3a of the regulations, reimbursement for closing costs may not be paid. B-161110, April 13, 1967.

## CHAPTER 23

### REASONABLENESS OF CHARGES

#### REGULATIONS

BOB Circular No. A-56--Section 4.3

b. Review of reasonableness of charges. Applications shall be reviewed by a responsible official of the department and if items of cost appear to have been inflated or are higher than normally imposed for similar services in the locality, any portions of such costs determined to be excessive shall be disallowed. When information is needed for guidance purposes concerning local practices and rates, the local insuring office of the Federal Housing Administration serving the area in which the residence is located can furnish a Schedule of Closing Costs containing such information.

c. In the event that the employee violates the terms of the agreement required under subsection 1.3c, no expenses will be paid and any amounts paid prior to such violation shall be a debt due the United States until paid by the employee.

4.4 Exclusions. The provisions of section 4 do not apply for new appointees, including those covered under section 5; or employees assigned under the Government Employees Training Act (see 5 U.S.C. 2309). No advance of funds is authorized in connection with the allowances provided in this section.

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