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Elisa Crummer
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DECISION

THE COMPTR... GENERAL
OF THE UN... STATES
WASHINGTO... D.C. 20548

FILE: B-18722? DATE: February 18, 1977

MATTER OF: Ste, n V. Fowkes--Relocation Expenses

DIGEST: 1. Department of Agriculture employee transferred from Columbus, Ohio, to Chicago, Illinois, claims $606 relocation expenses representing 1-1/2 percent loan origination fee paid lending institution incident to securing mortgage in connection with purchase of home at new station. Claim is denied because loan origination fees in nature of service charges incident to extension of credit and determined on fixed percentage basis without regard to type or extent of services performed by lender are finance charges and as such are not reimbursable under FTR para. 2-6.2a (May 1973).

2. Department of Agriculture employee transferred from Columbus, Ohio, to Chicago, Illinois, claims relocation expense of $34 representing difference between 15 cent mileage rate authorized in his travel orders and 10 cent rate actually received for house-hunting trip. FTR para. 2-4.2 (May 1973) states rate may be prescribed under FTR para. 2-2.3c(2) (May 1973) which allows administrative determination of higher rates in special circumstances. Since 15 cent rate was prescribed under such authority, claim may be allowed if otherwise proper.

This is in response to a letter dated August 11, 1976, from Ms. Orris C. Huet, an authorized certifying officer of the Department of Agriculture. Ms. Huet requests an advance decision concerning the claim of Stephen V. Fowkes, an employee of the Department of Agriculture, for $606 relocation expenses and $34 travel expenses incident to his transfer from Columbus, Ohio, to Chicago, Illinois.

The $606 relocation expense represents a 1-1/2 percent loan origination fee Mr. Fowkes paid to secure a mortgage in connection with the purchase of a house at his new official station. Mr. Fowkes' mortgagee, the La Grange Federal Savings and Loan Association, identifies the $606 charge as a "service charge for loan processing, credit investigation, appraisal of real estate, loan closing," and lists it among "Itemized CHARGES EXCLUDABLE from the FINANCE CHARGE in this transaction."

Paragraph 2-6.2d of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973) provides that no reimbursement may be made for any fee determined to be part of a finance charge under the Truth in Lending Act, 15 U.S.C. § 1601, et seq. (1970) and Regulation Z, 12 C.F.R. § 226 et seq. (1976), issued pursuant to the Truth in Lending Act by the Board of Governers of the Federal Reserve System. These provisions, rather than the lending institution's characterizations, are determinative in deciding what fees are nonreimbursable finance charges. The Truth in Lending Act and Regulation Z provide that finance charges include service or carrying charges and loan fees, finder's fees, or similar charges, but not appraisal fees and credit report fees charged in connection with credit secured by an interest in real estate. 15 U.S.C. § 1605 (1970).

Our Office has taken the position that loan origination fees in the nature of service charges incident to the extension of credit and determined on a fixed percentage basis without regard to the type or extent of services actually performed by the lender are finance charges within the meaning of 15 U.S.C. § 1605 and Regulation Z. B-183972, April 16, 1976; B-168674, March 11, 1974; B-178782, June 21, 1973. Accordingly, the $606 loan origination fee claimed by Mr. Fowkes is, for purposes paragraph 2-6.2d of the Federal Travel Regulations, a finance charge. Thus reimbursement of this fee is precluded.

We note that the loan origination fee includes certain charges for appraisal fees and credit report fees that are reimbursable. However, the amount of the total fee allocable to these charges has not been specified. In the absence of such itemization, no reimbursement of any portion of the total $606 fee may be made. B-176663, February 20, 1973.

Mr. Fowkes also claims $34 representing the difference between the 15 cents per mile authorized in his travel orders and the 10 cents

per mile he actually received for his house-hunting trip. Paragraph 2-4.2 of the Federal Travel Regulations governing house-hunting trips provide that:

> "* * * 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 shall be as provided in 2-2.3b and c. * * *"

Paragraphs 2-2.3b and c, as amended by FPMR Temporary Regulation A-11, May 19, 1975, state in pertinent part:

> "b. Mileage rates prescribed. Payment of mileage allowances when authorized or approved in connection with the transfer shall be allowed as follows:

Occupants of automobile	Mileage rate (cents)
Employee only; or one member of immediate family	8
Employee and one member; or two members of immediate family	10
Employee and two members; or three members of immediate family	12
Employee and three or more members; or four or more members of immediate family	15

> "c. Mileage rates in special circumstances. Heads of agencies may prescribe that travel orders or other administrative determinations specify higher mileage rates not in excess of 15 cents for individual transfers of employees or transfers of groups of employees when:

* * * * *

> "(2) 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 2-2 justify a higher mileage rate as advantageous to the Government * * *."

The Regional Director of Mr. Fowkes' agency authorized the rate of 15 cents per mile pursuant to paragraph 2-2.3c(2) of the FTR. He states the following:

> "Since the cost of a round trip ticket, the fare between the airport and motel, and the return fare to the airport from the motel for both Mr. Fowkes and his wife would have been more than the $132.00 for mileage, we, therefore, authorized mileage at the 15 cent rate * * * for his househunting trip."

It appears that the Department of Agriculture's decision to allow only 10 cents per mile was based on the assumption that FTR paragraph 2-2.3c allowing an administrative determination of higher rates in special circumstances is inapplicable to house-hunting trips. Although we held in B-162521, October 19, 1967, that under Bureau of the Budget Circular No. A-56, Rev. October 12, 1966, the provision allowing a determination of higher rates was inapplicable to house-hunting trips, this is not the case under the Federal Travel Regulations now in effect. Paragraph 2-4.2 of the Federal Travel Regulations makes it clear that the mileage allowance for house-hunting trips "shall be as provided in 2-2.3b and c." (Emphasis added.)

The higher rate of 15 cents authorized under paragraph 2-2.3c(2) appears proper in Mr. Fowkes' case. The Regional Director's letter indicates that the use of Mr. Fowkes' personal automobile cost less than common carrier rates and thus justifies the higher rate. Furthermore, we have been advised informally by the Department of Agriculture that the Department of Agriculture Regulations, 7 A.R. para. I 39(c)(1), provide for the delegation of the agency head's authority in matters of travel to the Regional Director's level. Accordingly, Mr. Fowkes' claim for $34 may be certified for payment if otherwise proper.

B-187223

The travel vouchers should be handled in accordance with the above.

Acting Comptroller General
of the United States