



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: David E. Swayne

File: B-261971

Date: February 27, 1996

DIGEST

The Office of Personnel Management (OPM) is authorized by 5 U.S.C. § 4703(a) (1994) to conduct demonstration projects to determine whether specified changes in personnel management policies or procedures would improve federal personnel management. An employee who is newly appointed to a federal position from the private sector under a demonstration project authorized by OPM is eligible to receive full relocation benefits authorized by the project plan, as though the employee was being transferred from one duty station to another for permanent duty.

DECISION

This decision responds to a request from an authorized certifying officer, National Finance Center, U.S. Department of Agriculture (USDA).¹ The question asked is whether an employee who was newly appointed under a USDA Demonstration Project may receive full relocation benefits incident to that appointment. We conclude that he may receive these benefits, for the following reasons.

Dr. David E. Swayne was newly appointed as a Supervisory Veterinary Medical Officer in the Agriculture Research Service, USDA, effective July 24, 1994, for permanent duty in Athens, Georgia, under USDA Demonstration Project, number 6325-01, March 9, 1990. He was paid a recruitment bonus and authorized full relocation benefits, including a househunting trip, temporary quarters, and expenses of residence sale and purchase incident to his move from Columbus, Ohio, to Athens, Georgia, as though he were a full time employee being transferred from one permanent duty station to another.

After Dr. Swayne reported for duty, he submitted a travel voucher for payment. The National Finance Center travel unit reviewed the voucher and other documents,

¹Ms. Susan C. Lauga—Reference FSD-1 RJP.

as well as the regulations supplied by the Office of Personnel Management to support the claimed entitlement. It concluded that Dr. Swayne was entitled only to limited benefits authorized by 5 U.S.C. § 5723 (1994) and section 302-1.10(d) of the Federal Travel Regulations (FTR),² rather than full relocation benefits authorized by 5 U.S.C. §§ 5724 and 5724a (1994). The certifying officer questions the correctness of that conclusion and asks whether full relocation benefits may be paid the employee under the USDA Demonstration Project.

Demonstration projects are authorized under Chapter 47 of title 5, United States Code (1994). Section 4701(a)(4) authorizes the Office of Personnel Management (OPM) to conduct and evaluate demonstration projects to determine whether specified changes in personnel management policies or procedures would improve federal personnel management. Section 4703(a) provides that such demonstration projects are not limited by any lack of specific authority under title 5, by any inconsistent provision elsewhere in title 5, or by any rule or regulation prescribed thereunder, including any law or regulation relating to methods of recruitment or appointment to a position.³ In turn, section 4703(b) provides that, before any such plan can be implemented, the plan must be published in the Federal Register and subjected to a public hearing, that 180 days notice be given to affected employees and the Congress, and that agency approval be obtained. Further, each House of Congress must be provided with a report and final plan at least 90 days prior to the plan's effective date. The OPM has published implementing regulations in 5 C.F.R. Part 470 (1995).

The USDA Demonstration Project under which Dr. Swayne was appointed to federal service was proposed by OPM in 1989, the required procedural steps outlined above were taken, and the plan was published in the Federal Register as a final notice on March 9, 1990.⁴ Section III.A.3.b(2) of the plan⁵ provided authority to pay new appointees all of the relocation expenses authorized for transferred employees as outlined in 5 U.S.C. §§ 5724 and 5724a, 5724b, and 5724c, including such expenses

²Those limited benefits are: travel expenses for the appointee, including per diem; transportation of the immediate family; transportation and temporary storage of household goods; nontemporary storage of household goods if appointed to an isolated area; and transportation of mobile homes.

³The limitations on the conducting of demonstration projects contained in section 4703(c) do not relate to travel, transportation, or relocation benefits as a recruitment tool.

⁴55 Fed. Reg. 9062.

⁵55 Fed. Reg. 9062, 9070.

as househunting trips, expenses relating to the sale and purchase of residences, access to relocation services, and other services available to transferred employees in addition to those authorized under 5 U.S.C. § 5723.

Thus it is apparent that OPM decided to make a specific change in the relocation benefits payable to new employees hired under this demonstration project. We believe that making this change to the normal recruitment and appointment procedures is within the authority granted to OPM under 5 U.S.C. § 4703(a).

Since Dr. Swayne was appointed to his position from the private sector under the authority of the USDA Demonstration Project discussed above, rather than under the provisions of 5 U.S.C. § 5723 (1994), the full relocation benefits authorized in his travel authorization may be reimbursed to him.

/s/Seymour Efros
for Robert P. Murphy
General Counsel