



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

D-178165

June 6, 1973

31023

Mr. Richard F. Huber
Authorized Certifying Officer
Equal Employment Opportunity Commission

Dear Mr. Huber:

We refer further to your letter of March 8, 1973, with enclosures, requesting an advance decision on the [claim of Mr. Walter H. Dickerson, an employee of your agency, for real estate expenses] incident to a change of duty station.

It appears Mr. Dickerson was transferred from New Orleans, Louisiana, to Baltimore, Maryland, effective July 13, 1969. He has been reimbursed for the real estate expenses of the purchase of a residence at his new duty station under the provisions of Office of Management and Budget (OMB) Circular No. A-56 (as revised June 26, 1969).

The papers submitted show that Mr. Dickerson was unable to sell his residence in New Orleans until March 31, 1971. Since a valid sale/contract was not in effect at the expiration of the initial 1-year period from the time Mr. Dickerson reported to his new duty station, his claim for real estate expenses incident to that sale has been denied in accordance with section 4.1e of OMB Circular No. A-56 and our decisions B-168392, December 16, 1969, and June 12, 1970, and B-171882, April 2, 1971. You state that had a contract been executed, Mr. Dickerson would have been granted an extension of time in order to complete the sale transaction and to reimburse him.

Mr. Dickerson requested reconsideration of his claim in view of Supplement 3, Federal Property Management Regulations, Temporary Regulation A-8, dated October 26, 1972. However, such reconsideration was administratively denied since the provisions of Supplement 3 do not appear to be retroactive.

Prior to Supplement 3, section 4.1e of OMB Circular No. A-56 provided that the head of an agency or his designee could extend the 1-year time limit for selling or purchasing a residence only in those cases where settlement had been delayed by litigation, or when a valid sale/purchase contract had been entered into in good faith by the employee within the initial 1-year period. B-168392 and B-171882, cited above.

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In B-175781, July 24, 1972, we held that the head of an agency could grant an extension of time in any case where a contract had been entered into during the initial year but had been cancelled before the expiration of the year. This decision was based on the assumption that the 1-year requirement was to ensure timely sale or purchase of a residence and to show a reasonable connection between the transaction and the transfer of official station. We concluded that such reasonable relationship could be assumed when a contract had been entered into during the initial year even though not in existence on the expiration thereof due to cancellation.

It is not clear from the record submitted whether Mr. Dickerson's claim comes within B-175781. It is indicated that contracts were written during 1969-70 but failed for lack of financing. Your office should review his claim in the light of B-175781. Should you find it necessary to resubmit Mr. Dickerson's claim for advance decision, the original voucher should be presented. See 26 Comp. Gen. 797, 799 (1947).

With respect to the effect of the amendment of section 4.1e of OMB Circular No. A-56 cited above in support of Mr. Dickerson's request for reconsideration, we have ruled that the amendment which was effective October 23, 1972, is not retroactive. See enclosed copy of B-176586, March 12, 1973.

Sincerely yours,

Paul G. Lo bling

For the Comptroller General
of the United States