

15720

DECISION



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

FILE: B-198440

DATE: December 31, 1980

MATTER OF: Do-it-yourself household goods move
incentive payment

- DIGEST:
1. Properly directed moves without a change in duty station by military members under 37 U.S.C. § 406(e) are not precluded from the do-it-yourself household goods movement program authorized by section 747, Department of Defense Authorization Act, 1976. Section 747 refers only to 37 U.S.C. § 406(b) (change of station moves); however, transportation of household goods under section 406(e) is that authorized under section 406(b) and neither the legislative history nor implementing regulations show an intent to preclude section 406(e) moves from the program.
 2. The military services' requirement that in order to qualify for an incentive payment under the do-it-yourself household goods moving program, a member must have certified scale weight certificates establishing the weight of the goods, is in accordance with the law and implementing regulations. Therefore, although the move may have been only a short distance, was accomplished without a motor vehicle, and the use of a commercial scale was impractical and a Government scale was not available at the time of the move, the incentive payment may not be made without the weight certificates. In the absence of a change in regulations, the weight certificate requirement will be applied since this is a matter for administrative determination.

This case involves an Air Force member's entitlement to an incentive payment under the "do-it-yourself" household goods movement program where the member moved a short distance between quarters at the same base and did not procure weight certificates showing the weight of his goods. Two specific issues are involved:

~~113952~~

114070

B-198440

(1) whether the do-it-yourself household goods program may include moves made without a permanent or temporary change of station in emergency or unusual circumstances under 37 U.S.C. § 406(e); and (2) whether a constructive weight may be used in lieu of the certified weight certificates where it is shown that due to unusual circumstances it is impractical or impossible to produce certified weight certificates. On the first issue the answer is yes, and on the second the answer is no.

The case was submitted by the Accounting and Finance Officer, Headquarters 314 Technical Airlift Wing (MAC), Little Rock Air Force Base (AFB), Arkansas, requesting an advance decision on a claim by Sergeant James A. Horton, USAF, for incentive payment under the do-it-yourself program. The matter was forwarded here through the Per Diem, Travel and Transportation Allowance Committee (PDTATAC Control No. 80-15). *ABC 00926*

Sergeant Horton, stationed at Little Rock AFB, was reassigned from one set of Government quarters into other Government quarters located at Little Rock AFB. The change in quarters was not incident to a change in permanent duty station. Sergeant Horton elected to move his household goods himself under the do-it-yourself program. The quarters were located only 100 yards distance from each other and only a few items required movement by motor vehicle since most items could easily be moved by hand or by using a hand dolly. Using a small vehicle required approximately nine trips and the base scales were not accessible during the period of time he moved. To weigh the goods would have required that a portion of the weight tickets be obtained at a commercial scale located 16 miles distant, or 32 miles round trip. Also, had the shipment been tendered to a commercial carrier a much higher cost would have been incurred. The base traffic manager, considering the circumstances involved, instructed Sergeant Horton that cubic measurements in lieu of certified weight tickets could be used to determine the weight of his goods for the computation of the incentive payment.

B-198440

The matter has been submitted to our Office for decision since applicable regulations require that the incentive payment be computed based on weight obtained from scale weight certificates. In addition, the Deputy Director, Plans and Systems, Headquarters Air Force, has raised the question as to whether the do-it-yourself program applies to moves such as this where no change in duty station is involved.

Moves Without Change in Duty Station

Concerning whether the do-it-yourself program may be used for moves where there is no duty station change, 37 U.S.C. § 406(b) provides the general authority for transportation, within certain limitations, of a member's household goods in connection with "a change of temporary or permanent station." The statute authorizing the do-it-yourself program is section 747 of the Department of Defense Appropriation Act, 1976, Public Law 94-212, 90 Stat. 153, 176 (37 U.S.C. § 406, note), which provides:

"Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code, shall be available hereafter to pay a monetary allowance in place of such transportation, to a member who, under regulations prescribed by the Secretary of the military department concerned, participates in a program designed by the Secretaries in which his baggage and household effects are moved by privately owned or rental vehicle. Such allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of said baggage and household effects. However, the monetary allowance shall be in an amount which will provide savings to the government when the

B-198440

total cost of such movement is compared with the cost which otherwise would have been incurred under section 406(b)."

Movement of household goods between quarters without a change in station is authorized under 37 U.S.C. § 406(e) in unusual or emergency circumstances when change-of-station orders have not been issued. 45 Comp. Gen. 569, 571 (1966). Section 406(e) specifically provides, however, that such transportation of household goods is that authorized under section 406(b). Therefore, it is our view that although section 747 of the Defense Authorization Act only refers to transportation under section 406(b), it does not clearly preclude applying the do-it-yourself program to moves authorized by the exception provided in section 406(e) to the change of station required by section 406(b). We have also reviewed the legislative history of section 747 of the Authorization Act and have found nothing there which indicates an intent to preclude moves without a change of duty station from the program. In addition we note that the governing regulations in Volume 1, Joint Travel Regulations (1 JTR), Part H, and Air Force Regulation 75-33, do not preclude such moves from the program. Therefore, it is our view that non-change-of-station moves are not currently precluded from the do-it-yourself program.

We question, however, whether the move in question could qualify as a move made in emergency or unusual circumstances in the first instance. The submission asserts that Sergeant Horton was given orders for a local move which involved moving from one set of Government quarters to another set of Government quarters 100 yards distance. However, no orders were submitted but rather a copy of a certificate dated June 27, 1979, which certifies that James A. Horton "will be assigned (relocated)" Government quarters. There is nothing to indicate that the certified relocation was the result of emergency or unusual circumstances.

B-198440

Section 747 of Public Law 94-212 authorizes expenditure of appropriated funds available for expenditure pursuant to section 406(b) for reimbursement to members who move household goods by privately owned vehicle or rental vehicle and, as is indicated above, pursuant to section 406(e). However, if Sergeant Horton's move was not under an authority which would authorize movement of household effects under 37 U.S.C. § 406(b) or 406(e), then he could not, in any event, qualify for the incentive payment of the do-it-yourself program.

Certified Weight Certificate Requirement

Because of the method and time period which Sergeant Horton used to move his household goods, apparently it was impractical for him to obtain weight certificates to show the weight of his goods. However, under the detailed regulations (promulgated pursuant to statute) implementing the do-it-yourself program, to receive the incentive payment the weight of the goods must be established by use of weight certificates from a public weighmaster or Government scales. 1 JTR, paragraph M8401, and AFR 75-33, paragraph 3-2.

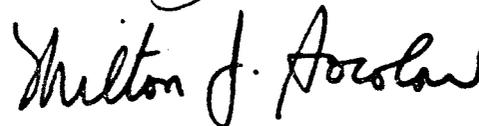
In decision B-191016, April 20, 1979, we specifically overruled a prior decision in which we had authorized payment on a do-it-yourself move based upon constructive weights in consideration of the unusual circumstances involved there. In seeking reconsideration of the prior decision, the Air Force made a strong presentation in which it was asserted that the use of weight certificates is essential to the success of the program because there is no other means to accurately compute the cost of a move upon which the incentive payment is made.

In the April 20, 1979 decision we stated that it is our view that the regulations of the Air Force and the other services, issued pursuant to authority delegated by paragraph M8400, 1 JTR, legally may require that weight certificates from certified scales showing both the empty and loaded weight of the vehicle must

B-198440

be furnished, as a condition to a member's qualifying for an incentive payment. We found nothing in the law limiting the authority of the services in this regard and, accordingly, we stated we would apply that requirement in the future.

Therefore, until such time as the services determine that the use of weight certificates will no longer be considered as the only evidence acceptable in establishing weights under the do-it-yourself movement program, we will continue to apply the weight certificate as an exclusive requirement of the program. Accordingly, the voucher submitted may not be certified for payment and will be retained here.)



Acting Comptroller General
of the United States