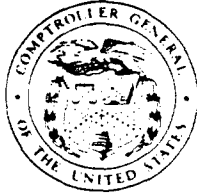


**DECISION**

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

FILE: **B-182993**

DATE:

AUG 13 1975

50969  
97497

MATTER OF:

**James P. O'Neil--Time limitation on return  
from overseas assignment**

DIGEST:

Employee whose appointment as a Federal employee in the Virgin Islands terminated on February 2, 1971, but who did not elect to return to the United States until July 1973 because he accepted a non-Federal position in the Office of the Governor of the Virgin Islands, is not entitled to reimbursement of return travel and transportation of household effects expenses under section 1.3d of Office of Management and Budget Circular No. A-56, revised June 26, 1969, which establishes a maximum period of 2 years from employee's date of transfer for the beginning of allowable travel and transportation.

This is in response to a request for an advance decision by an authorized certifying officer of the United States Department of the Interior as to the propriety of certifying for payment the claim of Mr. James P. O'Neil in the amount of \$1,090.18 which arose under the following circumstances.

It appears that Mr. O'Neil was a reemployed annuitant who received an appointment as an Executive Assistant to the Governor in the Office of the Governor of the Virgin Islands, located at St. Thomas, Virgin Islands, effective as of February 1, 1970. He served in that capacity until January 3, 1971, when his position was abolished at the time the first elected Governor of the Virgin Islands was inaugurated. On January 4, 1971, Mr. O'Neil received a temporary appointment as a Federal employee in the Office of the Government Comptroller for the Virgin Islands as a special assistant. That appointment was terminated on February 2, 1971. At that time Mr. O'Neil did not elect to return to the United States, and instead accepted a non-Federal position in the Office of the Governor, effective February 5, 1971.

Mr. O'Neil and his wife did not depart the Virgin Islands for return to their stateside residence until July 13, 1973, more than 2 years after the termination of his employment with the Federal Government. Their household goods were also shipped in July 1973. The cost of the return travel and the transportation of the household goods was \$1,090.18, and the claim for reimbursement is in that amount.

The claim was administratively disallowed on the ground that the employee did not depart his post within 6 months from the date of separation or within 13 months after the employee's last day in pay status if he had requested an extension of the time limit when he was separated from service. Such time limits were apparently prescribed by the Department of the Interior.

The record contained a letter from Mr. O'Neil dated February 24, 1971, to the Office of Territories, Department of the Interior, advising that office that he would make use of the Government Bill of Lading at a later date. There is also in the record a letter from the Governor of the Virgin Islands which states that Mr. O'Neil's work has been of substantial benefit to the Department of the Interior and the Federal Government and appeals for an exception to the general regulation governing the payment of travel and transportation expenses of Federal employees.

The pertinent regulation applicable on February 2, 1971, when Mr. O'Neil's rights to reimbursement for return travel and transportation expenses became fixed, was Office of Management and Budget Circular No. A-56, revised June 26, 1969.

Section 1.3d provided in pertinent part as follows:

" \* \* \* The maximum time for beginning allowable travel and transportation will not exceed two years from the effective date of the employee's transfer \* \* \* ."

The time limitation stated above is the same as that in Federal Travel Regulations (FTR 101-7) para. 2-1.5(2) (May 1973), current at the time the travel and transportation expenses were incurred.

With regard to an employee's entitlement to travel and transportation benefits back to the continental United States following separation, our Office has adhered to the position that such travel and transportation should be clearly incidental to the continuation of the employee's assignment and should commence within a reasonable time after the termination of the assignment in order for return expenses to be reimbursable. 52 Comp. Gen. 407 (1973); 28 Id. 255 (1948).

Moreover, since Mr. O'Neil's non-Federal employment kept him from returning to the United States for longer than the maximum 2-year period prescribed by Office of Management and Budget Circular No. A-56, a valid regulation issued pursuant to statute, our Office is without authority to make an exception to its provisions, regardless of the extenuating circumstances.

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Accordingly, the claim may not be certified for payment.

R. F. HENNING

Deputy  
Comptroller General  
of the United States