

**DECISION**



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

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FILE: B-183979

DATE: JAN 2 1976

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MATTER OF: Vernice Buell - Residence Transaction Expenses

**DIGEST:** Where transferred employee's travel authorization did not expressly provide for reimbursement of expenses in connection with purchase of a residence at her new duty station, orders may be amended to authorize payment of residence transaction expenses. The provision for payment of expenses in connection with the purchase or sale of a residence contained at subpart 2-6.1 of FPMR 101-7 contemplates uniform allowance of such expenses to transferred employees.

This decision involves the issue of whether Ms. Vernice Buell, an employee of the Department of Housing and Urban Development, may be reimbursed expenses incurred in connection with the purchase of a residence at her new duty station even though her original orders did not expressly authorize payment of such relocation expenses. Ms. Buell was transferred from Camden, New Jersey, to Washington, D.C., in May of 1974.

The employee's request for a decision, which was forwarded to this Office by an Authorized Certifying Officer, explains the circumstances giving rise to her claim as follows:

" \* \* \* I was informed at the time the original request for authorization was submitted not to complete item 10B, Real Estate Transactions, Purchase of Residence at New Station, until I was sure that I would be purchasing a home. I was only cautioned that settlement must take place within one year in order for the costs to be recognized. I therefore completed only items 10A and 10C and left item 10B blank to be completed only if a decision was made to purchase a home within the year.

"When a supplementary form HUD-25a was submitted to the Philadelphia Regional Office for approval of item 10B it was returned marked 'Disapproved by Headquarters & CAO'. The verbal explanation given for the rejection was that an amendatory form cannot be approved."

Authority for payment of expenses incurred in connection with residence transactions is contained in Part 6 of Federal Property Management Regulation (FPMR) 101-7 (May 1973). Subpart 2-6.1 thereof provides for reimbursement of such expenses as follows:

"2-6.1 Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station, for purchase (including construction) of one dwelling at his new official station, or for the settlement of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at the old official station;"

FPMR 101-7 provides for administrative discretion in authorizing reimbursement of certain expenses as, for example, in the case of house-hunting trips and subsistence expenses while occupying temporary quarters. See FPMR 101-7, subparts 2-4.1 and 2-5.1. Other provisions of the FPMR contemplate that certain allowances will be allowed uniformly to transferred employees. The above-quoted authority for reimbursement of expenses incurred in connection with residence transactions is in the latter category as to which agency discretion to deny reimbursement is limited.

In B-161583, June 15, 1967, we reviewed an agency-wide policy determination not to reimburse real estate transaction or miscellaneous expenses except in the case of transfers to positions for which a manpower shortage exists and unless there was competition for the services of the individual concerned from private industry. We there stated that the regulations providing for reimbursement of residence transaction and miscellaneous expenses were mandatory and hence that the agency's attempt to deny approval of those expenses was ineffective. We similarly upheld reimbursement of residence transaction expenses notwithstanding lack of prior authorization in B-166681, July 9, 1969, and B-168658, January 14, 1970.

In view of the above-cited decisions holding that departments and agencies have no discretion to reduce or change benefits otherwise provided by regulation, Ms. Duell's travel authorization may be amended to authorize payment of residence transaction expenses, and she may be reimbursed such expenses insofar as her claim is otherwise proper. In this regard we stress that the subsequent amendment of her travel orders may

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not be regarded as extending the time limitation set forth at subpart 2-6.1e of FPMR 101-7 within which the residence transaction must take place.

Paul G. Donohue  
Acting Comptroller General  
of the United States