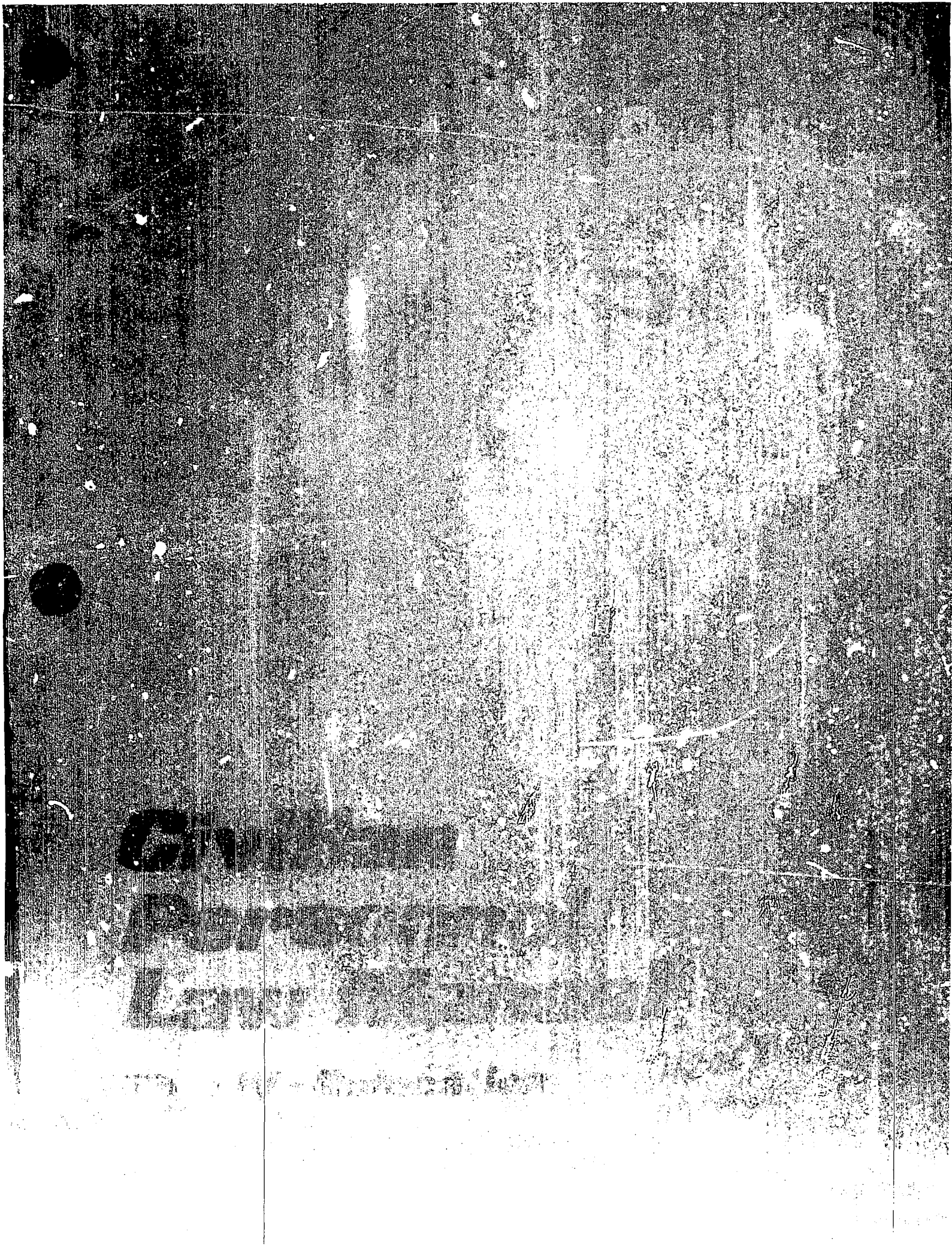
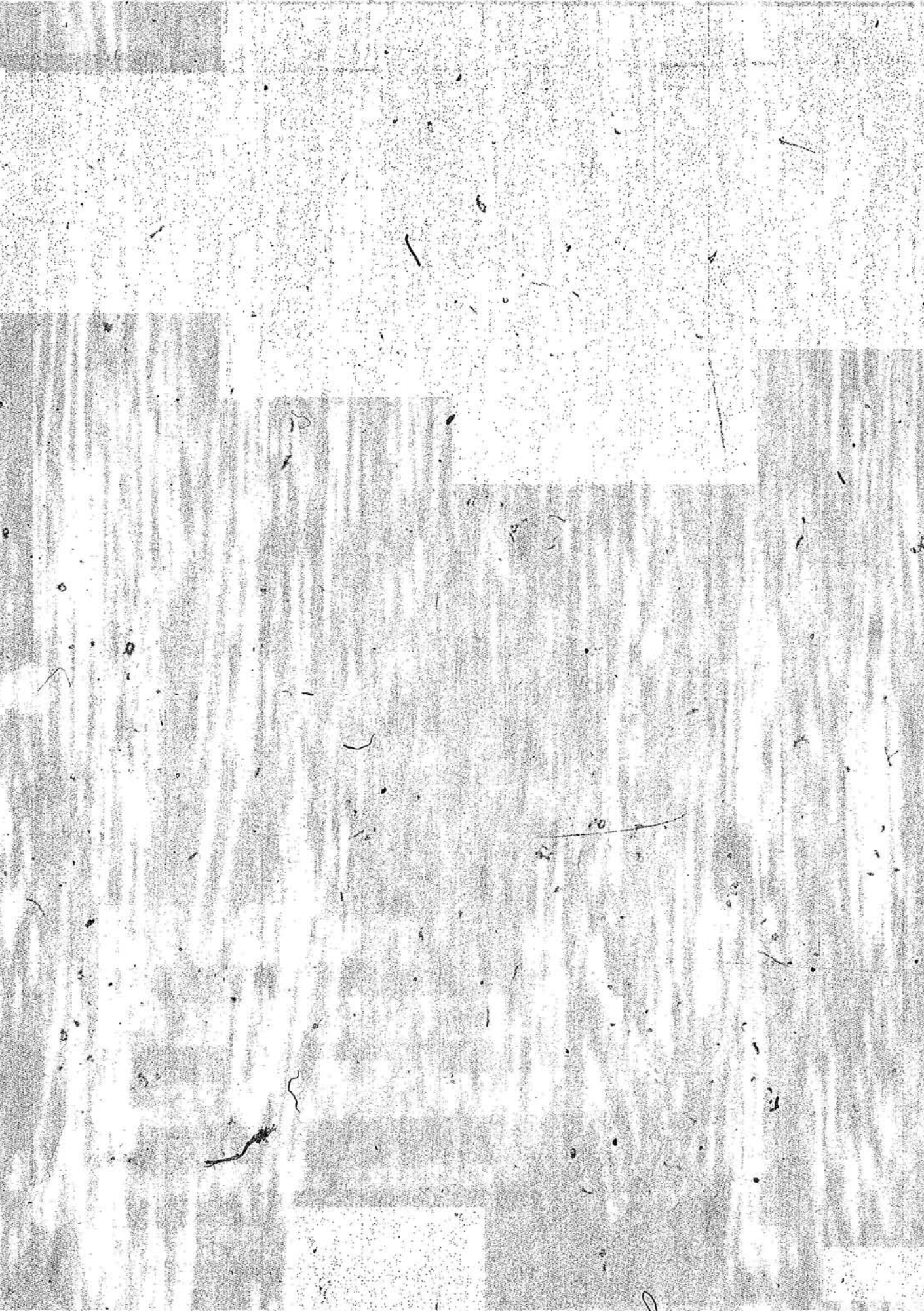


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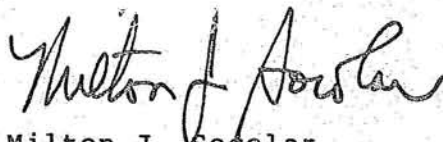




FOREWORD

In the May 1977 Foreword accompanying Title I, Compensation, of the Civilian Personnel Law Manual, it was stated that Title IV, Relocation Expenses, would be issued. We are pleased to announce the distribution of Title IV at this time.

Title IV is a comprehensive outline of decisions of this Office dealing with the legal entitlements of Federal employees upon relocation between different geographical areas as an incidence of their employment. The material contained in Title IV reflects the decisions of this Office issued through March 31, 1978.



Milton J. Socolar  
General Counsel

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## TABLE OF CONTENTS

- Chapter 1--INTRODUCTION
- Chapter 2--GENERAL CONDITIONS AND REQUIREMENTS
- Chapter 3--TRAVEL OF EMPLOYEE AND IMMEDIATE FAMILY
- Chapter 4--MISCELLANEOUS EXPENSES
- Chapter 5--TRAVEL TO SEEK RESIDENCE QUARTERS
- Chapter 6--TEMPORARY QUARTERS SUBSISTENCE EXPENSES
- Chapter 7--RESIDENCE TRANSACTION EXPENSES
- Chapter 8--TRANSPORTATION OF MOBILE HOMES
- Chapter 9--TRANSPORTATION OF HOUSEHOLD GOODS
- Chapter 10--STORAGE OF HOUSEHOLD GOODS
- Chapter 11--TRANSPORTATION AND STORAGE OF POV
- Chapter 12--OVERSEAS ALLOWANCES
- Chapter 13--RELOCATION OF FOREIGN SERVICE OFFICER AND  
OTHERS

INDEX

Page

CHAPTER 1--INTRODUCTION

A.	Relocation Expense Under 5 U.S.C. §§ 5721-5733----	1- 1
	Statutory authority-----	1- 1
	Regulations-----	1- 1
	Employees covered-----	1- 2
	Employees with temporary appointments-----	1- 2
	Employees with part-time appointments-----	1- 2
	Employees assigned for Executive Interchange---	1- 2
	Employees improperly appointed-----	1- 3
	Employee's citizenship-----	1- 3
	Noncitizens outside United States-----	1- 3
	Intent to relinquish citizenship-----	1- 3
	Employees not covered-----	1- 3
	Employees paid under title 37-----	1- 4
	Employees under the Foreign Service Act-----	1- 4
	Employees assigned under 22 U.S.C. § 922-----	1- 4
	Employees of FAA and VA-----	1- 4
	Employees transferred from Senate Committees---	1- 5
	Employees appointed after consultant services--	1- 5
	Employees transferred to international organizations-----	1- 5
	Employees moved between quarters locally-----	1- 6
B.	Relocation Expenses Under the Training Act-----	1- 6
	Statutory authority-----	1- 6
	Regulations-----	1- 6
	Employees covered-----	1- 6
	Employees not covered-----	1- 7
	Presidential appointees-----	1- 7
C.	Relocation Expenses Under the Intergovernmental Personnel Act-----	1- 7
	Statutory authority-----	1- 7
	Regulations-----	1- 8
	Employees covered-----	1- 8
D.	Relocation Expenses Under the Foreign Service Act-	1- 9
	Statutory authority-----	1- 9
	Regulations-----	1- 9
	Employees covered-----	1- 9
	Generally-----	1- 9
	Employees assigned under 5 U.S.C. § 922-----	1- 9
	Employees of other agencies-----	1- 9
	Employees of FAA-----	1- 9
	Employees of VA-----	1-10
	Employees of the Department of Agriculture--	1-10
E.	Overseas Allowances-----	1-10
	Statutory authority-----	1-10
	Regulations-----	1-10

Employees covered-----	1-10
F. Relocation Expenses Incident to Death-----	1-11
CHAPTER 2--GENERAL CONDITIONS AND REQUIREMENTS-----	2- 1
A. General Requirements-----	2- 1
Service agreements-----	2- 1
Requirement to execute agreement-----	2- 1
Local overseas transfers-----	2- 1
Failure to execute agreement-----	2- 2
Exception for actual service-----	2- 2
Government vs. agency service-----	2- 2
Transfers-----	2- 2
Manpower-shortage category appointees-----	2- 3
Computation of period of service-----	2- 3
Effect of leave without pay-----	2- 3
Release from service agreement-----	2- 4
Separation beyond employee's control-----	2- 4
Retirement-----	2- 4
Probationary discharge-----	2- 4
Separation for cause-----	2- 4
Pregnancy-----	2- 5
Transfer within department-----	2- 5
Effect of release from agreement-----	2- 5
Successive transfers-----	2- 5
Cancelled transfers-----	2- 6
Effective date of transfer or appointment-----	2- 6
Transfer to temporary duty location-----	2- 6
Time to begin travel or transportation-----	2- 7
Generally-----	2- 7
Separation travel-----	2- 7
Orders-----	2- 8
Authorization of transfer of other relocation action-----	2- 8
Necessity for orders-----	2- 8
Authorization or approval of allowances-----	2- 8
Modification of orders-----	2- 9
Retroactive cancellation of orders-----	2- 9
Advance of funds-----	2-10
Liability for loss of funds-----	2-10
B. Transfer-----	2-10
What constitutes a transfer-----	2-10
Transfer vs. temporary duty-----	2-10
Transfer to temporary duty site-----	2-11
Assignments for training-----	2-11
Transfer with training en route-----	2-12
Intergovernmental Personnel Act assignments-----	2-12
Assignments for Executive Interchange-----	2-12
Assignments with inte national organizations-----	2-13
Moves between quarters locally-----	2-13

Relocation upon reemployment-----	2-13
Reemployment after break in service-----	2-13
Reemployment after reduction in force----	2-14
Within 1 year-----	2-14
After more than 1 year-----	2-14
Reemployment without break in service-----	2-14
Reemployment after service with international organization-----	2-14
Reemployment after military duty-----	2-15
Notice of transfer-----	2-15
Definite intent to transfer lacking-----	2-15
Informal oral advice-----	2-15
No assurance of transfer-----	2-15
Warning not to relocate-----	2-16
Informal notice-----	2-16
Mass transfers-----	2-16
Newspaper reports of relocation-----	2-16
Award of building contract-----	2-16
Tentative relocation date announced-----	2-16
Selection for training as notice-----	2-17
Notice of transfer to temporary duty site-----	2-17
Interest of the Government-----	2-17
Administrative determination-----	2-17
Basis for determination-----	2-18
Budgetary constraints-----	2-18
Relation to change of residence-----	2-18
Collateral benefit to employee-----	2-18
Notice to employee-----	2-19
Transfers in the Government's interest-----	2-19
Merit promotion transfers-----	2-19
Transfers for convenience of the employee-----	2-19
At employee's request-----	2-19
Transfer for retirement-----	2-20
Transfer outside Merit Promotion Plan-----	2-20
Reemployment after reduction in force-----	2-20
Short-distance transfers-----	2-20
Successive transfers-----	2-21
Short-distance transfer-----	2-21
Relocation incident to transfer-----	2-21
Administrative determination-----	2-22
Difference in commuting distance-----	2-22
Less than 10 miles difference-----	2-22
Housing shortage at old station-----	2-22
Successive transfers-----	2-23
Local or metropolitan area-----	2-23
Overseas transfer-----	2-23
Actual residence determination-----	2-23
Erroneous residence determination-----	2-24
Cancelled transfer-----	2-24
Retransfer concept-----	2-24
Service agreements-----	2-24

	Travel orders not issued-----	2-25
	Reimbursable expenses-----	2-25
	Expenses incurred after cancellation-----	2-26
	Avoidable expenses-----	2-26
	Successive transfers-----	2-27
	Generally-----	2-27
	Second transfer cancelled-----	2-27
	Two transfers - one relocation-----	2-27
	Allowances based on distance-----	2-27
	Move within 2 years of first transfer----	2-27
	Transportation of household goods-----	2-27
	Travel of immediate family-----	2-28
	Move more than 2 years after first	
	transfer-----	2-28
	Second transfer for employ�e's	
	convenience-----	2-28
	Allowances related to establishment of	
	residence-----	2-28
	Funding of transfers-----	2-29
	Transfer between agencies-----	2-29
	Reemployment after reduction in force-----	2-29
	Reemployment without break in service-----	2-29
	Transfer within DOD-----	2-29
C.	Travel to First Duty Station-----	2-30
	First duty station in United States-----	2-30
	Shortage-category appointees-----	2-30
	Authorization or approval-----	2-31
	Shortage-category determination-----	2-31
	Determination after appointment-----	2-31
	Erroneous determination-----	2-31
	First duty station overseas-----	2-31
D.	Renewal Agreement Travel-----	2-32
	Eligibility-----	2-32
	Stationed in the United States-----	2-32
	Stationed in Hawaii or Alaska-----	2-32
	Registration to vote in Guam-----	2-32
	Part-time employment-----	2-33
	Employees hired locally-----	2-33
	Husband and wife both employed-----	2-33
	Completion of tour of duty-----	2-33
	Procedural requirements-----	2-34
	Execution of new agreement-----	2-34
	Violation of new agreement-----	2-34
	Nonviolation of new agreement-----	2-34
	Place of actual residence determination-----	2-34
	Actual travel requirement-----	2-35
	Points of travel-----	2-35
	Travel to other than actual residence-----	2-35
	Travel from other than overseas post-----	2-36
	Travel to United States required-----	2-36
	Reimbursable expenses-----	2-36

	Transportation of baggage-----	2-36
	Per diem-----	2-36
	Traveltime-----	2-37
E.	Separation Travel-----	2-37
	Eligibility-----	2-37
	Employees hired locally-----	2-37
	Last duty station in United States-----	2-38
	Time to begin travel and transportation-----	2-38
F.	Remedies-----	2-38
	Erroneous overpayments-----	2-38
	Estoppel-----	2-38
	Waiver-----	2-39
	Termination of collection-----	2-39
	Back Pay Act-----	2-39

CHAPTER 3--TRAVEL OF EMPLOYEE AND IMMEDIATE FAMILY---- 3- 1

A.	Authority-----	3- 1
	Statutory authority-----	3- 1
	Regulations-----	3- 1
B.	Eligibility-----	3- 2
	Incident to relocation-----	3- 2
	Transfer-----	3- 2
	New appointment-----	3- 2
	Shortage-category appointment-----	3- 2
	Appointment after reduction in force-----	3- 3
	Return from overseas assignment-----	3- 3
	Assignments for training-----	3- 3
	Intergovernmental Personnel Act assignments-----	3- 4
	Temporary duty assignments-----	3- 4
	Move for personal convenience-----	3- 5
	Immediate family-----	3- 5
	Spouse-----	3- 5
	Nondependent husband-----	3- 5
	Marriage after date of travel orders-----	3- 6
	Marriage en route to new station-----	3- 6
	Marriage while on temporary duty-----	3- 6
	Marriage while on home leave-----	3- 6
	Marriage at overseas post-----	3- 6
	After separation-----	3- 6
	Prior to separation-----	3- 6
	Parents of employee or spouse-----	3- 7
	Dependent parents-----	3- 7
	Member-of-household requirement-----	3- 7
	Dependent in-laws-----	3- 7
	Mother of divorced spouse-----	3- 7
	Nondependent in-laws-----	3- 8
	Siblings-----	3- 8
	Children-----	3- 8
	Children under age 21-----	3- 8

	Foster children-----	3- 8
	Stepchildren-----	3- 8
	Unborn children-----	3- 8
	Married children-----	3- 9
	Divorced children-----	3- 9
	Children of divorced employee-----	3- 9
	Spouse's custody-----	3- 9
	Joint custody-----	3-10
	Common-law remarriage-----	3-10
	Children over age 21-----	3-10
	Status at date of transfer-----	3-10
	Becoming 21 overseas-----	3-11
	Children not capable of support-----	3-11
	Grandchildren-----	3-11
C.	Procedural Requirements-----	3-11
	Authorization or approval-----	3-12
	Transfer-----	3-12
	New appointment-----	3-12
	Service agreement-----	3-12
D.	Time Limitation-----	3-13
	Overseas employees-----	3-13
	Running of the 2-year period-----	3-13
E.	General Travel Principles-----	3-14
	One-trip limitation-----	3-14
	Second trip to settle affairs-----	3-14
	Second trip to transport family-----	3-14
	Exceptions-----	3-14
	First trip by Government vehicle-----	3-14
	Transfer while on temporary duty-----	3-15
	Family's advance travel-----	3-15
	Family's separate travel-----	3-16
	Trip to port to ship POV-----	3-16
	Use of United States air carriers-----	3-16
	Abandonment of travel-----	3-17
F.	Transportation Expenses-----	3-17
	Mode of travel, generally-----	3-17
	Rental car-----	3-17
	Air ambulance-----	3-17
	Travel by POV-----	3-18
	Travel by more than one POV-----	3-18
	Authorization-----	3-18
	Approval after the fact-----	3-18
	Justification-----	3-19
	Separate travel-----	3-19
	Large family-----	3-19
	Reimbursement limitation-----	3-19
	Distance-----	3-19
	Deviations-----	3-20
	Illness-----	3-20
	Temporary duty en route-----	3-20
	Travel at no expense-----	3-20

Travel paid as military member-----	3-20
Travel on leave-----	3-21
Travel to alternate location-----	3-21
Location selected by employee-----	3-21
Travel to temporary quarters-----	3-21
Travel to temporary duty-----	3-21
Travel to separate residence-----	3-22
Authorized alternate location-----	3-22
Successive transfers-----	3-22
Move within 2 years of first transfer-----	3-22
Move more than 2 years after first transfer-----	3-23
Mileage rates-----	3-23
Number of occupants of POV-----	3-23
Second POV not justified-----	3-24
Distribution of passengers-----	3-24
Travel combined with househunting-----	3-24
Employee's second trip-----	3-25
Authorization of a higher rate-----	3-25
POV not driven-----	3-25
G. Per Diem-----	3-26
Generally-----	3-26
Manpower-shortage appointees-----	3-26
Assignments for training-----	3-26
Renewal or separation travel-----	3-27
Travel by POV-----	3-27
Less than 300 miles per day-----	3-27
More than 300 miles per day-----	3-27
Rate in excess of 300 miles specified-----	3-27
Leave en route-----	3-28
Temporary duty en route-----	3-28
Per diem extended-----	3-28
Common carrier delays-----	3-28
Stolen passport-----	3-29
Sick leave-----	3-29
Delay to pick up POV-----	3-29
Delay caused by the Government-----	3-29
Per diem not extended-----	3-30
Dependent's illness-----	3-30
Employee's illness while on leave-----	3-30
Breakdown of truck-----	3-30
Weekends and holidays-----	3-30
Temporary duty en route-----	3-31
Delay to begin travel-----	3-31
Early arrival-----	3-31
Delay to pick up POV-----	3-31
Rate of per diem-----	3-32
H. Relationship to Other Allowances-----	3-32

CHAPTER 4--MISCELLANEOUS EXPENSES-----	4- 1
--	------

A.	Authority-----	4- 1
	Statutory authority-----	4- 1
	Regulations-----	4- 1
B.	Eligibility-----	4- 1
	Location of duty stations-----	4- 1
	Incident to change of official station-----	4- 2
	Moves between quarters locally-----	4- 2
	Assignments for training-----	4- 2
	Intergovernmental Personnel Act assignments-----	4- 2
	Temporary duty assignments-----	4- 2
	Move for personal convenience-----	4- 3
C.	Procedural Requirements-----	4- 3
	Authorization-----	4- 3
	Service agreements-----	4- 3
D.	Time Limitation-----	4- 4
E.	Discontinuation and Establishment of Residence-----	4- 4
	Retransfer-----	4- 4
	Separate residence of family-----	4- 5
	Family remains at old station-----	4- 5
	Family discontinues residence-----	4- 5
	Exceptions-----	4- 5
	Transfer precludes residency-----	4- 5
	Retransfer precludes residency-----	4- 5
F.	Determining Amount of Reimbursement-----	4- 6
	With- or without-family rate-----	4- 6
	Employee without immediate family-----	4- 6
	Marriage after transfer-----	4- 6
	Employee rejoins family-----	4- 6
	Family remains at old residence-----	4- 7
	Employees with immediate family-----	4- 7
	Delayed move of family-----	4- 7
	Separate residence of family-----	4- 7
	Reimbursement of minimum allowance-----	4- 7
	Requirement that expenses be incurred-----	4- 7
	Presumption-----	4- 8
	No expenses incurred-----	4- 8
	No receipts or itemization-----	4- 8
	No discretion to reduce minimum allowance-----	4- 8
	No discretion to increase minimum allowance-----	4- 9
	Reimbursement of maximum allowance-----	4- 9
	Generally-----	4- 9
	Employee with family-----	4- 9
	Employee without family-----	4- 9
	Documentation required-----	4- 9
	Determining maximum amount-----	4-10
	One allowance per transfer-----	4-10
	Single transfer-----	4-10
	Multiple transfers-----	4-10
G.	Reimbursable Expenses-----	4-11
	Alterations to old furnishings-----	4-11
	Cutting and fitting rugs-----	4-11

Altering draperies-----	4-11
Adjustments to old furnishings-----	4-11
Grandfather clock-----	4-11
Piano tuning-----	4-11
Washing cycle check-----	4-11
Disconnection and connection-----	4-11
Appliances-----	4-12
Washing machines-----	4-12
Antenna-----	4-12
Utilities-----	4-12
Transformer-----	4-12
Telephones-----	4-12
Equipment-----	4-12
Pictures and mirrors-----	4-12
Utility fees and deposits-----	4-12
Buried wire charge-----	4-12
Real estate related expenses-----	4-12
Fee to locate housing-----	4-12
Telephone calls and telegrams-----	4-13
Forfeited deposits-----	4-13
Forfeited purchase deposit-----	4-13
Forfeited lease-purchase deposit-----	4-13
Forfeited lease deposit-----	4-13
Mobile home related expenses-----	4-14
Preparation for movement-----	4-14
Oversized mobile home-----	4-14
Portable room handling-----	4-14
Use taxes-----	4-14
Weight certificates-----	4-14
Automobile related expenses-----	4-15
Automobile registration-----	4-15
Title fees-----	4-15
Inspection fees-----	4-15
Tags and license plates-----	4-15
Automobile taxes-----	4-15
Driver's license-----	4-15
Driver's training-----	4-16
Pollution-control device-----	4-16
Licenses-----	4-16
Radio license-----	4-16
Dog license-----	4-16
Dental contract losses-----	4-16
H. Nonreimbursable Expenses-----	4-17
New items-----	4-17
New rugs-----	4-17
New draperies-----	4-17
New furniture-----	4-17
New appliances-----	4-17
New clothing-----	4-18
Replacement items-----	4-18
Structural changes-----	4-18

Wiring-----	4-18
Washer and dryer-----	4-18
Air conditioner-----	4-18
Plumbing-----	4-18
Washing machine-----	4-18
Ice maker-----	4-18
Water softener-----	4-19
Remodeling-----	4-19
Cleaning-----	4-19
Repairs-----	4-19
Real estate related expenses-----	4-19
Flea inspection and extermination-----	4-19
Fee in the nature of rent-----	4-20
Mobile home related expenses-----	4-20
New items-----	4-20
Base skirting-----	4-20
Tires-----	4-20
Structural changes-----	4-20
Rent-----	4-20
Storage-----	4-20
Automobile related expenses-----	4-21
New items-----	4-21
Tires-----	4-21
Tow bar-----	4-21
Repairs-----	4-21
Other than initial expenses-----	4-21
Transportation expenses-----	4-22
Personal travel-----	4-22
Rental of U-Haul-----	4-22
Boarding of children-----	4-22
Tuition payments-----	4-22
Postal expenses-----	4-22
Postage stamps-----	4-22
Post office box rental-----	4-23
Membership fees-----	4-23
I. Relationship to Other Allowances-----	4-23
Spouse's dislocation allowance-----	4-23

CHAPTER 5--TRAVEL TO SEEK RESIDENCE QUARTERS----- 5- 1

A. Authorities-----	5- 1
Statutory authority-----	5- 1
Regulations-----	5- 1
B. Eligibility-----	5- 1
Location of duty stations-----	5- 1
Both in continental United States-----	5- 1
More than 75 miles apart-----	5- 1
Incident to change of official station-----	5- 2
New appointees-----	5- 2
Assignments for training-----	5- 2

	Assignment to Government quarters-----	5- 2
C.	Procedural Requirements-----	5- 2
	Agreement to transfer-----	5- 3
	Trip before accepting transfer-----	5- 3
	Refusal to transfer-----	5- 3
	Authorization-----	5- 3
	Administrative discretion-----	5- 3
	Advance authorization required-----	5- 4
	Erroneous advice-----	5- 4
	Lack of knowledge of regulations-----	5- 4
	After-the-fact determination of benefit-----	5- 4
	Exceptions-----	5- 5
	Administrative error-----	5- 5
	Affirmation of informal approval-----	5- 5
	Service agreement-----	5- 6
D.	Time Limitations-----	5- 6
	Time to begin house hunting-----	5- 6
	Spouse's travel after transfer-----	5- 6
	Six-day period for house hunting-----	5- 7
	Days run consecutively-----	5- 7
	Days include traveltime-----	5- 7
E.	Nature of Trip-----	5- 7
	One trip-----	5- 7
	Separate trip by wife-----	5- 8
	Trip interrupted-----	5- 8
	Round trip-----	5- 8
	Transfers on short notice-----	5- 9
	Purpose of seeking residence-----	5- 9
	Travel to seek residence quarters-----	5- 9
	Travel for other purposes-----	5- 9
	Travel to decide to accept transfer-----	5- 9
	Travel to settle house purchase-----	5- 9
	Travel to ship household goods-----	5-10
	To new duty station-----	5-10
F.	Mode of Transportation-----	5-10
G.	Reimbursable expense-----	5-11
	Transportation expenses-----	5-11
	Mileage-----	5-11
	Rate applicable-----	5-11
	Discretion to set higher rate-----	5-11
	Two employees traveling together-----	5-11
	Distance-----	5-12
	Airfare-----	5-12
	Per diem-----	5-12
	Employee traveling with spouse-----	5-12
	Continuation of per diem-----	5-13
	High-rate geographical areas-----	5-13
	Local transportation costs-----	5-13
H.	Transfer not Consummated-----	5-14
	Cancelled transfer-----	5-14
	Refusal to transfer-----	5-14

I.	Relationship to Other Allowances-----	5-14
	Temporary quarters subsistence expenses-----	5-14
CHAPTER 6--TEMPORARY QUARTERS SUBSISTENCE EXPENSES-----		6- 1
A.	Authority-----	6- 1
	Statutory authority-----	6- 1
	Regulations-----	6- 1
B.	Eligibility-----	6- 1
	Location of new station-----	6- 1
	In United States or designated area-----	6- 1
	Residence outside United States-----	6- 2
	Incident to change of official station-----	6- 2
	Transfer with training en route-----	6- 2
	Short-distance transfer-----	6- 3
	Cancelled transfer-----	6- 3
	Relocation upon reemployment-----	6- 3
	Reemployment without break in service-----	6- 3
	Reemployment after service with	
	international organization-----	6- 4
	Reemployment with break in service-----	6- 4
	Reemployment after reduction in force-----	6- 5
	Shortage-category appointment-----	6- 5
C.	Procedural Requirements-----	6- 5
	Authorization or approval-----	6- 5
	Authorization of period of occupancy-----	6- 6
	Less than 30 days authorized-----	6- 6
	Modification of orders-----	6- 6
	Ratification of oral authorization-----	6- 6
	Period reduced by house-hunting trip-----	6- 7
	Authorization or approval of additional	
	30 days-----	6- 7
D.	Period of Entitlement-----	6- 7
	Limited to 30 days-----	6- 7
	Transfers to the United States-----	6- 7
	Transfers within the continental United States-----	6- 8
	Transfers within Alaska-----	6- 8
	Limited to 60 days-----	6- 8
	Agency discretion-----	6- 8
E.	Occupancy of Temporary Quarters-----	6- 9
	Necessity for occupancy-----	6- 9
	Occupancy incident to transfer-----	6- 9
	New residence unrelated to transfer-----	6- 9
	Family residence elsewhere-----	6- 9
	Wife's separate residence-----	6-10
	Occupancy for medical reasons-----	6-10
	Employee hospitalized-----	6-10
	Wife in boarding house-----	6-10
	Children residing apart-----	6-11
	Children sent to camp-----	6-11

Children at college-----	6-11
What constitutes temporary quarters-----	6-11
Quarters that are temporary-----	6-12
Occupancy of leased quarters-----	6-12
Month-to-month lease-----	6-12
Terminable lease-----	6-12
Long-term lease-----	6-12
Delay in seeking permanent quarters-----	6-13
Children in school-----	6-13
Anticipating military duty-----	6-13
Anticipating involuntary separation---	6-13
Occupancy of Government quarters-----	6-14
Occupancy of travel trailer-----	6-14
Occupancy of mobile home-----	6-15
Occupancy of house purchased at new station-	6-15
Occupancy of residence at old station-----	6-15
Lack of quarters at new station-----	6-15
Temporary duty at old station-----	6-16
Temporary return to old station-----	6-16
Awaiting moving van-----	6-16
Retransfer to old station-----	6-17
Occupancy of residence not at old station---	6-17
Quarters that are not temporary-----	6-17
Rental quarters not occupied-----	6-17
No intent to vacate former residence-----	6-18
Wife's return to old station-----	6-18
Reoccupancy of residence at old station--	6-18
Residence occupied on detail-----	6-18
Lack of intent to occupy temporarily-----	6-19
Subsequent move due to marriage-----	6-19
No effort to vacate quarters-----	6-19
Vague intent to locate other quarters-----	6-19
Rented room-----	6-19
House subsequently purchased-----	6-20
Extended occupancy of apartment-----	6-20
Occupancy of residence at old station-----	6-20
Lease of residence from purchaser-----	6-20
After removal of furnishings-----	6-21
Short-term lease at old station-----	6-21
Occupancy of residence at new station-----	6-21
Rental pending purchase-----	6-21
Prior to arrival of furnishings-----	6-22
Prior to hook up of utilities-----	6-22
Short-distance transfers-----	6-23
Sublease of own residence-----	6-23
F. Time Limitations-----	6-24
Time to begin occupancy-----	6-24
Effect of early departure-----	6-24
Effect of delay en route-----	6-25
Beginning the period of claim-----	6-25
End of period of claim-----	6-26

	Move to permanent quarters-----	6-26
	Death of employee-----	6-26
	Running of the period of occupancy-----	6-27
	Runs concurrently for employee and family-----	6-27
	Period not interrupted-----	6-27
	Return to old station-----	6-27
	Absence for personal reasons-----	6-27
	Annual leave-----	6-28
	Period interrupted-----	6-28
	Temporary duty-----	6-28
	Military duty-----	6-29
	Travel to new station-----	6-29
G.	Location of Temporary Quarters-----	6-29
	Not at old or new station-----	6-29
	At both old and new stations-----	6-30
	Separate occupancy of family members-----	6-30
	Occupancy of quarters overseas-----	6-31
H.	Reimbursable Expenses-----	6-31
	Reimbursable items of expense-----	6-31
	Costs incident to rental-----	6-31
	Laundry and dry cleaning-----	6-31
	Cleaning deposit-----	6-32
	Nonreimbursable items of expense-----	6-32
	Child care expenses-----	6-32
	Transportation expenses-----	6-32
	Automobile-related expenses-----	6-32
	Forfeited deposit-----	6-33
	Evidence of lodging expenses-----	6-33
	Requirement for receipts-----	6-33
	Stolen receipts-----	6-33
	Lost receipts-----	6-34
	Additional requirements under 2 JTR-----	6-34
	Evidence of subsistence expenses-----	6-34
	Itemization on daily basis-----	6-34
	Receipts not required-----	6-34
	Estimates-----	6-34
	Proration and averaging-----	6-35
	Reasonableness of amounts claimed-----	6-35
	Lodgings provided by friends and relatives-----	6-36
	Unreasonable food costs-----	6-36
I.	Computing Reimbursement-----	6-37
	First day of entitlement-----	6-37
	Beginning entitlement-----	6-37
	Whole-day concept-----	6-37
	Daily rate-----	6-38
	Rates less than maximum-----	6-38
	No rate set in orders-----	6-38
	Rates at different locations-----	6-38
	High-range geographical areas-----	6-38
	Applying the formula-----	6-39
	Formula establishes a maximum-----	6-39

J.	Relationship to Other Allowances-----	6-39
	Temporary lodging allowance-----	6-39
	Temporary quarters in the United States-----	6-39
	Temporary quarters in a foreign area-----	6-40
	Quarters allowance-----	6-40
	Per diem allowance-----	6-40
	House-hunting trip-----	6-41
	Mileage-----	6-41

CHAPTER 7--RESIDENCE TRANSACTION EXPENSES----- 7- 1

SUBCHAPTER I--ENTITLEMENT----- 7- 1

A.	Authority-----	7- 1
	Statutory authority-----	7- 1
	Regulations-----	7- 1
B.	Eligibility-----	7- 1
	Old and new stations in United States-----	7- 1
	Reemployment rights in United States-----	7- 2
	New station not permanent-----	7- 2
	Specific locations-----	7- 2
	Okinawa-----	7- 2
	Saipan-----	7- 2
	Guantanamo Bay, Cuba-----	7- 3
	Change of official station-----	7- 3
	Reemployment after reduction in force-----	7- 3
	Employees not eligible-----	7- 4
	Moves to Government quarters-----	7- 4
	Transfers under the Foreign Service Act-----	7- 4
	Assignments for training-----	7- 4
	New appointees-----	7- 4
	Intergovernmental Personnel Act assignments-----	7- 4
	Cancelled transfers-----	7- 5
	Avoidable expenses-----	7- 5
	Cancelled transfer outside United States-----	7- 5
C.	Procedural Requirements-----	7- 5
	Authorization-----	7- 6
	Uniformity of allowances-----	7- 6
	Incident to transfer determination-----	7- 6
	Short-distance transfer-----	7- 7
D.	Transactions Covered-----	7- 7
	Purchase of residential property-----	7- 7
	Collateral land transaction-----	7- 7
	Land contract or contract for deed-----	7- 8
	Lease with option to purchase-----	7- 8
	Gift of property-----	7- 8
	Exchange of property-----	7- 8
	Lease of land-----	7- 8
	Houseboat-----	7- 9

Mobile home-----	7- 9
Sale after use at new station-----	7- 9
Used as downpayment on house-----	7- 9
Interim financing-----	7-10
Marital property settlement-----	7-10
Forfeiture of deposit-----	7-10
E. Specific Conditions of Entitlement-----	7-10
Relationship of residence to duty station-----	7-10
Residence in Canada-----	7-11
Remote duty station-----	7-11
Residence from which employee commutes daily-----	7-11
Generally-----	7-11
Long-distance commuter-----	7-11
Weekend commuter-----	7-12
Successive transfers-----	7-12
Temporarily out of residence-----	7-12
House being purchased-----	7-12
Residing at training station-----	7-12
Extended temporary duty-----	7-13
Residence let upon prior transfer-----	7-13
Residence being remodeled-----	7-13
Barred from residence by court order-----	7-13
Exceptions-----	7-14
No fixed duty station-----	7-14
Remote duty station-----	7-14
Occupancy of residence when notified of transfer--	7-15
Generally-----	7-15
Sale before date of orders-----	7-15
Residing at temporary duty station-----	7-15
Exceptions-----	7-15
Occupancy prevented by transfer-----	7-15
Residing at training station-----	7-16
Barred from residence by court order-----	7-16
Occupancy of new spouse's home-----	7-16
Title requirements-----	7-16
Title in spouse's name only-----	7-17
Title held jointly with nondependent-----	7-17
Title in nondependent's name only-----	7-17
Title in mother's estate-----	7-17
Equitable title under "land contract"-----	7-18
Settlement date limitation-----	7-18
Earlier requirements for extension-----	7-18
Extension because of litigation-----	7-18
Litigation defined-----	7-19
Extension for litigation or signed contract--	7-19
Effective date of regulation change-----	7-20
What qualifies as a contract of sale-----	7-20
Listing agreement-----	7-20
Oral agreement-----	7-20
Documentation required-----	7-20
Original contract not consummated-----	7-20

Current requirements for extension-----	7-21
Extension for reasons relating to transfer--	7-21
Effective date of regulation change-----	7-22
What is settlement-----	7-22
Contract for deed-----	7-22
New construction-----	7-22
Lot purchase and construction-----	7-23
Lot purchase only-----	7-23
Contract for sale-----	7-23
Costs placed in escrow-----	7-23
Limitation not subject to waiver-----	7-24
Circumstances not warranting exception-----	7-24
Delay due to discrimination-----	7-24
Away from duty station-----	7-24
Error in travel orders-----	7-25
Storm damage-----	7-25
Additional time for military duty-----	7-25
Procedural requirements for extension-----	7-25
Agency discretion-----	7-25
Extension vests when granted-----	7-25
Period to request extension-----	7-26
Period to grant extension-----	7-26
Form of request-----	7-26
Computation of time period-----	7-26
Beginning of time period-----	7-27
Successive transfers-----	7-27
Expenses customarily paid-----	7-27
No clear local custom-----	7-28
Expenses payable upon sale OR purchase-----	7-28
Completed transaction-----	7-28
Pro rata reimbursement rule-----	7-29
Joint ownership of property-----	7-29
Employee and spouse divorced-----	7-29
Cooperative ownership of property-----	7-29
Multi-family dwellings-----	7-29
Property in excess of residential lot-----	7-30
More than one transaction-----	7-31
Closing costs included in selling price-----	7-31
Documentation-----	7-31
Payment of part of closing costs-----	7-31
Construction loan-----	7-32
Death or separation after transfer-----	7-32
Death-----	7-32
Retirement-----	7-32
 SUBCHAPTER II--REIMBURSABLE EXPENSES-----	 7-33
A. Real Estate Brokers' Commissions-----	7-33
Generally-----	7-33
Commission paid by purchaser-----	7-33

	Special services-----	7-34
	Reductions in commissions-----	7-34
Who is a real estate broker-----		7-34
	Individuals not licensed-----	7-34
	Relative as broker-----	7-35
	Unsuccessful broker-----	7-35
Transactions covered-----		7-35
	Cooperatively owned dwelling-----	7-35
	Mobile home-----	7-35
	Property zoned commercial-----	7-36
	Lease of former residence-----	7-36
Broker in multiple roles-----		7-36
	As broker and buyer-----	7-36
	As broker and settlement agent-----	7-37
Charges in addition to commissions-----		7-37
	Percentage of ground rent-----	7-37
	Penalty for late notice to mortgagee-----	7-37
	Fee for guaranteed sale-----	7-38
	Advertising and listing fees-----	7-38
	Commission paid in installments-----	7-38
	Commission as a finance charge-----	7-38
B. Advertising Expenses-----		7-39
	Multiple-listing fee-----	7-39
C. Appraisal Costs-----		7-39
	Included in loan origination fee-----	7-40
	More than one appraisal-----	7-40
	Sale not consummated-----	7-40
D. Survey Costs-----		7-40
E. Title Examination and Insurance-----		7-41
	Paid for by seller-----	7-41
	Paid for by purchaser-----	7-41
	Examination in lieu of insurance-----	7-41
	Removal of liens on property-----	7-41
	Title policy in favor of mortgagee-----	7-42
	Owner's title policy-----	7-42
	Policy required-----	7-42
	Policy optional-----	7-42
	Allocation-----	7-43
	Loan assumption-----	7-43
	Customarily paid by seller-----	7-43
F. Attorneys' Fees and Legal Expenses-----		7-44
	Rule for settlements after April 27, 1977-----	7-44
	Rule applies prospectively-----	7-44
	More than one attorney-----	7-44
	Rules governing earlier settlements-----	7-44
	Advisory services-----	7-45
	Preparing documents-----	7-45
	Power of attorney-----	7-46
	Will-----	7-46
	Title examination and title opinions-----	7-46
	Curing title defect-----	7-46

	Conducting settlement-----	7-46
	Attorney's fee as part of finance charge-----	7-47
	Attorney's fee in lieu of closing costs-----	7-47
	Subdivision work-----	7-47
	Itemization required-----	7-47
	More than one attorney-----	7-48
	Conflicting interests-----	7-48
	Services duplicative-----	7-48
	Attorney for lending institution-----	7-48
	Employee acting as own attorney-----	7-49
	Attorney's travel expenses-----	7-49
	Lease transactions-----	7-49
G.	Finance Charges-----	7-50
	Rule prior to Truth-in-Lending Act-----	7-50
	Effective date of regulation change-----	7-50
	Current rule following Regulation Z-----	7-50
	Itemization requirement-----	7-51
	All items reimbursable-----	7-51
	Old rule-----	7-51
	New rule-----	7-51
	Exclusions from finance charge-----	7-52
	Title insurance-----	7-52
	Appraisal fee-----	7-52
	Credit report-----	7-52
	Revenue stamps and recording fees-----	7-52
	Loan release fee-----	7-52
	Loan assumption fee-----	7-52
	Tax search fee-----	7-53
	Points or loan discount fee-----	7-53
	VA loans-----	7-53
	VA application fee-----	7-53
	VA funding fee-----	7-53
	FHA loans-----	7-53
	FHA application fee-----	7-54
	Points deducted from real estate commission-----	7-54
	Conflict with income tax laws-----	7-54
H.	Mortgage Prepayment Costs-----	7-54
	Loan assumption fee distinguished-----	7-55
	Limited to sale of property-----	7-55
	Second mortgages-----	7-55
I.	Taxes-----	7-55
	sales tax as transfer tax-----	7-55
	Sales tax as mortgage tax-----	7-56
	Business privilege or gross receipts tax-----	7-56
	Intangible tax-----	7-57
J.	Construction of New Residence-----	7-57
	Construction costs-----	7-57
	Utility hook ups-----	7-57
	Inspections-----	7-58
	Plans-----	7-58
	Settlement costs-----	7-58

	Sales taxes-----	7-58
	Prior ownership of lot-----	7-59
K.	Other Residence Transaction Expenses-----	7-59
	Insurance-----	7-59
	Mortgage guarantee-----	7-59
	Home warranty-----	7-59
	Incidental services-----	7-60
	Termite inspection-----	7-60
	Lender's inspection-----	7-60
	Engineering inspection-----	7-60
	Marine survey-----	7-60
	Exterminator-----	7-60
	Photographs-----	7-61
	Escrow fees-----	7-61
	Purchase of residence-----	7-61
	Assumption of mortgage-----	7-61
L.	Losses Resulting from Market Conditions-----	7-61
M.	Lease Transactions-----	7-62
	Limited to old duty station-----	7-62
	Qualifying residence-----	7-62
	Duty to minimize termination costs-----	7-63
	Short notice of transfer-----	7-64
	Joint tenants-----	7-64
	Cooperative ownership interest-----	7-64
	Clean-up, fix-up expenses-----	7-65
	Security deposit-----	7-65
	Partial months occupancy-----	7-66
	Documentation required-----	7-66
	Lease-purchase agreement-----	7-66

CHAPTER 8--TRANSPORTATION OF MOBILE HOMES----- 8- 1

A.	Authority-----	8- 1
	Statutory authority-----	8- 1
	Regulations-----	8- 1
B.	Eligibility-----	8- 1
	Transportation of household goods-----	8- 1
	Transportation of mobile home-----	8- 2
	Household goods moved in mobile home-----	8- 2
	Household goods moved separately-----	8- 2
C.	Procedural Requirements-----	8- 3
	Authorization-----	8- 3
	Certification of residential intent-----	8- 3
D.	Mobile Homes Subject to Shipment-----	8- 4
	New mobile home-----	8- 4
	Ownership requirement-----	8- 4
	Separate shipment of household goods-----	8- 4
	Replacement mobile home-----	8- 5
	Moving two mobile homes-----	8- 5
E.	Determining Reimbursement-----	8- 5

Mileage-----	8- 5
Standard highway mileage-----	8- 5
Partial movement over water-----	8- 6
Shipment from other than old station-----	8- 6
Reimbursement limitation-----	8- 6
Single method of reimbursement-----	8- 7
Unlicensed commercial mover-----	8- 8
F. Reimbursable Expenses-----	8- 8
Pilot car services-----	8- 8
Extra equipment charges-----	8- 8
G. Nonreimbursable Expenses-----	8- 9
Preparation for shipment-----	8- 9
Repairs-----	8- 9
New equipment-----	8- 9
Storage-----	8- 9
Secondary move-----	8-10
Transportation of accessories-----	8-10
H. Relationship to Other Allowances-----	8-10
Miscellaneous expenses allowance-----	8-10
Transportation of household goods-----	8-10
I. Damages-----	8-11
CHAPTER 9--TRANSPORTATION OF HOUSEHOLD GOODS-----	9- 1
A. Authority-----	9- 1
Statutory authority-----	9- 1
Regulations-----	9- 1
B. Eligibility-----	9- 2
Interest of the Government-----	9- 2
Government's interest-----	9- 2
Convenience of the employee-----	9- 2
Incident to relocation-----	9- 3
Short-distance transfer-----	9- 3
Relocation actions-----	9- 3
Assignments for training-----	9- 3
Intergovernmental Personnel Act assignments-----	9- 4
Relocation upon death of employee-----	9- 4
Assignment with international organizations-----	9- 4
Renewal agreement travel-----	9- 4
Temporary duty assignments-----	9- 5
Moves to Government quarters-----	9- 5
Cancelled transfers-----	9- 5
Retransfer concept-----	9- 5
Cancellation prior to shipment-----	9- 6
Successive transfers-----	9- 6
C. Procedural Requirements-----	9- 6
Authorization-----	9- 7
Shipment prior to orders-----	9- 7
Shortage-category appointees-----	9- 7
Temporary appointment-----	9- 7

	Shortage-category determination-----	9- 7
	Erroneous appointment-----	9- 8
	Other than initial appointment-----	9- 8
	Service agreement-----	9- 8
	Requirement to execute agreement-----	9- 8
	Effect of actual service-----	9- 8
	Failure to fulfill agreement-----	9- 9
	Cancelled transfer-----	9- 9
D.	Definition of Household Goods-----	9- 9
	Items excluded-----	9- 9
	Pets-----	9- 9
	Automobiles-----	9-10
	Automobile accessories-----	9-10
	After-acquired household goods-----	9-10
	Acquired after travel authorization-----	9-10
	Vesting of title-----	9-11
E.	Weight Limitation-----	9-11
	Applicable weight limitation-----	9-11
	Employee without immediate family-----	9-11
	Without-family determination-----	9-12
	Exception to limitation-----	9-12
	Employee with immediate family-----	9-12
	With family determination-----	9-12
	Exception for professional books-----	9-13
	Application regardless of mode of shipment-----	9-13
	Liability for excess weight-----	9-14
	Collection from employee-----	9-14
	Not subject to waiver-----	9-14
	Carrier's erroneous estimate-----	9-14
	Agency failure to notify employee-----	9-14
	Determining weight-----	9-15
	Weight of packing materials-----	9-15
	Evidence of weight-----	9-15
	Bill of lading-----	9-16
	Weight certificates-----	9-16
	Discrepancies-----	9-16
	Certification-----	9-16
	Certificate from subsequent move-----	9-16
	Certificate obtained subsequently-----	9-17
	Scale weight of items-----	9-17
	Estimate of weight-----	9-18
	Estimate by second carrier-----	9-18
	Estimate by employee-----	9-18
	Constructive weight-----	9-18
	Nonavailability of scales-----	9-19
	Local transportation-----	9-20
	Determined by carrier-----	9-20
	Employee's assignment of volume-----	9-20
	Proper evidence lacking-----	9-20
	Estimated proximates actual weight-----	9-21
	Documentation sufficient-----	9-21

	Document insufficient-----	9-21
F.	Time Limitation-----	9-22
	Two-year limit not waivable-----	9-22
	Erroneous grant of extension-----	9-22
	Computing the 2-year period-----	9-23
	Beginning of shipment-----	9-23
	Effect of storage within 2 years-----	9-23
	Storage at new duty station-----	9-23
	Storage at old duty station-----	9-24
	Effect of partial shipment-----	9-24
	Date on bill of lading-----	9-24
G.	Origin and Destination of Shipment-----	9-24
	To other than new duty station-----	9-25
	To other than place of residence-----	9-25
	From other than old duty station-----	9-26
	From point of storage-----	9-26
	From temporary storage-----	9-26
	From nontemporary storage-----	9-27
	Successive transfer-----	9-27
H.	Shipment in Two Lots-----	9-27
	Determining commuted rate-----	9-28
	Determining excess weight-----	9-28
	Mode of transportation-----	9-28
I.	Transportation Within the United States-----	9-29
	Commuted-rate system-----	9-29
	Within the conterminous United States-----	9-29
	Responsibility for shipment-----	9-29
	Applies absent authorization of actual expenses-----	9-29
	System of approximation-----	9-30
	Commuted rate may exceed costs-----	9-30
	No additional amount payable-----	9-30
	Costs due to carrier strike-----	9-31
	Cost for shuttle van service-----	9-31
	Costs for cartons and tape-----	9-31
	Determining reimbursement-----	9-32
	Determining distance-----	9-32
	Greater than shown in mileage guide-----	9-32
	Less than shown in mileage guides-----	9-32
	Determining weight-----	9-32
	Reserved-space charges-----	9-32
	Expedited service charges-----	9-33
	Determining commuted rate-----	9-33
	Rate in effect at date of shipment-----	9-33
	Area rates and surcharge allowances-----	9-34
	Erroneous shipment by Government Bill of Lading-----	9-34
	Actual-expense method-----	9-34
	Liability for excess costs-----	9-34
	Cost-reimbursement limitation-----	9-35
	Shipment under a commercial bill of lading--	9-35

	Partial shipment under Government Bill of Lading-----	9-35
	Packing services-----	9-35
J.	Transportation Outside the United States-----	9-35
	Actual-expense method-----	9-36
	Points of shipment within the continental United States-----	9-36
	Mode of shipment-----	9-36
	Parcel post-----	9-36
	Employee told to arrange shipping-----	9-37
	Advance shipment of household goods-----	9-37
	Reimbursable expenses-----	9-38
	Insurance-----	9-38
	Packing by family members-----	9-38
	Trailer hitch-----	9-38
	Furniture replacement cost-----	9-39
	Use of United States flag vessels-----	9-39
K.	Local Moves-----	9-39
	Between Government quarters-----	9-40
	Between overseas commercial quarters-----	9-40
	From private to Government quarters-----	9-40
L.	Loss and Damage Claims-----	9-40

CHAPTER 10--STORAGE OF HOUSEHOLD GOODS-----10- 1

A.	Authority-----	10- 1
	Statutory authority-----	10- 1
	Regulations-----	10- 1
B.	Eligibility-----	10- 1
	Eligible employees-----	10- 1
	New appointees-----	10- 1
	Reemployment after reduction in force-----	10- 2
	Incident to relocation-----	10- 2
	Storage for personal reasons-----	10- 2
	Storage in anticipation of transfer-----	10- 2
	Storage incident to training-----	10- 2
	Storage incident to temporary duty-----	10- 3
	Nature of household goods stored-----	10- 3
C.	Procedural Requirements-----	10- 3
D.	Time Limitations-----	10- 3
	Time to begin storage-----	10- 3
	Relation to shipment-----	10- 3
	Sixty-day period of storage-----	10- 4
	Sixty-day maximum-----	10- 4
	Effect of dock strike-----	10- 4
	Computing the 60 days-----	10- 5
	Actual days in storage-----	10- 5
	Days may be noncontinuous-----	10- 5
	Sixty days for each relocation action-----	10- 5
	Successive transfers-----	10- 5

	Second transfer cancelled-----	10- 6
E.	Weight Limitation-----	10- 6
	Determining weight-----	10- 6
	Liability for excess weight-----	10- 6
F.	Storage in Other Than a Warehouse-----	10- 6
	Storage in truck or van-----	10- 7
	Storage at home of relative-----	10- 7
	Storage in former residence-----	10- 7
	Storage in residence at new station-----	10- 8
	Storage in temporary quarters-----	10- 8
	Storage in permanent quarters-----	10- 8
G.	Determining Amount of Reimbursement-----	10- 8
	Reimbursable expenses-----	10- 8
	Drayage-----	10- 8
	Wrapping for storage-----	10- 9
	Warehouse handling-----	10- 9
	Insurance-----	10- 9
	Amount reimbursable-----	10- 9
	Actual-expense method-----	10-10
	Commuted-rate system-----	10-10
	Applicable commuted rate-----	10-11
	Documentation requirements-----	10-11

SUBCHAPTER II--NONTEMPORARY STORAGE-----10-12

A.	Authority-----	10-12
	Statutory authority-----	10-12
	Regulations-----	10-12
B.	Eligibility-----	10-12
	Assignment within the United States-----	10-12
	Isolated locations-----	10-12
	New appointees-----	10-13
	Reemployment after reduction in force-----	10-13
	Non-isolated locations-----	10-13
	Assignments for training-----	10-14
	Overseas assignments-----	10-14
C.	Procedural Requirements-----	10-14
	Public interest determination-----	10-14
	Authorization-----	10-15
	Approval after the fact-----	10-15
	Service agreement-----	10-16
D.	Weight Limitation-----	10-16
E.	Relationship to Other Allowances-----	10-16
	Transportation of household goods-----	10-16
	Temporary storage of household goods-----	10-17

CHAPTER 11--TRANSPORTATION AND STORAGE OF PRIVATELY OWNED VEHICLE-----11- 1

A.	Authority-----	11-	1
	Statutory authority-----	11-	1
	Regulations-----	11-	1
B.	Eligibility-----	11-	1
	Assignment overseas-----	11-	2
	Completion of tour of duty-----	11-	2
	Home leave-----	11-	2
	Employees hired locally-----	11-	2
	Transfer within the United States-----	11-	3
	New appointees-----	11-	3
	POV purchased while overseas-----	11-	3
	POV not a household good-----	11-	4
	Death or illness of employee-----	11-	4
	While in a travel status-----	11-	4
	While on temporary duty-----	11-	4
	Shipment in lieu of driving-----	11-	4
	Foreign-made vehicles-----	11-	5
	Exception-----	11-	5
C.	Procedural Requirements-----	11-	6
	Determination and authorization-----	11-	6
	Agency discretion-----	11-	6
	Convenience of employee-----	11-	7
D.	Shipment of One Vehicle-----	11-	7
	Spouse's separate entitlement-----	11-	7
E.	Return Shipment of POV-----	11-	8
	Prior return of POV-----	11-	8
	Delayed return of POV-----	11-	8
F.	Shipment by United States Flag Vessels-----	11-	9
G.	Travel to Port to Ship POV-----	11-	9
H.	Storage-----	11-	10
	Emergency storage-----	11-	10
	Non-emergency storage-----	11-	10

CHAPTER 12--OVERSEAS ALLOWANCES-----12- 1

A.	Temporary Lodging Allowance-----	12-	1
	Eligibility-----	12-	1
	Incident to permanent assignment-----	12-	1
	Not payable prior to overseas departure-----	12-	2
	Determination of necessity-----	12-	2
	Reimbursable expenses-----	12-	2
	Rates-----	12-	2
	Relationship to other allowances-----	12-	3
	Quarters allowance-----	12-	3
	Government-furnished quarters-----	12-	3
	Temporary quarters subsistence expenses-----	12-	3
	Per diem allowance-----	12-	4
B.	Foreign Transfer Allowance-----	12-	4
	Eligibility-----	12-	4
	Payable prior to overseas departure-----	12-	4

C.	Home Service Transfer Allowance-----	12-	5
	Eligibility-----	12-	5
	Between overseas assignments-----	12-	5
	Certification-----	12-	6
	Home service transfer agreement-----	12-	6
	What constitutes temporary lodgings-----	12-	6
	House or apartment-----	12-	6
	Long-term occupancy-----	12-	7
	Reimbursable expenses-----	12-	7
	Meals and transportation-----	12-	7
	Reasonableness of amounts claimed-----	12-	7
	Relationship to other allowances-----	12-	8
	Temporary quarters subsistence expenses-----	12-	8

CHAPTER 13--RELOCATION OF FOREIGN SERVICE OFFICERS----13- 1

A.	Authority-----	13-	1
	Statutory authority-----	13-	1
	Regulations-----	13-	1
	Relationship to other allowances-----	13-	1
	FTR allowances-----	13-	1
	Standardized Regulations-----	13-	2
B.	Eligibility-----	13-	2
	Generally-----	13-	2
	FAA employees-----	13-	2
	Department of Agriculture employees-----	13-	2
	VA employees-----	13-	3
	Appointments under 22 U.S.C. § 922-----	13-	3
	Exceptions-----	13-	3
	Intergovernmental Personnel Act assignments-----	13-	3
	Family members-----	13-	3
	Spouse-----	13-	4
	Divorced spouse-----	13-	4
	Second spouse-----	13-	4
	Parents-----	13-	4
	Siblings-----	13-	4
	Children-----	13-	4
	Children under 21-----	13-	4
	Children of divorced employee-----	13-	4
	Children over 21-----	13-	5
C.	Travel of Employee and Family-----	13-	5
	Incident to appointment, transfer, or separation-----	13-	6
	Travel for vacation purposes-----	13-	6
	Travel for personal reasons-----	13-	6
	Constructive cost limitation-----	13-	6
	Mode of travel-----	13-	7
	Rest stops-----	13-	7
	Travel for separation-----	13-	7
	Time limitation-----	13-	7
	Employees on leave at separation-----	13-	8

	Reemployment after separation-----	13- 8
	Erroneous separation-----	13- 9
	Transportation costs-----	13- 9
	Travel by POV-----	13- 9
	Travel by United States vessel-----	13- 9
	Travel by United States air carriers-----	13- 9
	Per diem-----	13-10
	No per diem at permanent station-----	13-10
	Per diem for consultation-----	13-10
	Consultation en route-----	13-10
	Consultation at new station-----	13-11
	Consultation incident to separation-----	13-11
	Per diem for delay-----	13-11
D.	Transportation and Storage of Effects-----	13-11
	Items included in effects-----	13-12
	Boats and planes-----	13-12
	Effects acquired en route-----	13-12
	Weight limitation-----	13-12
	Applicable weight-----	13-12
	Error in orders-----	13-12
	Successive transfers-----	13-12
	Liability for excess weight-----	13-13
	No offset for damages-----	13-13
	Origin and destination of shipment-----	13-13
	Shipment upon transfer-----	13-13
	Shipment upon separation-----	13-13
	Transportation by United States vessels-----	13-14
	Storage-----	13-14
	Temporary storage-----	13-14
	Time limitation-----	13-14
	Maximum of 3 months-----	13-14
	Beginning of storage-----	13-15
	Continuing storage-----	13-15
E.	Transportation and Storage of POVs-----	13-15
	Ownership-----	13-15
	Replacement vehicles-----	13-16
	Transportation by United States vessel-----	13-16
	Storage-----	13-16

TABLE OF ABBREVIATIONS

GAO - General Accounting Office

CSC - Civil Service Commission

(The standard abbreviations are used for all other  
Government agencies.)

FPM - Federal Personnel Manual

CFR - Code of Federal Regulations

USC - United States Code

FTR - Federal Travel Regulations

FPMR - Federal Property Management Regulations

JTR - Joint Travel Regulations

FAM - Foreign Affairs Manual

SGTR - Standardized Government Travel Regulations

TDY - Temporary Duty

POV - Privately Owned Vehicle

# RELOCATION

## CHAPTER 1

### INTRODUCTION

#### A. RELOCATION EXPENSE UNDER 5 U.S.C. §§ 5721-5733

##### Statutory authority

The principal authority for reimbursement of expenses related to relocation of civilian officers and employees is contained at subchapter II, chapter 57, of title 5 of the United States Code. Based upon the particular circumstances of the employee's assignment, that subchapter authorizes payment of specific items of expense for relocating the employee, his immediate family, his household goods and personal effects, and his residence:

- a. upon initial appointment to an overseas assignment (5 U.S.C. §§ 5722, 5725, 5726, and 5727),
- b. upon initial appointment to a new position in the continental United States for which a manpower shortage exists (5 U.S.C. §§ 5723, 5725, 5726, and 5727),
- c. upon assignment of a student trainee to a manpower-shortage position within the 50 states and the District of Columbia following completion of college work (5 U.S.C. §§ 5723, 5725, 5726, and 5727),
- d. upon transfer from one official station to another (5 U.S.C. §§ 5724, 5724a, 5725, 5726, and 5727),
- e. upon return to place of actual residence for separation on completion of an overseas assignment (5 U.S.C. §§ 5722, 5724(d), 5727, and 5729),
- f. upon reemployment within 1 year of an employee separated for reduction in force (5 U.S.C. §§ 5724, 5724a, 5724a(c), 5725, 5726(b), and 5727).

##### Regulations

The General Services Administration regulations implementing subchapter II, chapter 57, are contained in chapter 2 of the Federal Travel Regulations (FPMR 101-7), hereinafter cited as the FTR. Prior to May 1973, the implementing regulations were contained in Office of Management and Budget Circular No. A-56, hereinafter cited as OMB Circular A-56.

## RELOCATION

Many departments and agencies have issued regulations further implementing the FTR. The most widely used of these is Volume 2 of the Joint Travel Regulations, hereinafter cited as 2 JTR, applicable to travel by civilian officers and employees of the Department of Defense.

### Employees covered

Employees who may be paid the relocation expenses provided for by subchapter II, chapter 57, of title 5, are specified at 5 U.S.C. § 5721 and include employees of executive agencies, military departments, courts of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Gardens, the Government Printing Office, and the government of the District of Columbia. The following are included.

#### Employees with temporary appointments

Under 5 U.S.C. § 5724 the words "transferred from one official station to another for permanent duty" has reference to a change in the permanent duty station of an employee without a break in service and not to the tenure of his appointment. The fact that, before transfer, the employee was serving under a temporary appointment would not itself defeat the employee's entitlement to relocation expenses. B-164051, July 10, 1968; and B-171495, March 4, 1971.

#### Employees with part-time appointments

The provisions of 5 U.S.C. § 5724 and the implementing regulations do not contain any qualifying language restricting benefits payable thereunder to full-time employees. Upon completion of a tour of duty in Hawaii, travel and transportation benefits may be paid to a part-time employee. 41 Comp. Gen. 434 (1962).

#### Employees assigned for Executive Interchange

Employees relocated under the President's Executive Interchange Program established pursuant to Executive Order 11451 are entitled to those travel and relocation allowances authorized generally to employees transferred in the interest of the Government as set forth in chapter 2 of the FTR. 54 Comp. Gen. 87 (1974).

## RELOCATION

### Employees improperly appointed

An individual employed by the Tennessee Valley Authority applied for a position with the Department of the Interior. He was appointed on the basis of Interior's incorrect determination that he held competitive status in the civil service and was authorized, and incurred, relocation expenses for himself and his immediate family. Although his appointment was erroneous, the individual performed services under color of appointment and he may retain reimbursement for relocation expenses since they were incurred pursuant to travel authorization and in anticipation of his actual appointment which was subsequently approved. B-184041, March 2, 1976.

### Employee's citizenship

Noncitizens outside United States--A non-United States citizen hired in Newfoundland, for employment in Labrador, may be permitted to negotiate a transportation agreement entitling her to renewal agreement and separation travel to the same extent as an employee recruited outside the United States for duty at another location. 54 Comp. Gen. 814 (1975).

Intent to relinquish citizenship--An employee appointed to a position with the Department of HEW in Ontario, Canada, applied for permanent Canadian citizenship shortly after arrival at his duty station. He may be reimbursed for movement of his household goods in connection with his assignment to duty in Canada, notwithstanding his intent to relinquish his United States citizenship, since he was a citizen at the time of the move and an employee of the United States Government. B-180967, November 14, 1974.

### Employees not covered

As stated at 5 U.S.C § 5721(1) the provisions of subchapter II of chapter 57 do not apply to employees of Government-controlled corporations. Other categories of employees not within the ambit of subchapter II include personnel of the Veterans Administration to whom the provisions of 38 U.S.C. § 235 apply, and officers and employees transferred in accordance with the Central Intelligence Agency Act of 1949, as amended. See FTR para. 2-1.2b(4) and (2). Also excluded are the following:

## RELOCATION

### Employees paid under title 37

Though not strictly in point, see 51 Comp. Gen. 303 (1971), holding that military personnel detailed to the Department of Transportation to serve as "Sky Marshals" are subject to military laws and regulations governing pay and allowances.

### Employees under the Foreign Service Act

Foreign Service Officers and Foreign Service Reserve Officers of the Department of State and persons holding like appointments within the United States Information Agency and the Agency for International Development entitled to relocation expenses in accordance with 22 U.S.C. §§ 1136 and 1138 are not entitled to relocation expenses under subchapter II of chapter 57 of title 5 of the United States Code.

Employees assigned under 22 U.S.C. § 922--Under 22 U.S.C. § 922 the Secretary of State, with the consent of the head of the agency involved, may assign as a Reserve Officer for not more than 5 years an employee of a Government agency other than the Department of State. The relocation entitlements of an employee of the Department of Commerce assigned as a Foreign Reserve Officer under 22 U.S.C. § 922 incident to transfer overseas, as well as upon return to the United States for reinstatement with the Department of Commerce are payable under chapter 14 of title 22. Since 5 U.S.C. § 5724(g) provides that allowances authorized under section 5724 do not apply to employees transferred under chapter 14 of title 22, an employee so assigned may not be paid a miscellaneous expenses allowance under 5 U.S.C. § 5724a (1970) B-188437, September 15, 1977, and B-186548, February 28, 1977.

Employees of FAA and VA--Under 49 U.S.C. § 1344, the Administrator of the FAA may pay allowances and other benefits to employees stationed in foreign countries to the same extent as authorized for members of the Foreign Service. FAA employees transferred to and from foreign duty posts and paid benefits under the Foreign Service Act may not be paid the allowances authorized by subchapter II of chapter 57 incident to assignment abroad. B-177277, February 12, 1973. The same is true of Department of Agriculture employees

## RELOCATION

paid Foreign Service Act benefits under the similar authority of 7 U.S.C. § 1763. B-166181, April 1, 1969.

### Employees transferred from Senate Committees

In order for an employee to receive benefits under 5 U.S.C. § 5724, both the agency from which he transfers and the agency to which he transfers must be within the coverage of the Administrative Expenses Act of 1946, as amended. Thus, an employee of a Senate Committee who accepts employment with an executive agency at a different geographical location is not eligible for travel and transportation benefits provided by 5 U.S.C. § 5724 incident to his transfer. B-164854, August 1, 1968.

### Employees appointed after consultant service

An individual who had previously served as a consultant with HEW while maintaining his residence in Florida was employed during 1972 with the President's Committee on Mental Retardation in Washington, D.C. The individual is not regarded as transferred from Florida based on his prior service as a consultant but is entitled to expense of relocation only to the extent that 5 U.S.C. § 5723, applicable to manpower-shortage positions, authorizes payment of expenses of new appointees. B-179596, February 21, 1974.

### Employees transferred to international organizations

Under the Federal Employees International Organization Act, as amended, 5 U.S.C. § 3582, an employee of the Office of Equal Opportunity was transferred to the International Atomic Energy Agency. Because he did not complete his 2-year appointment, but was terminated at his request after less than a year, the international organization paid only a portion of his expenses for returning to the United States. Upon reemployment with OEO he claimed relocation expenses that were not reimbursed by the organization. As opposed to an employee detailed to an international organization, an employee transferred to an international organization, is no longer an employee of the United States Government and is not entitled to reimbursement of travel, transportation, and subsistence expenses under 5 U.S.C. §§ 5701-5751. Therefore, the

## RELOCATION

employee's claim was disallowed. B-181853, August 23, 1976.

### Employees moved between quarters locally

An employee required to move between quarters locally is not entitled to relocation expenses under 5 U.S.C. §§ 5724 and 5724a, since such a move does not involve a change of official station. However, as discussed in chapter 9, expenses of transporting the employee's household goods locally may, in limited circumstances, be reimbursed as an administrative expense of the installation. B-163088, February 28, 1968; B-165713, January 27, 1969; and B-172276, July 13, 1971.

## B. RELOCATION EXPENSES UNDER THE TRAINING ACT

### Statutory authority

Employees assigned to training under chapter 41 of title 5 of the United States Code may be reimbursed all or part of the necessary expenses of training under 5 U.S.C. § 4109, including transportation of immediate family and household goods and personal effects under 5 U.S.C. § 5724, when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training. The specific entitlements of those employees authorized relocation allowances under 5 U.S.C. § 5724 are discussed in the following chapters of this title of the Civilian Personnel Law Manual. The entitlements of employees authorized per diem incident to training are discussed in Title III - Travel Expenses, Civilian Personnel Law Manual.

### Regulations

Inasmuch as 5 U.S.C. § 4109 authorizes payment of expenses of transportation under 5 U.S.C. § 5724, the provisions of the FTR implementing section 5724 are instructive. More specific guidance is provided DOD personnel by 2 JTR para. C4502.

### Employees covered

Employees who may be paid expenses of training in accordance with 5 U.S.C. § 4109 are those specified in 5 U.S.C. § 4101 and include employees of (1) executive departments, (2) independent establishments, (3) Government

## RELOCATION

corporations subject to 31 U.S.C. §§ 846-852 and 856-859, (4) the Library of Congress, (5) the Government Printing Office, and (6) the government of the District of Columbia, as well as (7) commissioned officers of the Environmental Science Services Administration.

### Employees not covered

As noted in 5 U.S.C. § 4102, the Federal Employees Training Act, as codified at chapter 41, does not apply to (1) a corporation supervised by the Farm Credit Administration, (2) the Tennessee Valley Authority, (3) an individual who is a member of a uniformed service during a period in which he is entitled to pay under 37 U.S.C. § 204 (except a commissioned officer of the Environmental Science Services Administration), (4) the Foreign Service of the United States, and (5) an individual appointed by the President (except a postmaster) unless specifically designated by the President for training under chapter 41.

### Presidential appointees

Funds appropriated to the National Transportation Safety Board may not be used to pay the cost of pilot training leading to a private pilot license for a member of the Board who is a Presidential appointee and who has not been designated by the President to participate in a program authorized by the Government Employees Training Act. B-166117, March 17, 1969.

## C. RELOCATION EXPENSES UNDER THE INTERGOVERNMENTAL PERSONNEL ACT

### Statutory authority

Authority to appoint or detail employees of state and local governments to executive agencies, or to detail Federal employees to state or local governments is contained in chapter 53, subchapter VI, of title 5 of the United States Code. Under 5 U.S.C. § 3375, appropriations of an executive agency are made available to pay or reimburse the travel expenses of a Federal, state, or local Government employee, including per diem at the assigned location, during the period of the assignment. Under that authority, an executive agency may also pay or reimburse:

## RELOCATION

a. expenses for transportation of the employee's immediate family and household goods in accordance with 5 U.S.C. § 5724,

b. per diem for the immediate family while traveling to or from the location of the assignment in accordance with 5 U.S.C. § 5724a(a)(1),

c. temporary quarters subsistence expenses in accordance with 5 U.S.C. § 5724a(a)(3),

d. upon assignment at an isolated location, nontemporary storage of household goods in accordance with 5 U.S.C. § 5726(c).

Under this authority, an agency may pay the type expenses normally associated with relocation or per diem expenses, but not both. 53 Comp. Gen. 81 (1973). The entitlements of employees authorized expenses under 5 U.S.C. §§ 5724, 5724a, and 5726 are discussed in the pertinent chapters of this title of the Civilian Personnel Law Manual. The entitlements of employees authorized per diem are discussed in Title III - Travel Expenses, Civilian Personnel Law Manual.

### Regulations

Since 5 U.S.C. § 3375 authorizes payment of expenses of relocation in accordance with specific authorities contained at subchapter II of chapter 57 of title 5, the provisions of the FTR implementing those particular authorities are instructive. The Civil Service Commission's regulations implementing the Intergovernmental Personnel Act contain no detailed provisions relating to travel and transportation.

### Employees covered

- a. The authority of 5 U.S.C. § 3375 applies to:
- i. employees of executive agencies,
  - ii. employees of state and local governments,
  - iii. employees of institutions of higher education.

## RELOCATION

### D. RELOCATION EXPENSES UNDER THE FOREIGN SERVICE ACT

#### Statutory authority

Officers and employees of the Foreign Service are authorized reimbursement of relocation expenses upon appointment, transfer, or separation under the Foreign Service Act of 1946, as amended. The principal allowances and benefits provisions applicable to Foreign Service Personnel are contained in 22 U.S.C. §§ 1136 and 1138. These allowances and benefits are discussed at chapter 13 of this title of the Civilian Personnel Law Manual.

#### Regulations

Regulations implementing the relocation expense authority of the Foreign Service Act are contained in the Uniform State/AID/USIA Foreign Service Travel Regulations, published at Volume 6 of the Foreign Affairs Manual, hereinafter cited as 6 FAM.

#### Employees covered

##### Generally

Officers and employees of the Foreign Service and the Foreign Service Reserve appointed in any one of the categories listed in the Foreign Service Act of 1946, as amended, or appointed pursuant to other statutes deriving employment authority from the Act, excluding AID country national employees, are entitled to relocation benefits provided by 22 U.S.C. §§ 1136 and 1138.

##### Employees assigned under 5 U.S.C. § 922

Employees of agencies other than the Department of State assigned as Foreign Service Reserve officers by the Secretary of State under the authority of 22 U.S.C. § 922 are entitled to relocation expenses as authorized by 22 U.S.C. §§ 1136 and 1138. B-188437, September 15, 1977, and B-186548, February 28, 1977.

##### Employees of other agencies

Employees of FAA--Under the authority of 49 U.S.C. § 1344, employees of the FAA assigned to foreign countries may be paid allowances and benefits to the

## RELOCATION

extent authorized for members of the Foreign Service. B-177277, February 12, 1973, and May 3, 1973.

Employees of VA--Under 38 U.S.C. § 235, VA employees who are United States citizens assigned to the Philippines or Europe may be authorized Foreign Service allowances and benefits under 22 U.S.C. §§ 1136 and 1138.

Employees of the Department of Agriculture--In addition to expenses otherwise payable under title 5 of the United States Code, 7 U.S.C. § 1763 authorizes the Secretary of Agriculture to prescribe allowances for certain Agriculture employees similar to those paid under the Foreign Service Act. B-166181, April 1, 1969, and B-163658, April 4, 1968.

### E. OVERSEAS ALLOWANCES

#### Statutory authority

Subchapter III of chapter 59 of title 5 of the United States Code authorizes payment of differentials and allowances to employees assigned to duty in foreign areas. Those overseas benefits that are in the nature of additional compensation are discussed in Title I - Compensation, Civilian Personnel Law Manual. The three allowances specifically payable upon relocation to or from a foreign assignment are the temporary lodgings allowance payable under 5 U.S.C. § 5923(1), and the foreign and home service transfer allowances authorized by 5 U.S.C. § 5924(2).

#### Regulations

The Department of State's regulations implementing 5 U.S.C. §§ 5923(1), and 5924(2), are contained in chapters 120, 240, and 250 of the Standardized Regulations (Government Civilians/Foreign Areas).

#### Employees covered

Overseas allowances are generally payable to individuals employed in the civilian service of a Government agency, including ambassadors, ministers, and officers of the Foreign Service.

## RELOCATION

### F. RELOCATION EXPENSES INCIDENT TO DEATH

Under 5 U.S.C. §§ 5741 and 5742 certain expenses, including transportation of remains, may be reimbursed when an employee dies while in a travel status or while stationed outside the United States. When an employee dies while stationed at a post of duty outside the United States, or while in transit to or from such a post, 5 U.S.C. § 5742 authorizes reimbursement of the cost of return transportation of the decedent's immediate family and household goods to his former home or an alternate location. The regulations implementing 5 U.S.C. §§ 5741 and 5742 are contained at chapter 3 of the FTR. While certain of the entitlements provided for under these authorities are in the nature of relocation expenses, some are payable incident to temporary duty as well as permanent duty assignments. For this reason, they are discussed in Title III - Travel Expenses, Civilian Personnel Law Manual.

CHAPTER 2

GENERAL CONDITIONS AND REQUIREMENTS

The purpose of this chapter is to address those conditions and procedural prerequisites to entitlement to relocation expenses covered by FTR chapter 2, Part 1 that are not discussed in chapters 3 through 11, infra, dealing with the specific allowances. The subject of the applicability of the regulations to the various categories of individuals listed at FTR para. 2-1.2 is discussed at chapter 1 of this Manual. The definitions listed at FTR para. 2-1.4 are covered either explicitly or generally in the chapters to which they are relevant. For example, the term "immediate family" is defined in chapters 3 and 9.

A. GENERAL REQUIREMENTS

Service agreements

An agency may pay an employee's travel, transportation and relocation expenses only after the employee has agreed in writing to remain in the Government service for 12 months after his transfer, unless separated for reasons beyond his control that are acceptable to the agency concerned. 5 U.S.C. § 5724(i) and FTR para. 2-1.5a(1). That requirement extends to employees transferred within the United States and to posts of duty outside the United States. It is imposed upon new appointees to shortage-category positions in the United States, upon student trainees appointed to positions in the United States, and upon new appointees to posts of duty outside the United States.

Employees transferred or appointed to posts of duty outside the United States may not be paid return travel and transportation expenses upon separation until they have served at the overseas post for a period of 1 to 3 years prescribed by the head of the agency, unless separated for reasons beyond the employee's control and acceptable to the agency. Renewal agreements are discussed in Part D of this chapter dealing with renewal agreement travel.

Requirement to execute agreement

Local overseas transfers--Employees who are transferred between official stations located in the same territory or country outside the continental United States are not required by 5 U.S.C. § 5724(d) to enter

## RELOCATION

into a service agreement. Section 5724(d) applies only to employees transferred between official stations in different territories or countries outside of the continental United States. Nevertheless, an agency, by policy or regulation, may require its employees to enter into a service agreement. 48 Comp. Gen. 39 (1968).

Failure to execute agreement--A transferred employee refused to sign a service agreement and resigned from Government service before the expiration of the 12-month period following the date of his transfer. Since the employee failed to execute a service agreement and did not remain in the Government service for the required period, he may not be reimbursed mileage and per diem incident to the transfer. B-187184, March 2, 1977.

Collection by setoff of the full amount advanced for relocation expenses to a transferred employee who, through administrative error, was not required to sign a service agreement and who resigned after 6 months, is required under 5 U.S.C. § 5705. Since the employee did not remain in the Government service for 12 months after his transfer, there is no entitlement to travel and transportation at Government expense. B-178595, June 27, 1973.

### Exception for actual service

Employees who incurred expenses for transportation of household goods subsequent to an offer evidencing the agency's intent to effect their transfer may be reimbursed notwithstanding their failure to execute service agreements where the employees have remained in continuous Government service for a minimum period of 12 months after transfer. 57 Comp. Gen. 447 (1978) and B-188048, November 30, 1977.

### Government vs. agency service

Transfers--In view of Finn v. United States, 192 Ct. Cl. 814 (1970), holding that a Government agency does not have the authority under 5 U.S.C. § 5724(i) to require an employee to sign an agreement to remain in the service of a particular agency for 12 months following the effective date of transfer, the holding

## RELOCATION

in 46 Comp. Gen. 738 (1967) that agreements executed under section 5724(i) require an employee to remain with a particular agency rather than in the "Government service" is no longer for application. 50 Comp. Gen. 374 (1970) and 51 Comp. Gen. 112 (1971).

Manpower-shortage category appointees--The agreements which appointees to manpower-shortage positions execute pursuant to 5 U.S.C. § 5723(b) to remain in the service of the particular agency to which appointed or assigned for 12 months unless separated for reasons beyond their control and acceptable to the agency should be revised to require only that the employee remain in the "Government service" for 12 months. 50 Comp. Gen. 374 (1970).

### Computation of period of service

An employee whose transfer was effective during September 1970, moved his family and household goods in February 1972 under travel orders issued January 28, 1972. On January 25, 1972, the employee signed a modified service agreement to remain in the Government service for 12 months following the date of the actual movement of his household goods. The modified service agreement should be disregarded since the employee is required to serve for 12 months from the effective date of his transfer in September 1970. B-175995, August 2, 1972.

Effect of leave without pay--A transferred employee executed a service agreement by which he agreed to remain in the Government service for 12 months subsequent to reporting at his new duty station. After reporting, the employee was granted leave without pay which was later extended, at his request, beyond the expiration of his agreed period of service. Although the employee was thereafter separated for abandoning his position, he is not liable for repayment of otherwise compensable relocation expenses advanced him incident to transfer since time in a leave-without-pay status is considered Government service within the meaning of 5 U.S.C. § 5724(i). B-184948, November 18, 1975.

## RELOCATION

### Release from service agreement

An employee resigned after refusing to transfer for a third time in a 10-month period. Under the service agreement required by 5 U.S.C. § 5724(i) an employee must remain in the Government service for 12 months following the effective date of his transfer in order to be entitled to relocation expenses, unless separated for reasons beyond his control and acceptable to his agency. Responsibility for determination that reasons for separation are beyond the employee's control and acceptable to the agency rests primarily with the agency concerned. B-172751, August 16, 1971. In the absence of evidence that such a determination is arbitrary or capricious, the decision of the agency will be upheld. 56 Comp. Gen. 606 (1977).

### Separation beyond employee's control--

#### Retirement

The voluntary separation of an employee upon satisfying age and service requirements for optional retirement may be considered separation for a reason beyond the control of the employee. 46 Comp. Gen. 724 (1967).

#### Probationary discharge

A manpower-shortage category appointee who was discharged within his probationary period prior to the expiration of his 1-year service agreement need not reimburse the travel and transportation expenses paid incident to reporting to his first duty station since his separation was considered to be for the benefit of the Government and acceptable to the agency concerned. B-183448, May 12, 1975, and 56 Comp. Gen. 606 (1977).

#### Separation for cause

Separation of an employee for violation of an agency's minimum standards of conduct cannot be considered acceptable to the agency. B-114898, July 31, 1975.

## RELOCATION

### Pregnancy

An agency may determine that separation because of pregnancy was for reasons beyond the employee's control which are acceptable to the agency. B-170392, August 5, 1970.

### Transfer within department

An employee signed an agreement to serve at a duty station overseas for a period of 36 months and the Government paid expenses of his transportation to that new duty station in Alaska. The employee subsequently transferred within the same department back to the conterminous United States before 1 year had expired. He is not obligated under the 3-year service agreement since the agency regulations provided that transfer within the department does not constitute a violation of a service agreement. B-181964, December 4, 1974.

Effect of release from agreement--An employee was released from his obligation of 12 months Government service under a transportation agreement so that he might retire early. He may be reimbursed real estate expenses for the sale of his residence at the old station where a contract for sale was executed after the employee had requested release but prior to the granting of such release, even though the settlement occurred subsequent to both the release and the employee's retirement. Release from the required period of service is viewed as preserving any rights the employee had which were contingent upon fulfilling his service agreement. B-180406, July 10, 1974.

### Successive transfers

Employees who are transferred between official stations in different territories or countries outside the continental United States after having completed only a part of an agreed period of service prior to their transfers are required to enter into new service agreements for a full period of obligated service. 48 Comp. Gen. 39 (1968).

## RELOCATION

### Cancelled transfers

Where an employee's transfer is cancelled, the employee should be treated as if the transfer was completed and the employee was retransferred to his former duty station. A second service agreement or an amended service agreement should be executed designating the original duty station as the new duty station. The 12-month period of obligated service runs from the date of notification that the original transfer was cancelled. B-189953, November 23, 1977, and 54 Comp. Gen. 71 (1974).

### Effective date of transfer or appointment

In general, the date on which an employee or new appointee reports for duty at his new or first official station is considered the effective date of his transfer or appointment. An employee's claim for reimbursement of costs incurred in selling his residence at his old duty station, where the settlement date was May 1, 1968, and transfer was to begin on or about November 15, 1966, but was delayed because the employee was on special assignment from May 1966 to May 1967, may be paid since May 15, 1967, is the date from which the 1-year limitation for sale of a residence is to be calculated. B-161266, May 1, 1967, and B-164871, August 19, 1968.

### Transfer to temporary duty location

When an employee is transferred to a place at which he is on temporary duty, the transfer is effective on the date that he receives notice of the transfer. B-190107, February 8, 1978. While on temporary duty in Boston, an employee's permanent appointment at the temporary duty station effective July 12, 1970, was confirmed. Notice of the appointment was not received in Boston until July 27, 4 days after the employee had departed from Boston. He did not return to assume his new duties in Boston until August 9. Under these circumstances, the employee is considered to have been transferred on August 9, the date he returned to Boston. 51 Comp. Gen. 10 (1971).

Six graduate engineering trainees were temporarily assigned to Sacramento in October 1970 for earthquake related highway construction. Although three personnel spaces in Sacramento were permanent and three were

## RELOCATION

loaned from the training program, no one employee was assigned to any one position. On July 22, 1971, they were advised that they could establish permanent residence in Sacramento. The date of their transfers is considered to be July 22, 1971, the date their assignments to Sacramento were confirmed. B-176798, February 2, 1973.

### Time to begin travel or transportation

Under FTR para. 2-4.1, all travel and transportation shall be accomplished as soon as possible. The maximum time for beginning travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment. The 2-year period is exclusive of time spent on furlough for active military service and time when shipment to or from a post outside the United States is not feasible because of shipping restrictions.

### Generally

Notwithstanding his good faith efforts to reduce moving expenses incident to a transfer, an employee may not be reimbursed for travel and transportation expenses after the expiration of the 2-year period to begin travel and transportation as provided at FTR para. 2-1.5a(2). B-171411, February 9, 1971.

The 2-year period of limitation for beginning travel and transportation is discussed in chapters 3, 8, 9, 10, and 11 in connection with the specific travel and transportation entitlement. Additional time limitations to which the various allowances are subject are covered in the respective chapters that follow.

### Separation travel

An employee who elected to remain in Alaska upon retirement and then, approximately 1 year and 5 months after retirement, requested travel and transportation expenses to return to his residence in the United States is not entitled to such expenses incident to his Alaskan tour of duty in the absence of a showing that his delayed return was due to circumstances beyond his control. FTR para. 2-1.5a(2) requires travel to begin as soon as possible. The agency regulations require that the travel and transportation of an employee be incident to the termination of his

## RELOCATION

assignment, that the date of return travel be set at the time of termination and be within a reasonable time, normally within 6 months. 52 Comp. Gen. 407 (1973).

### Orders

#### Authorization of transfer or other relocation action

There is no authority to reimburse an employee for relocation expenses unless the transfer is authorized or actually effected and approved. Travel orders are generally recognized as being the authorizing document and an employee cannot be assured that he will be reimbursed for relocation expenses he incurs unless he has received a travel order. A travel order should be issued a reasonable time in advance of the effective date of transfer to give the employee sufficient time to prepare for the move. Against the interest in providing the employee sufficient lead time, the agency should balance its duty to control travel and should consider the fact that if a travel order is issued the agency may be responsible for paying relocation expenses incurred in reliance on such order, even if the transfer is subsequently cancelled. 54 Comp. Gen. 993 (1975). In cases where an employee is aware of an impending transfer, having received definite notice of his agency's intent to transfer him, he may be reimbursed certain expenses incurred in anticipation of transfer, even though he is not issued official transfer orders. These circumstances are discussed in the section of this chapter on notice of transfer.

Necessity for orders--An employee was transferred under a merit promotion program and, because of economy measures at his new station, was denied relocation expenses, notwithstanding agency regulations providing that transfers under the merit promotion program are in the interest of the Government. Although orders should ordinarily be issued for merit promotion transfers, the employee may be paid relocation expenses since it is not essential that permanent change of station orders be prepared in this situation. B-188048, November 30, 1977.

#### Authorization or approval of allowances

The travel order issued an employee incident to

## RELOCATION

appointment, transfer, or separation, should indicate the specific allowances and benefits authorized. As to allowances required to be authorized in advance, such as travel to seek residence quarters, the absence of specific authorization in advance may be critical unless the lack of prior written authorization is the result of an administrative error or unless subsequent written approval is an affirmation of advance verbal authorization. B-185532, September 2, 1976. Other allowances, including travel of dependents, real estate transaction expenses and temporary quarters subsistence expenses, should be specifically authorized in advance but may be paid on the basis of approval after the travel or transfer has been accomplished. B-189998, March 22, 1978; 55 Comp. Gen. 613 (1976); and B-172108, April 21, 1971. Still other entitlements, including miscellaneous expenses, are mandatory if a transfer has been authorized or approved. B-168754, February 26, 1970. The requirements for authorization or approval of the various allowances and benefits payable upon relocation are discussed in the chapters of this title of the Civilian Personnel Law Manual that deal with the specific entitlements.

### Modification of orders

In general, legal rights and liabilities with respect to travel vest as and when the travel is performed under the orders. Travel orders may not be revised or modified retroactively to increase or decrease rights which have become fixed upon travel under the applicable statutes and regulations. An exception may be made only when an error is apparent on the face of the orders and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertance. B-175433, April 27, 1972, and 48 Comp. Gen. 119 (1968). The subject of retroactive modification of orders is discussed in more detail in Title III - Travel Expenses, Civilian Personnel Law Manual.

### Retroactive cancellation of orders

After signing a 12-month service agreement, an employee transferred from Washington to Atlanta, effective November 15, 1970. He worked there until May 2, 1971, when he returned to Washington under verbal orders given by a party lacking authority to authorize

## RELOCATION

transfer. On September 18, 1971, he resigned to accept a position with private industry in violation of the November 15, 1970, employment agreement. Absent an agency determination to release him from the obligated period of service, the employee is liable under the November 15, 1970, service agreement. Retroactive cancellation of the original transfer orders would not be appropriate. B-174879, February 8, 1972.

### Advance of funds

An employee may be advanced funds for use while traveling and for certain expenses which he may incur incident to a transfer based on his prospective entitlement to reimbursement for those expenses after they are incurred. FTR para. 2-6.1a(1).

### Liability for loss of funds

An employee, whose wallet containing \$1,185 in cash travel advance funds was stolen from his locked motel room while he was sleeping, may not be relieved of liability for the loss of such funds. Travel advances are considered to be like loans, as distinguished from Government funds. The money in the employee's wallet was his private property and he remains indebted to the Government for the amount stolen. He must show that the travel advance was expended for reimbursable travel expenses or refund the amount not expended. 54 Comp. Gen. 190 (1974).

## B. TRANSFER

### What constitutes a transfer

The word transfer relates to the situation in which an employee has been directed to make a permanent change of station. 54 Comp. Gen. 993 (1975). Where an employee relocates for a purpose other than assuming a new Government position, the relocation does not constitute a permanent change of station. 54 Comp. Gen. 991 (1975).

### Transfer vs. temporary duty

Whether a particular duty station is in fact permanent or temporary is a question of fact to be determined from the orders, and where necessary, from the character of the assignment, particularly the duration and

## RELOCATION

nature of the duty. At the time an employee was transferred it was not in fact intended that Chicago would be his permanent assignment since closure of the Chicago installation was contemplated. However, the orders indicated that Chicago was his permanent station since Army directives did not permit public release of information concerning base closures prior to approval and release to congressional delegations. The employee's orders should be amended to designate Chicago as his temporary duty station. B-172207, July 21, 1971.

An employee who was temporarily assigned to Washington, D.C., for orientation and training pending transfer to Laos was erroneously transferred to Washington, D.C., pending receipt of overseas clearances. He is not entitled to relocation expenses incident to his assignment to Washington, since the agency had no authority to transfer him to Washington and authorize relocation benefits when only a short stay was contemplated. B-166181, April 1, 1969. An employee may not be transferred to a place where he is not expected to remain for an extended time in order to increase his travel entitlements. B-172594, March 27, 1974.

Transfer to temporary duty site--An employee may not be paid per diem at his new duty station after notification that he is transferred to his temporary duty site, notwithstanding his subsequent return to his old duty station over a weekend. A short period of return to the old duty station before the designated date of transfer does not overcome the fact that, after receiving notice of the transfer, the employee performed the major portion of his duties at the station. B-188093, October 18, 1977. The subject of an employee's entitlement to expenses for temporary duty, including per diem, when he is transferred to a place where he was on temporary duty is discussed in Title III - Travel Expenses, Civilian Personnel Law Manual.

### Assignments for training

An assignment that is solely for the purpose of training is not regarded as a change of official station and does not entitle the employee to the full range of relocation expenses payable upon transfer. 52 Comp. Gen. 834 (1973); B-169471, November 13, 1970; and B-162756, February 5, 1968. The relocation expenses

## RELOCATION

payable in connection with training assignments are strictly limited by 5 U.S.C. § 4109, 56 Comp. Gen. 68 (1976) and 56 Comp. Gen. 85 (1976). Whether a particular expense is or is not payable incident to training is discussed in the chapter of this title of the Civilian Personnel Law Manual dealing with the particular allowance or benefit in question and in Title III - Travel Expenses, Civilian Personnel Law Manual.

Transfer with training en route--An employee assigned to training at a location other than his permanent station may not be reimbursed temporary quarters subsistence expenses as an incidence of training. However, where the training assignment is to be followed by transfer to a new duty station and where selection for training is tantamount to notice of transfer, the employee may be paid expenses for occupancy of temporary quarters at the training location as incident to the ultimate permanent change of station. B-185281, May 24, 1976, and B-166681, July 9, 1969.

### Intergovernmental Personnel Act assignments

An employee stationed in Kansas City, Missouri, was given an Intergovernmental Personnel Act (IPA) assignment under 5 U.S.C. §§ 3371-3376 to Jefferson City, Missouri. At the termination of the IPA assignment he was transferred to Dallas, Texas. The employee may not be reimbursed expenses for selling his residence or paid a miscellaneous expenses allowance incident to the IPA assignment to Jefferson City. However, such expenses may be allowed incident to the ultimate transfer to Dallas. B-183283, August 5, 1975. Expenses payable incident to assignments under the IPA are limited to those specified in 5 U.S.C. § 3375, 53 Comp. Gen. 81 (1973) and B-185810, November 16, 1976. The allowances payable incident to IPA assignments are discussed in the various chapters of this title of the Civilian Personnel Law Manual as well as in Title III - Travel Expenses, Civilian Personnel Law Manual.

### Assignments for Executive Interchange

Employees relocated under the President's Interchange Program established pursuant to Executive Order 11451 are deemed transferred and are entitled to travel and relocation allowances authorized for employees

## RELOCATION

transferred in the interest of the Government.  
54 Comp. Gen. 87 (1974).

### Assignments with international organizations

An employee transferred to or from an international organization under the Federal Employee's International Organization Act, 5 U.S.C. § 3582, is not deemed transferred for the purpose of payment of relocation expenses. B-181853, August 23, 1976.

### Moves between quarters locally

A Bureau of Indian Affairs employee who was required to move from off-base private quarters into Government quarters on the Mescalero Reservation as a condition of his employment may not be reimbursed for the actual costs of moving his household effects, real estate fees, and other relocation expenses since there was no change of official station and 5 U.S.C. §§ 5724 and 5724a require a change of official station as a condition of eligibility for relocation expenses payable thereunder. B-172276, July 13, 1976, and B-171319, December 22, 1970. However, when a move between quarters locally is directed for the convenience of the Government, expenses of transporting the employee's household goods may, under certain conditions, be reimbursed as an administrative expense of the installation. See chapter 9 of this title of the Civilian Personnel Law Manual.

### Relocation upon reemployment

Reemployment after break in service--An employee who was recruited in Vermont for assignment overseas returned to San Francisco upon expiration of his 2-year contract. Four months later he received a temporary appointment with the Department of the Interior in San Francisco. The employee was not transferred to San Francisco, but was returned there for separation. Although he was later reemployed, his reemployment did not constitute a transfer and he may not be paid transfer related expenses. B-183970, January 21, 1976.

## RELOCATION

### Reemployment after reduction in force

Within 1 year--An employee separated involuntarily due to reduction in force who, within 1 year, is reemployed by the Government at another geographical location is entitled to reimbursement for relocation expenses under 5 U.S.C. § 5724a(c) which provides that an employee so separated and reemployed may receive prescribed benefits "as though he had been transferred in the interest of the Government without a break in service." B-172824, May 28, 1971, and B-181178, February 18, 1975.

After more than 1 year--An employee who was reinstated at a different duty station 1 year and 10 months after his separation by reduction in force may not be paid relocation expenses incident to transfer even though the delay in his reinstatement was due, in part, to the agency's failure to timely list him under its priority placement program. B-186245, September 22, 1976.

Reemployment without break in service--An employee who returns to his place of actual residence in the United States for separation by one agency and is reemployed without a break in service by another agency may be reimbursed by the second agency for relocation expenses, including temporary quarters subsistence expenses, from his place of actual residence to his new duty station. 47 Comp. Gen. 763 (1968).

Reemployment after service with international organization--A Department of Agriculture employee was separated from his position in College Station for employment in Austria with an international organization under 5 U.S.C. § 3582. Upon expiration of his contract with that organization he was reemployed by the Department of Agriculture for an assignment in Gainesville. He may be considered reemployed at College Station and the designation of his new station at Gainesville may be considered a transfer of station. Therefore, he may be allowed temporary quarters subsistence expenses incident to reporting to Gainesville. B-166678, May 23, 1969.

## RELOCATION

Reemployment after military duty--Upon return of a civilian employee from military duty, where no appropriate vacancy exists in the particular agency at the place from which he was furloughed to enter the armed forces, the employee may be regarded as restored at that place for the purpose of paying travel and transportation expenses in connection with his transfer from the place of restoration to the place where a suitable vacancy exists in the same agency. 25 Comp. Gen. 786 (1946); 25 Comp. Gen. 293 (1945); B-176982, December 14, 1972; and B-170987, December 14, 1970.

### Notice of transfer

An employee ordinarily should not incur expenses for relocation until after he has received transfer orders. 54 Comp. Gen. 993 (1975). However, an employee who is notified of an impending transfer by less formal means may be paid relocation expenses incident to transfer if they were incurred after there had been a clear expression of administrative intent to transfer him. B-188301, August 16, 1977, and B-186763, October 6, 1976.

### Definite intent to transfer lacking

Informal oral advice--An employee who moved his family and household effects to Washington, D.C., incident to an 11-month temporary duty assignment and purchased a residence there in reliance upon informal oral advice that he might possibly be transferred to the District of Columbia area, is not entitled to reimbursement of real estate or other relocation expenses, since they were incurred prior to a clear administrative intent to transfer him. Mere oral statements concerning possible reassignment upon conclusion of a temporary duty assignment cannot be considered as evidencing such intent. B-178410, July 6, 1973, and B-187088, February 3, 1977.

No assurance of transfer--An employee who transported his car at personal expense to Honolulu 7 months before his transfer from Hilo to Honolulu was directed and before he was given any definite assurance that his official station would be changed, may not be reimbursed for the cost of its shipment since it was transported purely as a matter of the employee's personal convenience. B-168291, November 14, 1969, and B-180461, August 15, 1974.

## RELOCATION

Warning not to relocate--An employee who incurred relocation expenses in anticipation of transfer to California after being warned that the move was unauthorized and at his own risk may not be reimbursed costs of moving his household to California when the transfer is later ordered. B-182013, May 14, 1976, and September 13, 1976.

### Informal notice

An employee who was unofficially contacted by telephone to determine his interest in employment in Sacramento and notified of reduction in force by abolishment of his position, may be reimbursed real estate expenses incurred in selling his residence prior to official notice of transfer since it was reasonable for the employee, under these circumstances, to conclude that his official station would be changed to another location. B-170800, December 22, 1970, and B-187045, August 3, 1977.

### Mass transfers

Newspaper reports of relocation--General newspaper reports and common knowledge within the agency of the relocation of headquarters are too general and indefinite to be regarded as appropriate notice to employees of their transfers to a new headquarters site. However, the statement of the Director of the agency that the transfer was scheduled for the fall constitutes official notice of the transfer. B-170530, November 13, 1970.

Award of building contract--On the basis of an announcement to all employees that a contract had been awarded for the construction of a new building incident to an impending relocation of agency headquarters, an employee relocated her residence from Maryland to Virginia. Although the announcement established notice of the agency's intention to move, there is no authority for payment of relocation expenses until the transfer is consummated or cancelled. 52 Comp. Gen. 8 (1972).

Tentative relocation date announced--An employee who contracted to purchase a residence on July 9, 1966, and settled on July 12, 1967, in anticipation of a mass transfer, may be reimbursed expenses of purchase

## RELOCATION

incurred after November 22, 1966, when he received definite notice that the relocation of headquarters, that had been anticipated for several years, was tentatively set for April 1, 1968. 48 Comp. Gen. 395 (1968) and B-189161, April 26, 1968.

### Selection for training as notice

Where a training assignment is to be followed by transfer to a new duty station, selection for training may be considered tantamount to notice of transfer and the employee may be paid relocation expenses incurred at the time of training as incident to the ultimate permanent change of station. B-185281, May 24, 1976, and B-183597, September 3, 1975.

### Notice of transfer to temporary duty site

An employee was transferred to a station at which he was on temporary duty. He received notice of the transfer by a selection letter signed by the official with authority to order his transfer. Notice of transfer is sufficient when it imparts actual knowledge to the employee of the position and the location of the transfer. Formal notification of the transfer is not necessary. B-188093, October 18, 1977.

### Interest of the Government

An employee who requested a reduction in grade in order to facilitate his transfer from Chicago to San Francisco for reasons related to the health of his wife may not be paid relocation expenses since 5 U.S.C. § 5724 precludes payment when the transfer is for the employee's convenience or benefit or at his request. Under 5 U.S.C. § 5724 and FTR para. 2-1.3(a) reimbursement may be made only when the transfer is in the Government's interest. B-174997, April 21, 1972.

### Administrative determination

Under FTR para. 2-1.3, an agency is required to determine whether a particular transfer is in the Government's interest or is primarily for the convenience or benefit of the employee or at his request. 56 Comp. Gen. 709 (1977).

## RELOCATION

Basis for determination--If an employee has taken the initiative in obtaining a transfer to another location, the transfer is ordinarily considered to have been made for the convenience of the employee or at his request. B-144304, March 30, 1976, and October 4, 1977. However, if the agency recruits or requests an employee to transfer to a different location it will regard such transfer as being in the interest of the Government. B-185077, May 27, 1976, and B-184251, July 30, 1975.

### Budgetary constraints

An agency statement that "budget constraints" did not permit payment of relocation expenses misconstrues the purpose and scope of FTR para. 2-1.3. That section refers to the determination of whether or not the transfer is in the interest of the Government and there is no authority to predicate that determination on the cost of relocation expenses. Thus, "budget constraints" cannot form the basis for denying an employee relocation expenses if his transfer is in the Government's interest. 56 Comp. Gen. 709 (1977).

### Relation to change of residence

Although an employee who was transferred in the interest of the Government commuted from his old residence to his new duty station for 20 months, relocation expenses for the subsequent change of his residence may be reimbursed. The requirement that a transfer be in the interest of the Government is addressed to the change of official duty station, as distinguished from the change of the employee's residence. B-184809, August 3, 1976. However, in the case of short-distance transfers discussed, infra, there must also be a determination that relocation of the employee's residence was incident to the transfer.

### Collateral benefit to employee

An agency declined to authorize relocation expenses to an employee on the basis that her military officer husband was transferred at approximately the same time to the same place. The employee may be authorized relocation expenses if

## RELOCATION

the agency determines that the transfer was in the Government's interest. The fact that the transfer may also serve the employee's needs does not preclude such a determination. 54 Comp. Gen. 892 (1975).

Notice to employee--Desiring to relocate, an employee obtained employment in New Hampshire and, after reporting, was informed that the transfer had been determined to be primarily for his benefit. The employee nevertheless claimed relocation expenses on the basis that the agency had not notified him prior to transfer of his responsibility for such expenses. The employing agency determined that the transfer was not in the interest of the Government and its failure to comply with the notice provisions of 2 JTR does not nullify the statutory prohibition against payment of relocation expenses when a transfer is primarily for the benefit of the employee. B-189201, July 25, 1977.

### Transfers in the Government's interest

Merit promotion transfers--An employee who transferred from Eglin AFB to Beale AFB under the merit promotion program was denied relocation expenses due to economy measures taken at Beale AFB. He is nevertheless entitled to relocation expenses since the Air Force has determined that merit promotion transfers are in the interest of the Government. B-188048, November 30, 1977.

### Transfers for convenience of the employee

At employee's request--A Navy employee stationed in Hawaii who applied and was selected for a position in South Carolina may not be reimbursed relocation expenses where Navy instructions provided that transfers effected at the request of and primarily for the convenience or benefit of an employee cannot be made at Government expense and where the personnel official determined that the move was not in the interest of the Government. B-144304, March 30, 1976, and October 4, 1977. The agency bears no responsibility for payment of moving expenses where a transfer is initiated by the employee for his personal benefit or convenience. The agency is responsible for payment of such expenses, however, when it recruits, requests,

## RELOCATION

or orders an employee to transfer to a different location. B-184251, July 30, 1975.

Transfer for retirement--An employee who was transferred for the purpose of voluntary retirement immediately after reporting to his new station may not be reimbursed for relocation expenses since the transfer was for his benefit. B-188597, June 17, 1977.

Transfer outside Merit Promotion Plan--An employee claimed relocation expenses incident to transfer under the Customs Service Merit Promotion Plan on the basis that it was the agency's policy to authorize relocation expenses for transfers under the Plan. The claim was disallowed since the employee's transfer was to a lateral position with no greater promotion potential than his former position and, thus, was a transfer outside of the Merit Promotion Plan. B-173783.192, December 21, 1976.

### Reemployment after reduction in force

An employee who was separated by reduction in force received severance pay and, within 1 year, was reemployed by the Government at another geographical location. He is entitled to reimbursement for real estate and other relocation expenses under 5 U.S.C. § 5724a(c) which provides that under such circumstances the employee may receive prescribed benefits "as though he had been transferred in the interest of the Government without a break in service." B-172824, May 28, 1971.

### Short-distance transfers

A transferred employee purchased a new residence 4 miles from his old residence, shortening his commuting distance to the new duty station by 1.4 miles. Although the change of station was in the interest of the Government, it does not necessarily follow that the employee's relocation expenses are reimbursable. In cases of short-distance transfers, discussed, infra, the agency must also determine that relocation of the employee's residence was incident to the transfer. B-188083, June 27, 1977.

## RELOCATION

### Successive transfers

An employee was ordered from one official station to another but, before beginning shipment of his household effects to the second station, was transferred to a third station at his own request. The employee is not entitled to reimbursement for shipment of his household effects from his first official station to the third station since, upon retransfer for his own convenience, the employee relinquished all rights to transportation expenses under the first transfer order. 27 Comp. Gen. 748 (1948) and B-154389, July 10, 1964.

### Short-distance transfer

When a change of official station involves a short distance within the same local or metropolitan area, relocation allowances may be authorized only when the agency determines that the employee's relocation was incident to the change of official station. That determination is to be made in accordance with FTR para. 2-1.5b(1) on the basis of the circumstances in the particular case.

### Relocation incident to transfer

An employee was transferred to a new duty station located 30 miles from his old duty station. He moved his residence, which was located 26 miles from his new duty station, to within 14 miles of his new station to reduce his commuting time from 1 hour to 20 minutes. Before relocation expenses can be paid, the agency must determine that relocation of the employee's residence for a relatively short distance within the same general local area was incident to transfer of his official station. 51 Comp. Gen. 187 (1971).

An employee who lived in Salem, Utah, moved 1-1/2 blocks to a new house after his official station was changed from Provo, Utah, 13 miles from Salem, to Salt Lake City, Utah, 55 miles from Salem. The agency found that the employee was building his new home before he knew of the change of official station, determined that its purchase was not incident to the transfer and properly denied payment of relocation expenses. B-186711, October 7, 1976.

## RELOCATION

Administrative determination--FTR para. 2-1.5b grants an agency broad discretion to determine whether the relocation of an employee's residence is incident to the transfer. Where an employee relocated his residence 3.9 miles closer to his new duty station, the agency could properly determine that there was insufficient savings of time and distance to support a finding that the relocation was incident to the transfer. B-187162, February 9, 1972.

### Difference in commuting distance

In determining whether a relocation is incident to a short-distance transfer, FTR para. 2-1.5b provides that ordinarily a relocation of residence shall not be considered as incident to a change of official station unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from the old residence to the old official station. It provides, however, for a consideration of relative commuting time and circumstances peculiar to the particular change of station involved.

Less than 10 miles difference--An employee transferred from Maryland to Washington, D.C., who moved his residence to a location only 7.1 miles closer to his new duty station may not be reimbursed for travel and transportation expenses claimed since the agency determined that relocation of the employee's residence was not incident to the change of station. Agency directives required, as a condition to payment of moving expenses, that travel from the old residence to the new duty station involve at least 10 miles more distance than travel from the old residence to the old duty station and at least 10 miles more than the distance from the new residence to the new duty station. B-168126, February 10, 1970.

### Housing shortage at old station

An employee who commuted 40 miles to his former duty station was transferred to a new duty station 26 miles from his residence. FTR para. 2-1.5 provides that in short-distance transfer situations, unless the distance from the old residence to the new duty station is at least 10 miles greater than the distance from the old

## RELOCATION

residence to the old duty station, relocation to a new residence shall not be considered incident to transfer. However, the employee's claim for relocation expenses may be allowed where a housing shortage at the old station necessitated that he reside at some distance from the old duty station. B-163955, March 14, 1969.

### Successive transfers

Employees first transferred 9.2 miles were transferred an additional 3 miles 2 months later. Had they been transferred directly from the first to the third duty station, a distance of 10.2 miles, they would have been entitled to relocation expenses. Under the circumstances, relocation expenses may be paid if it is administratively determined that such expenses were incurred incident to the transfer, since only a short time elapsed between the two transfers and there is no provision that precludes aggregating the distances. B-178812, July 20, 1973.

### Local or metropolitan area

An agency properly found a change of official station of 42 miles within the State of Utah, albeit across county lines, to be a transfer within the general local or metropolitan area. Although the change of station was in the interest of the Government, the employee was constructing a house prior to notice of the change of station and the agency properly found that relocation to that residence was not incident to the transfer. B-186711, May 4, 1977.

### Overseas transfer

Upon transfer to a position outside the conterminous United States, as well as upon appointment to an overseas post of duty, FTR para. 2-1.5g(3) requires the agency to determine the place of the employee's actual residence at the time of selection. That determination establishes the employee's transportation and travel entitlements incident to renewal agreement and separation travel.

### Actual residence determination

The determination of an employee's actual residence when

## RELOCATION

transferred to an overseas post is primarily the agency's responsibility. The FTR provides that the place of actual residence designated in the official records of employment may only be changed to correct an error in the designation of a residence. Thus, where the agency reasonably determined that Colorado Springs was the place of an employee's actual residence for separation purposes and Colorado was the place of actual residence designated in the employee's transportation agreement, that determination will be upheld. B-177292, November 22, 1972, and B-173636, December 10, 1971.

### Erroneous residence determination

A locally hired employee entered into a 36-month transportation agreement at his first duty station and was thereafter transferred to a second overseas station. The personnel officer at the second station properly voided the agreement since there was substantial evidence that officials at the employee's old duty station erred in finding that his actual place of residence was within the continental United States at the time he was hired. B-182226, January 27, 1975, and B-169704, October 20, 1970.

### Cancelled transfer

The regulations require that an employee complete his transfer to receive relocation benefits. However, adherence to this requirement is not necessary where the agency determines that cancellation of the transfer was in the best interest of the Government and the employee remains in the Government service for 12 months following the date the transfer was cancelled. B-166909, July 14, 1976.

### Retransfer concept

An employee stationed in San Diego was interviewed and selected for a position in Los Angeles. He signed a service agreement and was authorized relocation expenses. It was later determined that the employee was not eligible for the position and the transfer was cancelled after he had shipped his household goods to Los Angeles. The employee may be reimbursed for transportation of his household goods under decisions holding that where a transfer has been cancelled and certain relocation expenses would have been

## RELOCATION

reimbursable if the transfer had been effected, the employee may be reimbursed expenses incurred in anticipation of the transfer prior to its cancellation. If the employee's duty station has not been changed as a result of the cancelled transfer, the employee is treated for reimbursement purposes as if the transfer had been completed and the employee had been retransferred to his former duty station. B-189953, November 23, 1977, and B-189900, January 3, 1978.

### Service agreements

Where an employee is involved in a cancelled transfer, a second or amended service agreement should be executed designating the original duty station as the new duty station and with the 12-month period of obligated service to run from the date of notification that the transfer was cancelled. B-189953, November 23, 1977, and 54 Comp. Gen. 71 (1974).

### Travel orders not issued

An arbitrator found that an agency clearly intended to transfer an employee but that travel orders were not executed since the agency selected the employee for another position prior to the intended transfer. The employee may be reimbursed storage expenses incurred in anticipation of the transfer based upon the arbitrator's determination that the expenses were incurred at the time the agency intended to transfer the employee and that the transfer was not effected only because the agency selected the employee for another position. B-1897405, March 22, 1977.

### Reimbursable expenses

The impact of a cancelled transfer upon an employee's entitlement to a particular relocation expense is discussed in the respective chapters that follow. However, in general, where an employee is issued change of station orders that are subsequently revoked, he may be reimbursed expenses incurred in good faith during the time the transfer orders were in effect, if the expenses claimed would have been payable if the transfer had been consummated. B-170259, September 15, 1970, and B-177439, February 1, 1973.

An employee sold his Denver residence in anticipation

## RELOCATION

of a transfer to Johnson Island which was subsequently cancelled. He may be reimbursed expenses of selling that residence and purchasing a new residence in Denver since real estate expenses would have been reimbursable if the transfer had been consummated. B-177898, April 16, 1973. However, where an employee received orders transferring him from Maryland to England and the orders were thereafter revoked, he may not be reimbursed expenses of buying and selling residences in Maryland since the cancelled transfer was to a location outside the United States and to other than an area designated by 5 U.S.C. § 5724a(a)(4). In the case of a cancelled transfer, the employee is regarded as transferred to his then permanent duty station. Since he would not have been entitled to real estate expenses in connection with either his transfer to England or retransfer to Maryland, he is not entitled to real estate transaction expenses incident to the cancelled transfer. B-189900, January 3, 1978.

Expenses incurred after cancellation---After notification that his transfer orders were cancelled, an employee shipped his household goods. Since the order was cancelled prior to the beginning of shipment, there is no legal basis upon which to reimburse the employee for its cost. B-159315, July 21, 1966.

An employee who entered into an enforceable contract to sell his residence at his duty station under transfer orders that were subsequently cancelled may be reimbursed real estate transaction expenses even though settlement under the sales contract did not occur until after the transfer orders were cancelled. B-177130, February 2, 1973.

Avoidable expenses---An employee whose transfer was cancelled, incurred house sale expenses at his old station on the erroneous assumption that the exclusive listing agreement with the realtor was irrevocable. His claim for reimbursement of expenses may not be allowed since under applicable state law he could have unilaterally cancelled the listing agreement without obligation or expense. B-181321, November 19, 1974.

## RELOCATION

### Successive transfers

#### Generally

Where an employee is transferred twice within a relatively short period and twice relocates his household, he may be reimbursed relocation expenses in connection with each transfer that is determined to be in the Government's interest. 32 Comp. Gen. 471 (1953) and 55 Comp. Gen. 628 (1976).

Second transfer cancelled--Seven weeks after his transfer from Fort Detrick, Maryland, to Washington, D.C., the employee was given orders directing a second transfer to Alabama. The second transfer was cancelled. The employee may be paid temporary quarters subsistence expenses for 30 days in connection with the first transfer to Washington, D.C., and for 30 days in connection with the anticipated but cancelled transfer to Alabama. B-189457, August 23, 1975.

#### Two transfers - one relocation

Allowances based on distance--Generally, where an employee does not relocate his immediate family or his household goods incident to his first transfer before he is transferred a second time, he may be reimbursed relocation allowances upon relocating his household to the third duty station based on the distance from the first to the third duty station, provided that travel and transportation is commenced within 2 years after the first transfer.

#### Move within 2 years of first transfer

Transportation of household goods--An employee transferred from Denver to Los Angeles in the spring of 1973 was transferred from Los Angeles to Sacramento in the fall of 1973. He had shipped only 740 pounds of household goods incident to the initial transfer to Los Angeles and, incident to the second transfer, shipped 1,520 pounds of goods from Los Angeles to Sacramento and 12,400 pounds from Denver to Sacramento. Reimbursement may be based on the commuted rate for the distance from Denver to Sacramento rather than the rate for the distance from Los Angeles

## RELOCATION

to Sacramento. 55 Comp. Gen. 634 (1976); B-171110, January 28, 1971; and B-161597, July 12, 1967.

Travel of immediate family--An employee was first transferred from Cheyenne to Torrington, Wyoming. Before he could relocate his family from Cheyenne, he was transferred to Casper, Wyoming. The family's travel expenses may be reimbursed on the basis of the 197-mile distance from Cheyenne to Casper, rather than the lesser distance between Torrington and Casper. An employee transferred twice to a third duty station before his family can relocate from the first to the second duty station is entitled to travel expenses based on the greater distance from the first to the third station. 48 Comp. Gen. 651 (1969) and B-166752, July 2, 1969.

### Move more than 2 years after first transfer

When an employee's family moved from its previous place of residence to his new official station--the last of two successive changes of station--after expiration of the time limitation fixed for the first change of station, but within the time fixed for the second station change, the maximum amount of reimbursement allowable is the constructive cost of transportation from the second to the third station. 27 Comp. Gen. 513 (1948) and B-171110, January 28, 1971.

### Second transfer for employee's convenience

Before beginning shipment of his household effects to his second duty station, an employee was transferred to a third duty station at his own request. The employee may not be paid for shipment of his household effects from his first to his third station, since upon retransfer for his own convenience, the employee relinquished all rights to transportation expenses under the first transfer order. 27 Comp. Gen. 748 (1948); B-180172, August 28, 1974; and B-154389, July 10, 1964.

Allowances related to establishment of residence--  
Where an employee is successively transferred but

## RELOCATION

discussed in chapters 4, 5, 6, and 7 of this title of the Civilian Personnel Law Manual.

### Funding of transfers

#### Transfer between agencies

In the case of transfer from one agency to another, allowable expenses shall be paid from the funds of the agency to which the employee is transferred. FTR para. 2-1.6b.

Reemployment after reduction in force--When an employee is separated by reduction in force or transfer of function by one agency and reemployed within 1 year by another agency, he is treated under 5 U.S.C. § 5724a(c) as transferred in the interest of the Government. As in the case of an employee transferred from one agency to another because of reduction in force, the costs of his transfer may be paid in whole or in part by the gaining or losing agency, as agreed upon by the agency heads. 53 Comp. Gen. 99 (1973) and 55 Comp. Gen. 1338 (1976).

Reemployment without break in service--An employee who returns to his place of actual residence in the United States for separation by one agency and who is reemployed without a break in service by another agency may be reimbursed by the second agency for expenses of relocation from his place of actual residence to his new duty station. 47 Comp. Gen. 763 (1968).

#### Transfer within DOD

When functions of the Comptroller Services Division, Department of the Air Force, were transferred from Fort Worth, Texas, to California, two employees who declined to accompany the activity were transferred to a Defense Supply Agency activity in Dallas, Texas. The Air Force is responsible for the employees' relocation expenses since 2 JTR para. C1053-2b(1)(b) provides that costs incident to movement between DOD activities located in the United States, caused by reduction in force or transfer of function, will be borne by the losing activity. B-170253(1), August 25, 1970.

## RELOCATION

### C. TRAVEL TO FIRST DUTY STATION

#### First duty station in United States

The general rule applicable to all public officers is that, unless otherwise provided by statute or regulations, they must place themselves at the location where they are first to perform duty without expense to the Government. 53 Comp. Gen. 313 (1973), 41 Comp. Gen. 371 (1961), and 22 Comp. Gen. 885 (1943).

An employee traveled at his own expense from his home in Houston, Texas, to Wisconsin for an interview and, at the close of the interview, was sworn in and told to report 2 weeks later to Dallas, Texas, for training prior to entrance on duty in Wisconsin. The employee returned to Houston and attended orientation training in Dallas en route to Wisconsin. He is not entitled to constructive round-trip travel between Wisconsin and Dallas, although he had taken the oath of office, since he had not entered on duty prior to training. The general rule is that an employee must bear the expense of reporting to the first duty station. B-182876, September 17, 1975. This rule applies even though a new appointee is erroneously advised that expenses of travel to his first duty station will be paid. B-171592, February 26, 1971.

#### Shortage-category appointees

New appointees to manpower-shortage category positions may be paid travel and transportation expenses in accordance with 5 U.S.C. § 5723, which provides for reimbursement of the appointee's travel expenses and transportation of his immediate family and household goods to the extent authorized by 5 U.S.C. § 5724. The specific relocation benefits and allowances payable to shortage-category appointees are discussed in the chapters that follow. In general, a shortage-category appointee is entitled to transportation and per diem for himself and transportation expenses for members of his immediate family. B-182716, July 1, 1976, and B-181080, May 21, 1974. He is not, however, entitled to per diem in connection with the travel of family members. 54 Comp. Gen. 747 (1975). He is entitled to transportation of household goods. B-187173, October 4, 1976. A shortage-category appointee may not be allowed real estate transaction

## RELOCATION

expenses, temporary quarters subsistence expenses, or miscellaneous expenses. 54 Comp. Gen. 747 (1975).

Authorization or approval--A new appointee to a shortage-category position is entitled to reimbursement of travel and transportation expenses for the purpose of reporting to his first duty station under 5 U.S.C. § 5723(a) only if the payment of such expenses has been properly authorized or approved. B-186260, July 12, 1976.

### Shortage-category determination--

#### Determination after appointment

Although his position was not placed in a shortage category at the time he reported for duty, a new appointee's travel expenses may be approved subsequent to appointment, since the position was subsequently placed in a shortage category and since the CSC would have placed the position in a shortage category before the appointee's travel if a timely request had been made. B-161599, August 29, 1967, and B-172118, May 25, 1971.

#### Erroneous determination

An applicant, who resided in Chicago, was hired to fill a manpower-shortage position in Michigan. It was subsequently discovered that he did not meet the qualifications for the manpower-shortage designation. He may not be reimbursed for relocation expenses, even though agency officials advised him they would be paid, as the United States is not bound by unauthorized acts of its agents. B-188095, September 28, 1977.

### First duty station overseas

A new appointee to a position outside the conterminous United States is eligible for certain travel and transportation benefits if his residence at the time of appointment is in an area other than the area in which his first official station is located. See FTR para. 2-1.5g(2). For a listing of the allowable expenses see FTR para. 2-1.5g(2)(b). As in the case of an employee transferred to a position outside the United States, discussed above, the

## RELOCATION

agency is required to make a determination as to the place of actual residence of a new appointee to an overseas position.

An individual appointed to a position in Puerto Rico, although eligible for certain travel and transportation expenses incident to reporting to that duty station from the continental United States, is not eligible for reimbursement of expenses incident to occupancy of temporary quarters at the new station since such reimbursement is not authorized for new employees. B-179635, March 20, 1974.

### D. RENEWAL AGREEMENT TRAVEL

Under 5 U.S.C. § 5728 and in accordance with FTR para. 2-1.5h, an employee may receive allowances for travel and transportation for returning home between tours of duty overseas if he has satisfactorily completed an agreed period of service or the prescribed tour of duty for return travel entitlement and entered into a new written agreement for another period of service at the same or another post of duty outside the conterminous United States.

#### Eligibility

##### Stationed in the United States

There is no authority to pay for the renewal agreement travel of a resident of Puerto Rico stationed in the continental United States since vacation leave under 5 U.S.C. § 5728 extends only to employees stationed outside the continental United States. B-176933, October 18, 1972.

##### Stationed in Hawaii or Alaska

Employees who are stationed in Alaska or Hawaii and whose actual place of residence is Alaska or Hawaii may not be authorized home leave travel to another location in the state of their residency. 46 Comp. Gen. 838 (1967).

##### Registration to vote in Guam

An employee who registers to vote in Guam while stationed there is nevertheless entitled to home leave travel. 49 Comp. Gen. 596 (1970).

Part-time employment

An overseas employee whose status was changed from full-time to part-time is still entitled to home leave since nothing in 5 U.S.C. § 5728 restricts home leave benefits to full-time employees. 41 Comp. Gen. 434 (1962).

Employees hired locally

Under FTR para. 2-1.5h(3)(b)(iii) the Government has the discretion to refuse to extend eligibility for home leave travel to a locally hired employee who did not sign an employment agreement. However, para. 2-1.5h(3)(b)(iii) requires that the agency notify the employee of its intent to deny home leave travel before the employee completes the period of service generally applicable to employees at that overseas post. 46 Comp. Gen. 691 (1967).

Husband and wife both employed

A single employee was hired outside the continental United States for service in Labrador and permitted to negotiate a transportation agreement. Ten years later she married another employee of the United States. As required by FTR para. 2-1.5h(3)(a), she elected to travel as her husband's dependent. Subsequently, the husband was separated by reduction in force and obtained employment in Labrador with the Canadian government. Although the wife is eligible to travel under her husband's travel agreement with the Canadian government, she is entitled to have her original travel agreement with the United States reinstated, since her husband was no longer a United States employee. 54 Comp. Gen. 814 (1975).

Completion of tour of duty

An employee, transferred from Alaska to Okinawa under a 24-month agreement, was transferred, due to a reduction in force, back to Alaska after serving 12 months (less 5 days). The new tour is to be 12 months or the difference between the new duty tour and completed service at the old station, whichever is greater. Therefore, the renewal agreement period upon return to Alaska should have been 12 months and 5 days, with

## RELOCATION

entitlement to round-trip travel for the purpose of taking home leave. B-177097, January 19, 1973.

### Procedural requirements

#### Execution of new agreement

An employee who performs tour renewal agreement travel prior to executing a new agreement, but signs the agreement upon return to his overseas duty station, may be reimbursed for the cost of renewal agreement travel since the requirement that a written tour renewal agreement be executed prior to departure is primarily for the protection of the Government and the Government's interest was not adversely affected by delayed execution of the agreement. B-186213, August 3, 1976, and B-163194, February 5, 1968.

#### Violation of new agreement

An employee stationed in Alaska who had a 2-1/2-month break in service within 1 year of signing a tour renewal agreement and taking home leave must reimburse the Government for the cost of his home leave travel. However, he is entitled to have the cost of his home leave travel set off against the remaining entitlements from his original overseas service agreement as provided by FTR para. 2-1.5h(4)(a). B-186702, February 9, 1977.

#### Nonviolation of new agreement

An employee stationed in Alaska completed a 2-year period of service in August 1975 and signed a tour renewal agreement. He postponed his travel for 6 months at the request of his agency. Subsequently, he applied for a stateside transfer. Tour renewal travel was taken after notification of transfer but before the date for transfer from Alaska. The employee is not required to reimburse the Government for the cost of home leave travel, as a transfer in the interest of the Government is not a violation of the tour renewal agreement. B-186560, December 9, 1976.

#### Place of actual residence determination

An employee, stationed at Anchorage, Alaska, claims Manly, Iowa, as his actual place of residence whereas

## RELOCATION

it had been administratively determined that his actual place of residence was Santa Clara, California. The GAO agrees with the administrative determination and the travel voucher should be certified for payment on that basis. The employee's place of actual residence for separation and renewal agreement travel purposes is established at the time of the employee's appointment or transfer to his overseas post of duty and is not affected by subsequent changes in the employee's intentions. B-173636, December 10, 1971. Also 37 Comp. Gen. 846.

### Actual travel requirement

Generally, an employee stationed outside the continental United States is entitled to be reimbursed for the cost of his dependents' round-trip travel to the United States only if the employee himself returns to the United States for purposes of taking home leave in connection with a tour renewal agreement. 46 Comp. Gen. 153 (1966) and 35 Comp. Gen. 101 (1955). However, if an employee is prevented from taking planned tour renewal travel due to action by the Government, such as a transfer to the continental United States or a separation from the service, he is not required to reimburse the Government for the cost of prior travel by his dependents. B-186021, November 9, 1976, and B-166357, April 17, 1969. There is no requirement that the family travel together or to the same location as long as the employee and his family perform home leave travel within a reasonable time of each other. B-186310, February 16, 1977, and B-138436, February 16, 1959.

### Points of travel

#### Travel to other than actual residence

There is no requirement that home leave travel be taken to the employee's place of actual residence in the United States. When travel is to some place other than his actual residence, the employee is entitled to reimbursement of expenses not to exceed the constructive cost of travel to the place of his actual residence. B-186310, February 16, 1977; B-173226, August 2, 1971; and 46 Comp. Gen. 675 (1967).

## RELOCATION

### Travel from other than overseas post

When an employee is stationed at a post of duty outside the continental United States where his dependents are not permitted to accompany him or from which his dependents have been evacuated, both the employee and his dependents are entitled to tour renewal travel from their respective locations to the employee's home of record at the time the employee performs his tour renewal agreement travel. 55 Comp. Gen. 886 (1976).

### Travel to United States required

Paragraph 2-1.5h(2) of the FTR requires that all employees who take home leave under the provisions of 5 U.S.C. § 5728 spend a substantial amount of time in the United States as a condition to reimbursement for the cost of overseas tour renewal agreement travel. An employee and his family who spent 16 out of 61 days of their home leave in the United States met the substantial time requirement. 53 Comp. Gen. 468 (1974). However, an employee who made a 4-day stop in the United States incident to a world tour of 2-1/2 months did not meet the substantial time requirement. 41 Comp. Gen. 146 (1961) and B-171174, December 18, 1970.

### Reimbursable expenses

#### Transportation of baggage

An employee performing renewal agreement travel may not be authorized transportation of household goods, but is entitled only to transportation of baggage. Under that authority, an employee may not be reimbursed for the cost of transporting a hi-fi system upon return to his overseas post following home leave since a hi-fi is in the nature of a household effect and is not baggage. 47 Comp. Gen. 572 (1968).

#### Per diem

Incident to overseas tour renewal agreement travel, an employee is entitled to per diem while traveling under the provisions of FTR para. 2-1.5h(2). The prohibition against payment of per diem while in a leave status is not applicable to tour renewal agreement

## RELOCATION

travel. 55 Comp. Gen. 1035 (1976). However, the employee's family is not entitled to per diem while traveling. B-166379, April 10, 1969.

### Traveltime

An employee who travels from a duty station in Alaska or Hawaii to the continental United States and back incident to tour renewal agreement travel is not entitled to leave-free traveltime but must charge his traveltime to annual or home leave. However, if the employee returns to a different overseas duty station he may be credited with the constructive traveltime from the old to the new duty station. An employee who travels from an overseas duty station outside the United States to the United States and back is entitled to leave-free traveltime. 55 Comp. Gen. 1035 (1976); 34 Comp. Gen. 328 (1955); B-171947.62, November 27, 1974; and 38 Comp. Gen. 401 (1958).

## E. SEPARATION TRAVEL

When an employee is eligible for return travel and transportation from his overseas post to his place of actual residence upon separation after completion of the period of service specified in an agreement executed under FTR para. 2-1.5a(1)(b) or is separated for reasons beyond his control and acceptable to the agency, he may receive travel and transportation to an alternate location, provided the cost to the Government shall not exceed the cost of travel and transportation to his residence at the time he was assigned to an overseas station. However, ordinarily, an employee is entitled to travel and transportation expenses upon separation only to the country or actual residence at the time of assignment. FTR para. 2-1.5g(4).

### Eligibility

#### Employees hired locally

An employee traveled to Italy and obtained a position with a nonappropriated fund activity in 1961 which he held without a break in service until he was appointed to an appropriated fund position in 1966. Under the JTR, the employee's presence in a foreign country in 1966 did not entitle him to negotiate a return transportation agreement. B-184972, May 5, 1976.

## RELOCATION

The fact that an overseas local hire negotiates a renewal agreement for home leave travel does not, in itself, entitle him to travel expenses upon separation absent a written agreement obligating the Government to assume such expenses. 46 Comp. Gen. 691 (1967).

### Last duty station in United States

An employee's claim for reimbursement of travel and transportation allowances from Oklahoma to Washington incident to his retirement is disallowed since there is no statute or regulation by which travel and transportation allowances may be authorized to the home of an employee who retires while on permanent duty in the United States. B-163997, May 10, 1968.

### Time to begin travel and transportation

An employee whose appointment as a Federal employee in the Virgin Islands terminated on February 2, 1971, elected not to return to the United States until July 1973 because he accepted a non-Federal position in the Virgin Islands. He is not entitled to reimbursement of return travel and transportation expenses since the FTR establishes a maximum period of 2 years from the employee's date of separation for beginning allowable travel and transportation. B-182993, August 13, 1975.

An Army employee, separated on the basis of mandatory retirement in Germany, is entitled to travel at Government expense to the place of his actual residence. However, under agency regulations the employee may lose his travel entitlement by a nonapproved delay of more than 90 days in beginning travel after separation or after a request for an additional delay has been disapproved. B-134348, January 27, 1975.

## F. REMEDIES

### Erroneous overpayments

#### Estoppel

A new appointee to a manpower-shortage position was erroneously authorized and reimbursed for certain travel and relocation expenses in excess of those permitted under 5 U.S.C. § 5723. The United States is not estopped from repudiating the advice given by

## RELOCATION

one of its officials if that advice is erroneous, and any payment made on the basis of such erroneous advice or authorization must be recovered. B-189701, September 23, 1977.

### Waiver

The waiver of certain claims of the United States Government against a person arising out of erroneous payments of pay or allowances of civilian employees is authorized under 5 U.S.C. § 5584 when collection action would be against equity and good conscience and not in the best interest of the United States. However, waiver authority does not extend to any indebtedness resulting from the payment of travel and transportation expenses in excess of relocation expenses payable under 5 U.S.C. §§ 5724 and 5724a. B-181631, October 9, 1974.

### Termination of collection

An employee questioned whether collection action of an erroneous payment of transfer expenses may be terminated under the authority of the Federal Claims Collection Act, 31 U.S.C. § 951, et seq., which permits the head of an agency to terminate collection action under certain conditions. Where there is a present or prospective ability to pay on the debt, such as a Federal employee's continued employment, collection must be attempted. B-189701, September 23, 1977.

### Back Pay Act

Under 5 U.S.C. § 5596 an erroneously separated employee is entitled to those payments or allowances which he normally would have received if the unwarranted personnel action had not occurred. Consequential real estate and moving expenses are not such allowances. B-178551, January 2, 1976.

## RELOCATION

### CHAPTER 3

#### TRAVEL OF EMPLOYEE AND IMMEDIATE FAMILY

##### A. AUTHORITY

###### Statutory authority

Under 5 U.S.C. § 5722(a) agencies are authorized to pay the travel expenses of an employee and his immediate family upon appointment to a position outside the United States and upon return from the overseas post of duty to his place of actual residence. The authority to pay for a transferred employee's and his immediate family's travel between posts of duty is contained in 5 U.S.C. § 5724(a). Travel expenses are payable to employees reemployed within 1 year after separation by reduction in force under 5 U.S.C. § 5724a(c); to manpower-shortage category appointees, and student trainees under 5 U.S.C. § 5723; to employees assigned for training under 5 U.S.C. § 4109, and for Intergovernmental Personnel Act assignments under 5 U.S.C. § 3375. Additional authorities for transportation of the employee's immediate family include the provisions of 5 U.S.C. § 5725 for their transportation to a safe haven location, the provisions of 5 U.S.C. § 5729 for their prior return, and the provisions of 5 U.S.C. § 5728 for renewal agreement travel. The authority of 5 U.S.C. § 5742 for transportation of a deceased employee's dependents are discussed at Title III - Travel Expenses, Civilian Personnel Law Manual.

###### Regulations

The regulations addressed to the travel of an employee and his immediate family are contained at FTR chapter 2-2. Further regulations applicable specifically to civilian employees of the DOD are found at 2 JTR, chapters 4 and 7. Paragraph 2-2.1 of the FTR provides that, except as otherwise set forth in chapter 2-2, expense, of per diem, transportation and travel are allowable in accordance with FTR chapter 1. Thus, the more general travel principles and regulations set forth in FTR chapter 1, which are discussed in Title III - Travel Expenses, Civilian Personnel Law Manual, are for consideration when travel is performed incident to relocation.

## RELOCATION

### B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a more general discussion of the conditions of eligibility for reimbursement of relocation expenses, including transportation and travel expenses for the employee and his immediate family.

#### Incident to relocation

##### Transfer

Where a transfer is found to be in the interest of the Government, an employee may be paid travel and transportation for himself and his immediate family. 54 Comp. Gen. 892 (1975).

##### New appointment

The general rule applicable to all public officers, civilian as well as military, is that unless otherwise provided by statute or regulation, such officers must place themselves at the place where they are first to perform duty without expense to the Government. 22 Comp. Gen. 885 (1943), 32 Comp. Gen. 538 (1953), and 41 Comp. Gen. 371 (1961).

Even though a new appointee to a position not in a manpower-shortage category was erroneously advised that expenses of travel to his first duty station would be paid, his travel expenses may not be paid. The United States is not bound by the unauthorized acts of its officers and employees. B-171592, February 26, 1971.

Shortage-category appointment--A new appointee to a shortage-category position is entitled to transportation and per diem expenses for himself and transportation expenses for members of his immediate family. B-182716, July 1, 1976, and B-181080, May 21, 1974. He is not, however, entitled to per diem in connection with the travel of his family members. 54 Comp. Gen. 747 (1975), and B-177565, February 9, 1973.

Notwithstanding that the position to which he was appointed was not determined by the CSC to be in a shortage category on the date he reported for duty, a new appointee whose position was subsequently determined to be in a shortage category may be reimbursed

## RELOCATION

travel expenses since the CSC has indicated that it would have placed the position in a shortage category prior to his travel if a timely request had been made. B-161599, August 29, 1967, and B-172118, May 25, 1971.

Appointment after reduction in force--Upon refusing to relocate incident to a transfer of function, an employee was separated from his position in California. After selling his California residence, the employee and his wife traveled to Washington, D.C., where, within 4 months after separation, he was reemployed with the Government. Since the employee was reinstated within 1 year after separation he is entitled under 5 U.S.C. § 5724a(c) to the same benefits as an employee transferred without a break in service and may be reimbursed for his and his wife's travel to Washington prior to reinstatement. 51 Comp. Gen. 27 (1971).

### Return from overseas assignment

Under 5 U.S.C. § 5722(a) travel expenses for the employee and his immediate family are payable upon return from a post of duty outside the continental United States to the employee's place of actual residence at the time of his assignment to duty outside the United States. Travel expenses cannot be paid, however, where the employee elects not to return to the United States or the country of his place of actual residence at the time of employment. B-170172, July 31, 1970, and B-122472, February 15, 1955. An employee's wife who accompanied her husband to his overseas station at personal expense may be furnished return transportation to the United States at Government expense under orders which authorize return of the employee and his immediate family. 33 Comp. Gen. 623 (1954).

### Assignments for training

Under 5 U.S.C. § 4109, agencies may pay travel and subsistence expenses to an employee selected for training on a basis comparable to that for employees assigned to temporary duty. On the other hand, when the cost of transportation of the employee's immediate family and household goods to the place of training is estimated to be less than the aggregate per diem that he could be paid incident to the training assignment,

## RELOCATION

in lieu of per diem, the employee may be authorized transportation of his immediate family and household goods to the same extent as in the case of a transferred employee. 39 Comp. Gen. 140 (1959).

An employee who was paid per diem while participating in a 9-month Congressional Fellowship program may not be reimbursed for transporting his family and household goods under 5 U.S.C. § 4109. That statute authorizes reimbursement to an employee for necessary expenses of training, including either travel and per diem or transportation of family and household goods when the latter is less costly than the aggregate per diem payable for the period of training. In the instant case it was administratively determined that the employee should be paid per diem. B-169555, July 2, 1970.

### Intergovernmental Personnel Act assignments

Under the Intergovernmental Personnel Act (IPA) Federal employees temporarily assigned to State and local governments and institutions of higher education are not entitled to both per diem and change-of-station allowances for the same assignment, even though 5 U.S.C. § 3375 appears to permit payment of both those benefits associated with permanent change of station and those normally associated with temporary duty. Nothing in the statute or its legislative history suggests that both types of benefits may be paid incident to the same assignment. An agency should determine, taking cost into consideration, whether to authorize permanent change of station allowances (including transportation and per diem for the immediate family) or per diem to employees assigned under the IPA. 53 Comp. Gen. 81 (1973).

### Temporary duty assignments

An employee who moved his family to the place where he was on temporary duty may not be reimbursed for the expenses of their travel when he was subsequently transferred to that same location since their travel expenses were incurred incident to his temporary duty assignment and were not in connection with his transfer. B-165417, November 7, 1968; B-159861, August 31, 1966; and 41 Comp. Gen. 582 (1962).

## RELOCATION

### Move for personal convenience

On the basis of a public announcement that the East Coast activity to which he was assigned would be relocated and consolidated with a West Coast activity, an employee moved his family to California. He received a warning that such relocation was unauthorized and at his own risk. The employee may not be reimbursed travel and relocation expenses since there was no clear administrative intent to transfer him at the time of his move and travel orders issued 18 months later failed to indicate that the earlier travel by his dependents was authorized. B-182013, May 14, 1975, and September 13, 1976.

### Immediate family

Under FTR chapter 2-2 allowances for subsistence and transportation are payable for travel of the employee's immediate family. The term "immediate family" is defined at FTR para. 2-1.4d as follows:

"Any of the following named members of the employee's household at the time he reports for duty at his new permanent duty station or performs authorized or approved overseas tour renewal agreement travel or separation travel; spouse, children (including step-children and adopted children) unmarried and under 21 years of age or physically or mentally incapable of supporting themselves regardless of age, or dependent parents of the employee and of the employee's spouse."

The fact that individuals who are included in the term "immediate family" are temporarily absent from home attending school, visiting, etc., at the time the employee is transferred to a new permanent station, has no effect on the consideration of such individuals as members of the employee's immediate family. 25 Comp. Gen. 325 (1945).

### Spouse

Nondependent husband--A transferred female employee is entitled to travel expenses for her husband regardless of whether he is financially dependent upon her. The requirement of dependency applies only to parents and children over 21. 40 Comp. Gen. 704 (1961).

## RELOCATION

Marriage after date of travel orders--An employee who is married after the issuance of a travel order directing his permanent change of station but prior to the date travel is authorized or directed to begin is entitled to reimbursement for the cost of his new wife's transportation. 26 Comp. Gen. 293 (1946), and 41 Comp. Gen. 574 (1962).

Marriage en route to new station--An employee who marries on the way to his new station may be paid expenses of transporting his wife to the new station but may not be reimbursed expenses of transporting his wife's effects. B-109466, June 4, 1952, and B-149024, June 15, 1962.

Marriage while on temporary duty--An employee is not entitled to transportation to his official station outside the United States at Government expense of his wife whom he married while in the United States on temporary duty. 30 Comp. Gen. 55 (1950).

Marriage while on home leave--An employee who acquires a wife while on home leave is entitled to be reimbursed the cost of her transportation upon return to the employee's overseas station. B-134831, February 3, 1958.

### Marriage at overseas post--

#### After separation

Although regulations do not prevent reimbursement to a former employee for transportation to the United States of his wife, acquired while at a foreign post after separation, the agency concerned must approve such travel prior to reimbursement. B-132237, July 30, 1957.

#### Prior to separation

An employee who acquired a wife while serving overseas under an employment contract and who returned to the United States for separation upon completion of the agreed tour of duty, is entitled to his wife's transportation from the overseas post at Government expense, if administratively approved, notwithstanding that his wife

## RELOCATION

was acquired after the signing of the employment agreement. 33 Comp. Gen. 252 (1953).

### Parents of employee or spouse

Dependent parents--The mother of a Government employee who is a member of his household is a dependent parent within the meaning of FTR para. 2-1.4, for purposes of relocation allowances, since she receives only social security payments, which are largely required for medical expenses, and is dependent upon the employee to maintain a reasonable standard of living. Internal Revenue Service standards of dependency are not controlling. 55 Comp. Gen. 462 (1975), and B-175019, March 6, 1972.

### Member-of-household requirement

An employee's mother who lives on social security income and who maintains her own residence for 7 months of each year, but stays with the employee for the 5 winter months, has established her own household. Regardless of whether she may be regarded as a dependent parent, she was not a member of the employee's household at the time the employee reported for duty at the new duty station. B-189818, February 14, 1978.

Dependent in-laws--Where an employee's mother-in-law was in fact dependent upon him at the time of transfer, she may be considered a member of his immediate family. The employee may be paid an allowance for the mother-in-law's travel to the new duty station. B-163107, January 30, 1968.

### Mother of divorced spouse

An employee was divorced in 1957, and in 1966 the mother of his former spouse became a member of his household. Because the employee had no spouse at the time of transfer, the former spouse's mother was not a dependent parent of the employee's spouse and is not within the definition of "immediate family." Expenses for her travel incident to the employee's transfer may not be paid. B-160638, January 23, 1967.

## RELOCATION

### Nondependent in-laws

Where the mother of the employee's spouse is not financially dependent on the employee and his spouse but depends upon them to attend to her business affairs and other needs, she is not a dependent parent for the purpose of payment of relocation expenses. However, the fact that she is in a nursing home does not defeat her status as a member of the household. 49 Comp. Gen. 544 (1970).

### Siblings

The definition of "immediate family" excludes the relationship of brother. A transferred employee may not be reimbursed travel expenses incurred for his brother even though he is the brother's sole support and notwithstanding that the brother's dependency is recognized for income tax, insurance and other purposes. 47 Comp. Gen. 121 (1967).

### Children

#### Children under age 21--

##### Foster children

A transferred employee may not be reimbursed for relocation expenses of foster children since such children are not within the definition of "immediate family" contained in FTR para. 2-4.1d. B-188924, June 15, 1977.

##### Stepchildren

An employee who acquires a stepson while on home leave may be reimbursed the cost of his stepson's transportation to his overseas station if such transportation is approved by the department concerned. B-128245, July 24, 1956.

##### Unborn children

The wife of a transferred employee could not travel with him to his new duty station due to pregnancy. The employee reported for duty at his new station before their child was born. Travel

## RELOCATION

expenses for the infant's travel to the new station may not be paid because the infant was not a member of the employee's immediate family within the meaning of FTR para. 2-1.4d. B-191230, April 24, 1978.

### Married children

An employee's minor daughter, who was secretly married before traveling with her parents to her father's new duty station, must be regarded as having a valid marriage status at the time of the move and, therefore, may not be considered an unmarried child so as to entitle the employee to reimbursement for her transportation. B-191441, May 11, 1968.

The spouse of an employee's child is not included in the definition of "immediate family." B-135091, March 4, 1958.

### Divorced children

The 17-year-old divorced daughter of an employee who is unable to support herself and temporarily resides with a sister in the United States may be considered a member of the employee's household even though she was not living under his roof at the time he executed a renewal agreement in connection with his assignment overseas and even though he did not perform home leave travel incident to that contract. 48 Comp. Gen. 457 (1969).

### Children of divorced employee

Spouse's custody--An employee who was divorced 6 months prior to transfer, with his children's custody granted to his former wife, is not entitled to reimbursement for their travel since the children were not members of his household at the time of his transfer. B-177701, April 18, 1973, and 44 Comp. Gen. 443 (1965).

Where an employee stationed in Alaska was authorized advance return of dependents, the return transportation expenses of his minor children may be reimbursed even though the employee's spouse obtained a divorce and was granted custody before

## RELOCATION

their travel was performed. Nothing precludes return at Government expense of minor children solely because they may not have been members of the employee's household at the time of their return. B-166932, August 6, 1969.

Joint custody--Although a divorced employee is financially responsible for the support of his three minor children, was awarded joint custody and frequently visits with the children and plans for them to live with him for 1 month each summer, the children actually reside with their mother for 11 months of each year. The length of time the children live with the employee is of insufficient duration to warrant a determination that they are members of his household. B-187241, July 5, 1977.

Common-law remarriage--Although an employee and his wife were divorced and custody of their children was awarded to the wife, the employee may be paid travel expenses for the children since the employee and his wife continued to live together and established a valid common-law marriage under Texas law. B-165312, October 10, 1968.

Children over age 21--A transferred employee is not entitled to travel expense for children over 21 years of age at the time of transfer since FTR para. 2-1.4d defines "dependent" as a child under 21 or incapable of self-support. B-170774, December 7, 1970, and B-156327, March 24, 1965.

### Status at date of transfer

An employee's son was 19 when the employee was transferred. Within the 2-year period for beginning travel, but after he had turned 21, the son traveled to the employee's new duty station. A child's eligibility for travel at Government expense is dependent on his status as of the date the employee reports for duty at his new station. Therefore, the employee may be reimbursed for his son's travel. B-160928, March 28, 1969, and B-166208, April 1, 1969.

## RELOCATION

### Becoming 21 overseas

Where the son (under 21) of an employee stationed in Alaska traveled to Wyoming in September 1969, and the employee began his tour renewal agreement travel in January 1970, after his son reached 21, the employee may be reimbursed for his son's one-way travel expenses to the United States since FTR para. 2-1.5g(6) provides for return travel to the United States of a child whose status as an immediate family member changes during the employee's tour, provided the child's travel overseas was at Government expense. The child's return is authorized in connection with the employee's next entitlement to travel to the United States, but not beyond the end of the employee's current agreed tour of duty. B-169898, August 18, 1970. Reimbursement for travel of children under these circumstances is limited to the cost of travel to the employee's place of actual residence at the time of appointment. B-180677, June 11, 1974.

### Children not capable of support

An employee stationed in Mexico City may be reimbursed for the home leave travel of his divorced 28-year-old daughter, since she is a member of his household, unmarried, and incapable of supporting herself because of mental illness and, therefore, is a member of the employee's immediate family. B-188096, April 6, 1977.

### Grandchildren

An employee may not be reimbursed travel and transportation expenses for two grandchildren incident to her transfer. Even though the grandchildren are in the employee's custody and are recognized as her dependents for income tax purposes, they are not part of her immediate family as that term is defined in FTR para. 2-1.4d. B-169855, July 10, 1970; B-188096, April 6, 1977; and 48 Comp. Gen. 457 (1969).

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement of relocation

## RELOCATION

expenses, including transportation and travel expenses for the employee and his immediate family.

### Authorization or approval

#### Transfer

Where a transferred employee was issued travel orders that provided only for transportation and per diem expenses for himself, the employee may, nonetheless, be paid travel expenses for his wife and children. Expenses of dependents' travel may be approved after the transfer and travel involved have been accomplished. B-189998, March 22, 1978, and B-167451, September 2, 1969.

#### New appointment

After he was issued travel orders for reporting to his first duty station in Colorado, but before he performed the travel, a new appointee married and he and his new wife traveled together to Colorado. Even though the travel order provided only for his own travel, the employee may be reimbursed travel expenses for his new wife since travel expenses for reporting to the employee's duty station may be approved after the performance of travel. 41 Comp. Gen. 574 (1962), and B-164720, August 5, 1968.

Although his position was not placed in a shortage category at the time he reported for duty, a new appointee's travel expenses may be approved subsequent to appointment, since the position was subsequently placed in a shortage category and since the CSC would have placed the position in a shortage category before the appointee's travel if a timely request had been made. B-161599, August 29, 1967.

#### Service agreement

An employee grieved his transfer from Milwaukee to Springfield. He refused to sign a service agreement and resigned in the month after reporting to his new duty station. He submitted a claim for travel expenses incurred in reporting to Springfield. The claim was disallowed since reimbursement of travel allowances may only be made after the employee agrees in writing to remain in the Government service for 12 months following the transfer. B-187184,

## RELOCATION

March 2, 1977. The requirement for execution of a service agreement may be disregarded where, at the time the immediate family's travel was performed, the employee had already served 12 months at his new duty station. B-175995, August 2, 1975.

### D. TIME LIMITATION

Under FTR para. 2-1.5a(2) all travel, including that of the immediate family, should be accomplished as soon as possible. The maximum time for beginning allowable travel shall not exceed 2 years from the effective date of the employee's transfer or appointment.

An employee was transferred effective September 20, 1970. His immediate family did not join him at the new station until February 1972. Although the reasons for which the employee delayed the movement of his family are not indicated, their travel was within the 2-year period allowed by the regulations and the cost of their travel may be paid based on approval by the proper authority. B-175995, August 2, 1972, and B-187519, January 26, 1977. Where a transferred employee's wife and daughter did not travel to his new duty station until 25 months after the effective date of his transfer, their travel expenses may not be paid even though the delay in their initiation of travel was attributable to medical and educational considerations. B-178234, June 18, 1974.

### Overseas employees

Upon an overseas employee's execution of a new employment agreement at a different location or upon execution of a renewal agreement without change of station, transportation of a dependent may be authorized from the employee's place of residence in the United States to the overseas duty station irrespective of the expiration of the 2-year limitation which ran from the effective date of the original transfer overseas. Where an employee performs home leave or renewal agreement travel, the employee's dependents may travel separately but within 2 years from the date the employee enters on duty under the new employment agreement. B-137605, March 17, 1961.

### Running of the 2-year period

Where an employee was transferred effective September 16, 1973, and his wife delayed the initiation of her travel to

## RELOCATION

the new duty station until September 14, 1975, the wife's travel expenses may be paid. To calculate the 2-year period for beginning travel, the first day of the transfer is excluded and the last day of the 2-year period is included. B-185726, August 12, 1976.

### E. GENERAL TRAVEL PRINCIPLES

#### One-trip limitation

##### Second trip to settle affairs

An employee traveled to his new duty station in June 1973. In conjunction with a temporary duty assignment in Albuquerque the following week he returned to his old station in Los Angeles to arrange for shipment of his household goods and to terminate his lease. Because he had already accomplished his change of station at Government expense, he may not be paid additional expenses for travel between Albuquerque and Los Angeles. 54 Comp. Gen. 301 (1974). An employee may not be paid mileage for a second trip to return a rented U-Haul truck to his old duty station. B-188214, May 9, 1978.

##### Second trip to transport family

An employee was authorized separate travel for himself and his family upon transfer from Virginia to North Carolina. He traveled alone by POV and reported to his new station. He subsequently returned to Virginia and drove his two children to the new station. The employee had already made one trip to his new duty station at Government expense and, therefore, is not entitled to mileage for a second trip for himself. Therefore, mileage for the second trip is payable at the rate applicable for two family members traveling together, and not at the higher rate applicable for an *employee and two family members*. B-184813, June 24, 1976; B-164940, July 16, 1969; and B-172012, July 2, 1971.

##### Exceptions

First trip by Government vehicle--An employee's travel orders authorized travel by two POVs. The family drove in one car and, as instructed by his agency, the employee traveled to his new duty station

2 of 4



## RELOCATION

by a Government vehicle that was needed at the new station. Shortly thereafter, he returned to his old station and drove his second POV to the new station. The authorization given to drive the second POV to the new duty station is not diminished by reason of the employee's transporting the Government vehicle to the new station at his agency's request, and the employee may be paid mileage in connection with the second trip. B-187363, December 21, 1976. Compare B-172012, July 2, 1971.

Transfer while on temporary duty--While a ship was in Seattle, its home port was changed from Miami to Seattle. The change in the ship's home port changed the duty station of its crew. Although the crew members had already reported to their new station, they may be reimbursed for round-trip travel expenses from Seattle to Miami for the purpose of transporting their automobiles, household goods and families, and selling their residences. B-167022, July 12, 1976.

While on temporary duty in San Diego, an employee was notified that his permanent station was changed from New York to San Diego. The employee may be reimbursed for round-trip travel between his old and new stations for the purpose of moving his family and furnishings. B-169395, October 28, 1976.

### Family's advance travel

Prior to the effective date of the employee's transfer, his dependents traveled to the new duty station to enroll the children in school. Travel by two POVs may be authorized to permit the family's advance travel. 47 Comp. Gen. 720 (1968).

An employee was assigned to a position with private industry under the President's Executive Interchange Program. For personal reasons, the employee's family returned to Washington, D.C., before the end of his assignment. It is immaterial that the family's travel was actually performed before the employee's transfer, where their travel was in anticipation of such transfer and was subsequently authorized. However, the employee may not be reimbursed for their travel prior to his own transfer back to his official station. B-166943, February 16, 1971.

## RELOCATION

### Family's separate travel

An employee was transferred from the Canal Zone to Texas and authorized travel expenses limited to the cost of "authorized mode and usual routing." His orders were amended to authorize separate travel of his stepson from Virginia to Texas. Reimbursement for the stepson's travel is not limited to the amount that would have been payable if he had traveled with the rest of the family, provided that the separate travel is necessary and does not exceed the cost of separate travel between the Canal Zone and Texas. B-150935, July 23, 1970.

When the employee and his wife drove to the new duty station, their infant daughter was too ill to accompany them. When she was well, the employee's cousin flew with the infant to the new duty station. The employee paid the cousin's airfare and the infant, who could not travel unattended, flew free. The cost of the cousin's airfare is deemed the cost of the infant's travel. Since there is no requirement that dependents accompany the employee in driving and since the infant's delayed travel was justified, the employee may be reimbursed for her travel, limited to the constructive cost if the infant had traveled with her parents by POV. B-183563, May 4, 1976.

### Trip to port to ship POV

When an employee is authorized to ship his POV at Government expense, transportation costs to deliver the POV to the port for shipment or to pick it up after shipment may be paid in accordance with FTR para. 2-10.4c. This authority is more fully discussed in chapter 11 of this title of the Civilian Personnel Law Manual.

### Use of United States air carriers

Under 49 U.S.C. § 1517, travel to, from, and between points outside the United States is required to be performed aboard certificated United States air carriers when such service is available. This requirement is discussed at length in Title III - Travel Expenses, Civilian Personnel Law Manual.

Upon transfer to the United States from a post in Africa, an employee's family traveled by foreign air carrier from Accra, Ghana, to Frankfurt, Germany, and completed travel from Frankfurt to the United States aboard United States

## RELOCATION

air carriers. The employee is liable for the 15 percent amount by which the fare via Frankfurt exceeds the fare by the usually traveled route. Since travel via Frankfurt involved United States air carrier service for 4,182 of 7,450 miles traveled and since proper routing via Dakar would have involved travel of 4,143 of 5,610 air miles by United States air carriers, the employee is liable for the loss of United States carrier revenues computed in accordance with the formula set forth at 56 Comp. Gen. 209 (1977). 57 Comp. Gen. 76 (1977).

### Abandonment of travel

Upon completion of her tour of duty in Anchorage, an employee was issued travel orders authorizing return to her place of actual residence in the United States. While en route, the employee was notified of the illness of her daughter. She abandoned her journey and proceeded to her daughter's home in Ketchikan, Alaska. The employee is entitled to reimbursement of travel expenses incurred, including per diem, to the point of abandonment. 32 Comp. Gen. 571 (1953).

## F. TRANSPORTATION EXPENSES

### Mode of travel, generally

#### Rental car

In connection with relocation actions, employees are generally authorized travel by common carrier or POV. A shortage-category appointee who rented an automobile to travel to his first duty station may not be reimbursed his actual rental costs, but is limited to the cost of travel by common carrier, in the absence of any indication that use of a rental vehicle was authorized under FTR para. 1-2.2c(1). B-186975, March 16, 1975.

#### Air ambulance

An employee who chartered an air ambulance to transport his hospitalized son from his old duty station to his new duty station may be reimbursed the cost of charter under FTR para. 1-2.2c(4) which permits use of special conveyances under limited circumstances, since administrative approval was obtained prior to travel.

## RELOCATION

as required. B-184813, June 24, 1976. Compare B-175436, April 27, 1972.

### Travel by POV

Under FTR para. 2-2.3a, when an employee uses a POV for permanent change of station, that use is deemed to be advantageous to the Government. Since the regulation establishes the use of a POV as advantageous, an agency official does not have discretion to conclude otherwise and may not restrict reimbursement for mileage to the cost by common carrier, even where the transfer is from Panama to Florida. B-168883, April 15, 1970.

An employee authorized to travel by POV from Anchorage to Maryland incident to a permanent change of station is not entitled to reimbursement for transportation expenses for the use of two automobiles since 5 U.S.C. § 5727 provides for the transportation of only one automobile between the continental United States and a post of duty outside the continental United States. B-188391, December 16, 1977. The subject of transportation of POVs is more fully discussed in chapter 11 of this title of the Civilian Personnel Law Manual.

### Travel by more than one POV

Under FTR para. 2-2.3e, use of more than one POV may be authorized under the circumstances prescribed therein.

#### Authorization

The use of a second POV to perform change-of-station travel must be authorized or the mileage rate at which the employee may be paid will be limited to the rate payable if all persons involved traveled in one automobile. Where the employee was not authorized use of more than one POV, and where he and his wife drove separate cars to the new duty station, the employee's reimbursement is limited to the per-mile rate authorized for the employee and one family member traveling together. 48 Comp. Gen. 119 (1968), and B-178790, August 1, 1973.

Approval after the fact--Although authorization was denied for the use of two POVs to transport a family of four and their luggage incident to the employee's transfer from Kennewick, Washington, to Germantown,

## RELOCATION

Maryland, the voucher for additional mileage based on the use of a second vehicle may be certified, if administratively approved, since FTR chapter 2 permits approval of such mileage allowances subsequent to a change of station. B-181355, July 29, 1974.

### Justification

Separate travel--An employee is entitled to mileage for the use of two POVs since the use of more than one POV has been properly justified under the regulations when the separate travel resulted from delay in the completion of a new residence, assistance by the wife to the movers, and the death of the employee's mother. B-182617, February 4, 1975.

The use of three POVs was recognized to be appropriate where the third POV was necessary to permit a minor daughter to complete the school term at the old duty station. B-189489, June 7, 1970.

Large family--Incident to a change of station from Nashville to Memphis, Tennessee, an employee traveled in one POV and his wife and three children traveled in a second POV. The employee may be allowed mileage at 12 cents per mile for his family's travel and 6 cents per mile for his travel by the second automobile, since there is no reason to question the agency's determination that use of the second automobile was justified on the basis that there were more members of the family and luggage than could be reasonably transported in one vehicle. B-163939, May 8, 1968.

### Reimbursement limitation

#### Distance

Although the Rand McNally Highway Mileage Guide lists the mileage between Washington, D.C., and Portland, Oregon, as 2,866 miles, the employee claimed a mileage allowance based on a distance of 3,055 miles. The employee's mileage reimbursement is limited to the 2,866-mile distance since the mileage may not exceed that shown on the mileage tables between the authorized points of travel, in the absence of a specific showing as to the official necessity for traveling the longer distance. 26 Comp. Gen. 463 (1947).

## RELOCATION

Where the mileage tables show a distance between Ithica, New York, and Washington, D.C., the old and new station, as 304 miles, the employee may not be reimbursed on the basis of his claim for 350 miles traveled, in the absence of a statement explaining the deviation of 46 miles. B-160203, October 31, 1966, and B-175018, June 19, 1972.

### Deviations

Illness--While performing permanent-change-of-station travel between Ketchikan and Kodiak, Alaska, the employee first detoured to Whitehorse and subsequently traveled to Tok Junction to attend to the medical problems of his daughter who was traveling with him and who was ultimately hospitalized. The employee's claim for travel expenses based on the total distance he actually traveled was denied and he was reimbursed on the basis of the cost of transportation by usually traveled route between Ketchikan and Kodiak. B-175436, April 27, 1972.

Temporary duty en route--Before leaving his permanent station in Miami for temporary duty in Atlanta, the employee was aware that he would be transferred. While in Atlanta he was notified of his transfer to Washington, D.C. Under the circumstances, his travel from Miami to Atlanta and ultimately to Washington, D.C., is regarded as permanent-change-of-station travel with temporary duty en route. He is entitled to mileage at the rate for permanent-change-of-station travel for the direct distance from Miami to Washington, D.C. Any additional mileage resulting from his temporary duty is payable at the rate authorized for temporary duty travel. B-160180, October 31, 1966.

### Travel at no expense

Travel paid as military member--While in an active military duty status, a civilian employee's duty station was changed from Arizona to New Mexico. The employee was released from military duty in Kansas and was paid by the Air Force for travel from Topeka to New Mexico. The employee's mileage allowance incident to the transfer is based on the distance between Arizona and New Mexico, but since the mileage allowance he was paid by the Air Force exceeds the mileage allowance for that distance, he in fact incurred no

## RELOCATION

mileage expenses and his claim may not be allowed.  
B-173758, October 8, 1971.

Travel on leave--Incident to educational leave, for which travel expenses were not authorized, an employee traveled from his duty station in Alaska to Oklahoma at his own expense. While at the training site in Oklahoma, he was transferred to North Dakota. The employee is entitled to travel expenses from Oklahoma to North Dakota, but not for the constructive cost of travel from Alaska to North Dakota, since the Government is not obligated for expenses not incurred.  
B-184092, September 29, 1975.

### Travel to alternate location

Location selected by employee--Where an employee's dependents travel to a location other than the employee's new duty station, their travel expenses are reimbursable to the extent they do not exceed the cost of travel between the old and new stations. The same is true where the travel begins at other than the old station. See FTR para. 2-2.2.

### Travel to temporary quarters

An employee's transfer from California to Washington, D.C., was delayed after he sold his California residence. Unable to find temporary quarters at the old station, the employee's wife and children traveled to Oregon to live near relatives until arrangements could be made for permanent quarters in Washington, D.C. The family later traveled to D.C. There is no provision for payment of transportation to a temporary quarters location not at the new duty station. Transportation expenses for the family are limited to what they would have been entitled to for travel by usually traveled route from the old to the new duty station. B-169065, March 17, 1970.

### Travel to temporary duty

Upon transfer from Washington, D.C., to Denver, an employee, whose position required almost continuous temporary duty, was assigned to extended temporary duty in Indiana. Although he purchased a new residence for his family in Virginia, the

## RELOCATION

employee took his family with him to Indiana. Since the family may travel to an alternate destination, the cost of their transportation to Indiana may be reimbursed, limited to the constructive cost of travel to Denver, the new duty station. B-186185, November 15, 1976.

### Travel to separate residence

When an employee was transferred from Washington, D.C., to San Francisco, his wife and children established their residence in San Diego. The cost of the family's transportation to San Diego may be reimbursed not to exceed the constructive cost of transportation between Washington, D.C., and San Francisco. B-190330, February 23, 1978.

Authorized alternate location--An overseas employee transferred to Mississippi was authorized travel of his family to Arizona because of hurricane conditions in Mississippi. The employee is entitled to transportation of his family based on travel to Arizona, rather than to his new duty station in Mississippi, notwithstanding that the restriction on travel to Mississippi had been lifted, since suitable accommodations were still officially considered unavailable. B-170850, December 31, 1970..

### Successive transfers

Move within 2 years of first transfer--An employee was first transferred from Cheyenne to Torrington, Wyoming. Before he could relocate his family from Cheyenne, he was transferred to Casper, Wyoming. The distance between Torrington and Casper is 145 miles. The distance from Cheyenne to Casper is 197 miles. The family's travel expenses may be reimbursed on the basis of the 197-mile distance. Consistent with the rule applicable to transportation of household goods, an employee transferred twice to a third duty location before his family can relocate from the first to the second duty station is entitled to travel expenses based on the greater distance from the first to the third station. 48 Comp. Gen. 651 (1969).

Upon transfer from Arkansas to Mississippi, the employee's family remained in Arkansas. A month later he was transferred to New Mexico. The employee's

## RELOCATION

travel entitlement for himself is based on the distance from Mississippi to New Mexico, while travel expenses for the family are limited to those by usually traveled route from Arkansas to New Mexico. B-166752, July 2, 1969.

Move more than 2 years after first transfer--When an employee's family moved from its previous place of residence to his new official station--the last of two successive changes of station--after the expiration of the time limitation fixed for the first change of station, but within the time fixed for the second station change, the maximum amount of reimbursement allowable is the constructive cost of the transportation from the second station to the third station. 27 Comp. Gen. 513 (1948), and B-171110, January 28, 1971.

### Mileage rates

For cases in which permanent change of station travel is performed by POV, FTR para. 2-2.3b provides variable mileage rates based on the number of passengers in the vehicle. Those rates apply regardless of whether use of one or more than one POV is authorized.

#### Number of occupants of POV

An employee, whose family included a wife and three children, was issued travel orders authorizing reimbursement at the 10-cent mileage rate then applicable for an employee and four family members traveling together. Since the employee sent his family by air and drove the POV by himself, he is entitled to reimbursement for mileage at the 6-cent rate then applicable for an employee traveling alone. The mileage rates set by the FTR are maximums. B-188366, January 6, 1978.

An employee with a wife and four children was authorized use of two POVs at a rate of 12 cents per mile. The family members traveled three in each car. Under the regulations then in effect, when an employee and two family members occupy the automobile, or when three family members travel together, reimbursement is limited to 10 cents per mile for each car. The employee, therefore, is entitled to mileage for each car at the 10-cent mileage rate and not to the 12-cent rate specified in his orders, since the 10-cent rate is the maximum allowable. B-181842, November 20, 1974.

## RELOCATION

### Second POV not justified

An employee drove to his new duty station in November 1971. In the spring of 1972, upon completion of their terms at the same college, the employee's son and daughter drove to the new duty station, each in a separate car. Although the employee's travel order authorized the use of more than one POV, the son and daughter could have traveled together. Where the use of separate vehicles is a matter of personal convenience, reimbursement is made at the mileage rate payable as if the occupants of the two cars had traveled together. The employee is entitled to transportation expenses at the 8-cent mileage rate then in effect for two family members in one car and not 6 cents per mile for two cars. B-178790, August 1, 1973, and 48 Comp. Gen. 119 (1968).

### Distribution of passengers

An employee's 17-year-old daughter remained at the old station to complete the school term. An elder daughter stayed with her until the term was complete and the two daughters drove a third POV to the new station, pursuant to orders authorizing travel by three POVs. Their travel may be reimbursed at the 8-cents-per-mile rate for two family members traveling together, since there is no regulatory provision directing the number of people who should travel in each car. Here the second family car had transported five passengers and, in view of the younger daughter's age and a travel distance of over 1,500 miles, it was reasonable for the two daughters to travel together. B-189489, June 7, 1978.

### Travel combined with househunting

An employee authorized a house-hunting trip traveled with his wife and son to the new duty station to seek residence quarters. Because they readily located housing, they remained at the new station. For himself and his wife, the employee is entitled to reimbursement at the rate of 8 cents per mile authorized for househunting. The son's travel is to be regarded as having been performed for change-of-station purposes and, for that travel, the employee may be reimbursed an additional 2 cents per mile. B-165825, January 29, 1969.

## RELOCATION

### Employee's second trip

An employee traveled alone by POV and reported to his new duty station. He later returned to his old station and drove his two children to the new station. Since he is not entitled to a mileage allowance based on his own occupancy of the vehicle on the second trip, for that travel he may be reimbursed mileage at the rate for two family members traveling together, not at the higher rate for an employee and two family members. B-184813, June 24, 1976; B-164940, July 16, 1969; and B-172012, July 2, 1971.

### Authorization of a higher rate

Under FTR para. 2-2.3c, the head of an agency may prescribe mileage rates higher than those authorized by para. 2-2.3b under certain circumstances, including when an employee is expected to use his POV for official travel at the new station. Since mediators are expected to use their POVs for official travel, the Federal Mediation and Conciliation Service may prescribe a rate of 9 cents per mile for a mediator traveling alone to his new station in lieu of the 6-cent rate otherwise applicable. B-166150, June 9, 1969.

An employee whose travel order authorized the use of a POV at 7 cents per mile may not be paid the difference between 7 and 10 cents per mile on the basis of an administrative determination, after the travel was completed, that the rate should have been 10 cents. Since the travel order was clear, the employee's rights vested when he performed the travel and the orders may not be revoked or modified retroactively to increase or decrease rights which have become fixed under statutes and regulations, unless an error is apparent on the face of the order or an intended provision was omitted through error. B-168884, March 5, 1970.

### POV not driven

An employee was authorized the use of a POV for change of station travel. In fact, the employee traveled with his family in a rented U-Haul truck, with his automobile in tow. The employee is entitled to an appropriate allowance for the transportation of his household goods, but he may not be reimbursed the amount claimed as mileage for the

## RELOCATION

POV. The regulations require actual use of the vehicle and there is no authority for transporting a POV within the conterminous United States at Government expense. B-183974, November 14, 1975, and B-188214, May 9, 1978.

The authority for reimbursement of transportation expenses incident to an employee's change of official station, found in FTR para. 2-2.3, implicitly requires actual use of the vehicle as a prerequisite to payment of mileage. Therefore, an employee who was authorized to use two cars for permanent-change-of-station travel but who, with his family, actually traveled in one automobile and shipped the second vehicle may not be reimbursed mileage for the second car. B-176224, July 27, 1972, and B-172235, August 10, 1971.

### G. PER DIEM

#### Generally

Under FTR para. 2-2.2b, a per diem allowance may be paid for the employee's immediate family while traveling between the old and new stations. The spouse, if not accompanying the employee, is entitled to the full per diem rate payable to the employee. If accompanying the employee, the spouse's per diem rate is three-fourths of the employee's per diem. Other family members over age 12 are entitled to per diem at the three-fourths rate and those under age 12 are entitled to one-half the per diem rate for the employee.

#### Manpower-shortage appointees

A new appointee to a manpower-shortage category position is entitled to per diem in connection with his own travel but may not be paid per diem for the travel of his immediate family. Payment of per diem for the family is not authorized by 5 U.S.C. § 5723 and is specifically precluded by FTR para. 2-2.2c(1). 54 Comp. Gen. 747 (1975), and B-177565, February 9, 1973.

#### Assignments for training

Employees assigned to training may not be paid per diem for their family's travel. FTR para. 2-2.2c(i).

## RELOCATION

### Renewal or separation travel

Employees returning from assignments overseas to their places of actual residence or for renewal agreement travel may not be paid per diem for their family's travel. FTR para. 2-2.2c(1).

### Travel by POV

When travel is performed by POV, FTR para. 2-2.3d provides that the per diem allowance shall be based on the actual time to complete the trip, provided that the allowance may not exceed an amount computed on the basis of not less than 300 miles travel per day.

#### Less than 300 miles per day

An employee performing permanent-change-of-station travel from Texas to California interrupted his travel over the weekend with the result that he took 7-3/4 days to travel the distance of 1,722 miles and averaged approximately 222 miles per day. The employee is not entitled to per diem for 7-3/4 days but is limited to the per diem that he would have been entitled to if he had traveled by usually traveled route between the old and new stations at a rate of 300 miles per day. B-114826, May 7, 1974; B-175436, April 27, 1972; and B-169065, March 17, 1970.

#### More than 300 miles per day

An employee transferred from California to Georgia, traveled by way of New York and took 10 days. In fact, the employee drove at a rate considerably in excess of 300 miles per day. If he had maintained that speed and traveled direct to Georgia, the trip would have taken only 4-1/4 days. His per diem, however, is not limited to 4-1/4 days. The employee may be paid per diem for 7-1/2 days calculated on the basis of a distance of 300 miles traveled per day. B-189808, April 28, 1978.

#### Rate in excess of 300 miles specified

The agency's regulations established a minimum driving distance of 348 miles per day "except that 448 miles a day is required when most of the travel is over super-highway." Use of the higher rates is permitted by FTR

## RELOCATION

para. 2-2.3d(2) and is not unreasonable. Thus, the employee's per diem entitlement is to be determined using the 348- and 448-mile distances rather than the 300-mile minimum distance otherwise specified. B-175018, June 19, 1972.

### Leave en route

A transferred employee who took leave while en route to his new station claimed per diem on a travel voucher which stated only the date of his departure from his old station and the date of his arrival at the new station. He claimed per diem based on the distance traveled divided by 300 miles per day. Payment of per diem must be suspended since the voucher does not meet the requirements of FTR para. 1-11.5a to record the taking of leave and the exact hour of departure from and return to duty status. The requirements of that section are not waived by FTR para. 2-2.3d(2) which fixes the maximum allowance for per diem on the basis of a minimum driving distance of 300 miles per day, since that provision is for application when it appears from the properly executed and documented voucher that the traveler failed to maintain the prescribed minimum mileage. 56 Comp. Gen. 104 (1976).

### Temporary duty en route

An employee was transferred from California to Meredith, Colorado, with orientation en route at Salida, Colorado. His wife and three children accompanied him for the total distance he traveled. Travel via Salida involved 1,326 miles whereas direct travel from Meredith involved only 1,103 miles. The family's per diem may be based on the greater distance via Salida, since if they had not accompanied the employee they would have been entitled to common carrier transportation at a significantly greater cost to the Government. B-165838, January 17, 1969.

### Per diem extended

#### Common carrier delays

An employee traveling on a permanent change of station who, after relinquishing his residence, is delayed at the air terminal because of a delay in his flight may

## RELOCATION

be considered to be in a travel status during the period of delay and paid per diem for that period of delay. B-140423, September 24, 1958, and B-128953, October 2, 1956.

### Stolen passport

An employee who, while traveling from an overseas post, has his passport stolen, may be paid per diem while waiting for a special passport. B-121059, January 4, 1955.

### Sick leave

A transferred employee transported his household effects in a rented truck while his wife drove the family car, slowing its speed to that of the truck. Because of delays en route--including a cut to the employee's hand requiring stitches--the employee claimed additional per diem. The employee's per diem may be extended 1 day over the entitlement determined on the basis of 300 miles travel per day, since the employee would have been entitled to sick leave for 1 day because of his injured hand. B-176956, December 14, 1972.

### Delay to pick up POV

An employee transferred from Europe to the United States was authorized shipment of his POV at Government expense and was to pick up the POV at the port in the United States to complete permanent-change-of-station travel using that vehicle. Under the circumstances, the employee may be paid per diem for 2 days at port awaiting the delivery of his automobile. B-170850, December 31, 1970.

### Delay caused by the Government

Although the employee's family, incident to his transfer from Wake Island to Kwajalein, traveled by an indirect route and incurred additional expenses by their delay, the employee's travel voucher for an additional 15 days per diem for his family may be paid since the indirect travel and delay was caused by the Government in requiring the family to leave Wake Island before quarters in Kwajalein were available and not for the

## RELOCATION

personal convenience of the employee and his family.  
B-180736, June 18, 1974.

### Per diem not extended

#### Dependent's illness

Additional reimbursement for expenses incurred by an employee incident to a permanent change of station from Ketchikan to Kodiak, Alaska, may not be paid under FTR paras. 2-2.1 and 2-2.2 which clearly limit travel expenses and per diem to travel by the usually traveled route between the old and new official stations at the specified distance per day. There is no provision for paying additional per diem for delay occasioned by the illness and hospitalization of the employee's daughter. B-175436, April 27, 1972, and B-181573, February 27, 1975.

#### Employee's illness while on leave

A claim for \$7,560 per diem for an employee and his family was properly denied since per diem is not authorized for dependents except during change-of-station travel and the employee may not be paid additional per diem for himself during his illness since he apparently was in an annual leave status when he became ill at a point which was not on the direct route to the new station. B-178519, July 12, 1973.

#### Breakdown of truck

In traveling to his new station, an employee was delayed by the breakdown of the truck he had rented to haul his household goods. For his traveltime, including that delay, he claimed 4-1/2 days per diem. The employee's entitlement is required to be determined pursuant to FTR para. 2-2.3d(2) which sets the maximum reimbursement for per diem on the basis of a minimum driving distance of not less than 300 miles per day. Since the distance the employee traveled was 663 miles, he is only entitled to per diem for 2-1/4 days. B-190149, December 23, 1977.

#### Weekends and holidays

An employee traveling to his new official station by POV who interrupts his travel on weekends and a

## RELOCATION

holiday may be paid a per diem allowance only to the extent that the total elapsed traveltime is within the limits prescribed by regulations. The maximum per diem allowance shall be determined by dividing the total distance by 300 or more miles per day, as appropriate. B-114826, May 7, 1974, and B-175018, June 19, 1972.

### Temporary duty en route

An employee, directed to perform temporary duty en route between his old and new stations, who claimed per diem for his wife who accompanied him, is entitled to per diem for his wife not to exceed that which would have been incurred on uninterrupted travel by usually traveled route. B-163122, February 5, 1968.

### Delay to begin travel

Per diem may not be paid to a former employee while waiting at his overseas headquarters for transportation home after being separated. B-130614, May 29, 1957.

### Early arrival

Where the dependent of an employee traveled from the Canal Zone to Washington, D.C., to attend school and where Government transportation resulted in the dependent's arrival 2 days before dormitory space was available, per diem may not be allowed in excess of the time required to perform the authorized travel by the authorized mode of transportation. B-179178, March 21, 1974.

An employee scheduled to report to his new station on Monday who, because of the weekend closing of gas stations, traveled to his new station on the preceding Friday, is not entitled to per diem for the weekend spent at the new duty station prior to reporting for duty since per diem is payable only in connection with en route travel. B-186430, October 22, 1976.

### Delay to pick up POV

The Government's obligation for payment of travel costs may not be increased by payment of per diem for a period of delay at the port of debarkation awaiting arrival of

## RELOCATION

the employee's POV which was not authorized to be transported at Government expense. 29 Comp. Gen. 205 (1949).

### Rate of per diem

Since FTR para. 2-2.2b provides that the per diem which is payable to a civilian employee for his dependents traveling with him incident to a change of official station should be computed on the basis of a percentage of the per diem rate the employee would receive if traveling alone, an employee who was paid varying per diem rates while traveling with his dependents from his old to his new station is entitled to a per diem allowance for his dependents computed by using the average single rate applicable to the rooms occupied as the base upon which the dependents' per diem is calculated. 52 Comp. Gen. 34 (1972). The subject of per diem rates is dealt with more extensively in Title III - Travel Expenses, Civilian Personnel Law Manual.

### H. RELATIONSHIP TO OTHER ALLOWANCES

A civilian employee transferred at approximately the same time as her military-member spouse is entitled to mileage plus per diem for permanent-change-of-station travel for herself and her children if her transfer is in the Government's interest. However, the civilian employee may not be reimbursed a mileage allowance which duplicates payments made to the military-member spouse for travel of his dependents. 54 Comp. Gen. 892 (1975).

Even though an Air Force member whose station was changed from Adair AFS, Oregon, to Richards-Gebaur AFB, Missouri, was reimbursed dependents travel for his daughter and paid a dislocation allowance, his wife, a civilian employee who was transferred from Adair AFS to Richards-Gebaur AFB, but who traveled separately from her husband, is entitled to payment of her travel expenses to the extent they do not duplicate those of her husband. B-169819, June 26, 1970.

## RELOCATION

### CHAPTER 4

#### MISCELLANEOUS EXPENSES

##### A. AUTHORITY

###### Statutory authority

Employees who are transferred in the interest of the Government from one permanent duty station to another and are paid expenses of travel and transportation under 5 U.S.C. § 5724(a), are entitled to reimbursement for miscellaneous expenses under 5 U.S.C. § 5724a(b). That section provides for reimbursement limited to an amount not exceeding 2 weeks of an employee's basic pay if he has an immediate family, or an amount not exceeding 1 week of an employee's basic pay if he does not have an immediate family. Those amounts, however, may not exceed amounts determined from the maximum rate for grade GS-13. By virtue of 5 U.S.C. § 5724a(c), the miscellaneous expenses allowance extends to individuals reemployed at a new geographic location within 1 year after being separated due to a reduction in force or transfer of function.

###### Regulations

The regulations governing reimbursement of miscellaneous expenses are contained in FTR Part 2-3, and, as further implemented and applicable specifically to civilian employees of the DOD, are found at 2 JTR, chapter 9.

##### B. ELIGIBILITY

Refer to chapters 1 and 2, *supra*, for a more general discussion of the conditions of eligibility for reimbursement of relocation expenses, including payment of the miscellaneous expenses allowance.

###### Location of duty stations

While not entitled to real estate transaction expenses, an employee transferred from Saipan to the United States is entitled to a miscellaneous expenses allowance. The regulations do not require that the employee's old and new duty stations be located in the United States as a condition to entitlement. B-163113, June 27, 1968.

## RELOCATION

### Incident to change of official station

#### Moves between quarters locally

An employee moved from on-post Government quarters to off-post housing is not entitled to miscellaneous expenses. Although the move was ordered by the Government and was for the convenience of the Government, no permanent change of station was involved. B-171319, December 22, 1970.

#### Assignments for training

Although the miscellaneous expenses allowance is not payable incident to training assignments, an employee relocated from Washington, D.C., to Charleston, West Virginia, in connection with a rotational training program may be reimbursed miscellaneous expenses since Charleston became his new permanent duty station upon graduation. Under the circumstances, a transfer was effected. B-166681, July 9, 1969.

#### Intergovernmental Personnel Act assignments

An employee assigned to the University of Hawaii under the Intergovernmental Personnel Act (IPA) may not be paid the miscellaneous expenses allowance provided for by 5 U.S.C. § 5724a(b) because the listing at 5 U.S.C. § 3357(a) of travel expenses payable in connection with IPA assignments does not include miscellaneous expenses. The miscellaneous expenses allowance is payable only in transfer situations. B-170589, September 18, 1974, and B-185810, November 16, 1976.

An employee stationed in Kansas City, Missouri, was assigned under the IPA to Jefferson City, Missouri. At the termination of the IPA assignment, he was transferred to Dallas, Texas. Although the employee may not be paid a miscellaneous expenses allowance incident to his IPA assignment to Jefferson City, he may be reimbursed miscellaneous expenses incident to his permanent change of station from Kansas City to Dallas. B-183283, August 5, 1975.

#### Temporary duty assignments

Upon permanent change of station to Boulder, Colorado, following temporary duty at that location, an employee

## RELOCATION

may not be reimbursed a miscellaneous expenses allowance since the expenses claimed were incurred in connection with the employee's temporary duty assignment and not incident to his permanent change of station. B-152697, April 10, 1969.

### Move for personal convenience

An employee was detailed from Fort Smith, Montana, to Huron, South Dakota, from January 15 until June 30, 1967, when he was ultimately transferred to Huron. He moved his family and household goods to Elgin, North Dakota, on January 16, 1967, because his work at Fort Smith was substantially completed and the Government quarters they had occupied had to be relinquished. Since the move was made before there had been any clear expression of administrative intent to transfer the employee to Huron, it must be regarded as having been made for the convenience of the employee and not for the purpose of effecting a permanent change of station. Thus, the employee may not be paid a miscellaneous expenses allowance. B-165417, November 7, 1968, and B-161860, September 5, 1967.

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement of relocation expenses, including payment of the miscellaneous expenses allowance.

### Authorization

A miscellaneous expenses allowance is mandatory if a transfer has otherwise been authorized or approved. Thus, the absence of any specific authorization of a miscellaneous expenses allowance in a transferred employee's travel orders is not material and the employee may, nonetheless, be paid a miscellaneous expenses allowance if he otherwise qualifies. B-168754, February 26, 1970, and B-162691, November 3, 1967.

### Service agreements

The requirement that an employee execute an employment agreement in order to be eligible to receive a miscellaneous expenses allowance has no application to an employee transferred within a foreign country or within a territory

## RELOCATION

or possession of the United States outside the contiguous 48 states and the District of Columbia. Therefore, an employee transferred by his agency from one official station to another overseas prior to completing the agreed 12 months of service is entitled to a miscellaneous expenses allowance regardless of whether he signs a new service agreement. 48 Comp. Gen. 39 (1968).

### D. TIME LIMITATION

An employee transferred from Chambersburg to Philadelphia, Pennsylvania, in 1968, did not sell his Chambersburg residence and purchase a residence in Philadelphia, or move his household goods to Philadelphia until 1972. Since the real estate and transportation expenses were incurred more than 2 years after the date of the employee's transfer, they may not be reimbursed. However, he may be paid a miscellaneous expenses allowance since it may reasonably be concluded that the employee incurred some miscellaneous expenses incident to the 1968 transfer. B-178610, June 21, 1973.

### E. DISCONTINUANCE AND ESTABLISHMENT OF RESIDENCE

An employee had been temporarily stationed in San Francisco for 1 year when he received notice that his permanent station was changed from Washington, D.C., to San Francisco. He is not entitled to a miscellaneous expenses allowance since eligibility is conditioned on the discontinuance and establishment of a permanent residence. The record shows that the employee had no residence in Washington and that for a considerable time prior to and after the date of his transfer, he continued to reside at the same address in San Francisco. B-176531, March 12, 1973.

### Retransfer

An employee initially transferred from Nashville to Memphis, Tennessee, was transferred back to Nashville before his household goods were transported or his family joined him. He may not be paid a miscellaneous expenses allowance because he did not discontinue and relocate his permanent residence and there are no facts to indicate that he incurred any of the miscellaneous expenses normally associated with relocating a residence. B-162492, October 6, 1967, and B-162500, October 19, 1967.

## RELOCATION

### Separate residence of family

#### Family remains at old station

An employee who transferred from Johnstown to Clearfield, Pennsylvania, is entitled to a \$100 miscellaneous expenses allowance for an employee without family even though his wife remained at the old duty station in his former residence and notwithstanding that he continued to receive mail at the old residence. The record shows he established a new residence in Clearfield. Upon his subsequent transfer back to Johnstown, the employee is entitled to a \$100 miscellaneous expenses allowance even though he returned to his old residence. B-187874, May 31, 1977.

#### Family discontinues residence

An employee, transferred effective April 9, 1973, moved his family to the vicinity of his new duty station on November 28, 1974. On November 30, 1974, the employee's family returned to and remained at his former duty station. The employee is entitled to a miscellaneous expenses allowance at the with-family rate of \$200 since the family discontinued and established a residence incident to the transfer. There is no requirement that the family's new residence be the same as the employee's or that it be at the new duty station. B-184558, August 12, 1976.

### Exceptions

#### Transfer precludes residency

An employee who was in the process of purchasing a residence at his old duty station at the time of transfer may be reimbursed the deposit he forfeited as a miscellaneous expense notwithstanding that the house was not the employee's dwelling at the time he was notified of transfer. The occupancy requirement does not preclude payment of miscellaneous expenses where the action of the Government in transferring the employee in its own interest precludes his occupancy. B-180377, August 8, 1974.

#### Retransfer precludes residency

An employee transferred from Hawaii to Washington,

## RELOCATION

D.C., in June 1967 and subsequently transferred to Louisiana in July 1967 was paid a miscellaneous expenses allowance in connection with his transfer to Louisiana. He may also be reimbursed miscellaneous expenses in connection with his transfer to Washington, D.C., on the reasonable assumption that he would have permanently relocated his residence in Washington had he not been transferred to Louisiana. B-165521, November 19, 1968.

### F. DETERMINING AMOUNT OF REIMBURSEMENT

An employee without immediate family is entitled to a minimum miscellaneous expenses allowance of \$100 or 1 weeks basic pay, whichever is less. The maximum allowance which he may be paid is limited to an amount equal to the employee's basic pay for 1 week. An employee with immediate family is entitled to a minimum miscellaneous expenses allowance of \$200 or 2 weeks basic pay, whichever is less. The maximum allowance which he may be paid is limited to an amount equal to the employee's basic pay for 2 weeks.

#### With- or without-family rate

##### Employees without immediate family

Marriage after transfer--An employee who married after he reported to his new duty station may not be paid a \$200 miscellaneous expenses allowance since the regulations restrict the definition of "immediate family" to certain-named members of the employee's household (including spouse) at the time he reports for duty at his new permanent station. Since the employee did not have a spouse at the time he reported to his new duty station, he is entitled to a miscellaneous expenses allowance at the without-family rate of \$100. B-165020, September 9, 1968.

Employee rejoins family--Where an employee's dependents traveled from Alaska to Oklahoma in 1966 the employee is entitled to a miscellaneous expenses allowance of \$100 as an employee without immediate family upon his transfer to Oklahoma in 1967, since the employee merely joined his family at their previously established home. B-164948, October 18, 1968, and B-162821, May 1, 1968.

## RELOCATION

Family remains at old residence--When the employee was transferred from Selma, Alabama, to Amory, Mississippi, his family remained in their Selma residence. Since the employee's dependents did not move from Selma, the employee is entitled to the \$100 miscellaneous expenses allowance authorized for employees without immediate family. B-171685, February 22, 1971; B-187874, May 31, 1977; and B-164320, June 27, 1968.

### Employees with immediate family

Delayed move of family--Where an employee's dependents did not accompany him to his new duty station at the date of transfer but moved to the new duty station within the 2-year period allowed for beginning travel and transportation, the employee may be paid the \$200 miscellaneous expenses allowance for employees with immediate family rather than the \$100 miscellaneous expenses allowance originally paid since it may reasonably be concluded that further miscellaneous expenses were incurred in connection with the family's move. B-187519, January 26, 1977, and B-181611, December 26, 1974.

Separate residence of family--Incident to his transfer, an employee moved his family to his new duty station. They stayed only 2 days before returning to their residence at the employee's old duty station. The employee is entitled to a miscellaneous expenses allowance at the with-family rate since the employee's family discontinued and established a residence incident to the employee's transfer. There is no requirement that the family's new residence be the same as the employee's or that it be at the new duty station. B-184558, August 12, 1976.

### Reimbursement of minimum allowance

#### Requirement that expenses be incurred

An employee who claimed miscellaneous expenses totaling \$378.68, of which only \$62.67 was expended for allowable items of miscellaneous expenses, may be paid the \$200 allowance since an employee with immediate family is entitled to \$200 as long as some expense is incurred. B-163650, March 26, 1968; B-169555, July 2, 1970; and B-161042, March 28, 1967.

## RELOCATION

Presumption--An employee transferred from Pennsylvania to New Jersey resided in Government quarters while his family remained at their Pennsylvania residence. The employee may not be paid a miscellaneous expenses allowance even though it is generally assumed that an employee changes residence from one location to another incurs miscellaneous expenses of the type authorized, since the record indicates that the employee did not incur the expenses normally associated with a transfer. B-164137, June 26, 1968.

No expenses incurred--Incident to his transfer from Lansing to Detroit, Michigan, a single employee moved nothing but six suitcases to his new duty station. The employee's claim for a \$100 miscellaneous expenses allowance was denied since there was no evidence that he incurred any expenses falling under the category of miscellaneous expenses as defined in the regulations. The regulations require that some expense--no matter how small--be incurred before a miscellaneous expenses allowance may be paid. B-163632, April 9, 1968, and B-168284, December 2, 1969.

### No receipts or itemization

Incident to a permanent change of station an employee with immediate family is entitled to a \$200 miscellaneous expenses allowance regardless of his failure to submit receipts or the fact that he may have expended a lesser amount since receipts or itemization are not required in order for an employee to receive the minimum miscellaneous expenses allowance. B-161304, May 4, 1967. A claim for the minimum miscellaneous expenses allowance may be allowed without specific support or express approval. B-161562, November 2, 1967.

### No discretion to reduce minimum allowance

Department of Defense employees who transfer from Government quarters at one official overseas duty station to Government quarters at another and who, therefore, do not incur many of the expenses for which the miscellaneous expenses allowance is intended are nonetheless entitled to the full allowance because an agency does not have the authority to deny payment of the amount allowed on the basis that the actual expenses incurred by an employee are less than the \$100

## RELOCATION

or \$200 allowance specified. B-162691, November 3, 1967; B-161240, June 20, 1967; and B-159281, April 22, 1969.

### No discretion to increase minimum allowance

In the absence of documentation of actual expenses, an employee may not be paid a miscellaneous expenses allowance of \$500 based on worksheets estimating that he would incur \$500 of miscellaneous expenses incident to his transfer. This figure was a mere estimate and did not create an entitlement in the employee to reimbursement of miscellaneous expenses except as provided by statute and regulation. 55 Comp. Gen. 1251 (1976).

### Reimbursement of maximum allowance

#### Generally

An employee who was transferred from Fort Worth, Texas, to New Orleans, Louisiana, is entitled to \$71.26 in addition to the standard \$200 already paid for miscellaneous expenses incurred in connection with his transfer upon his submission of proof that he paid \$271.76 for automobile registration, license, and taxes. B-173365, September 3, 1971, and 54 Comp. Gen. 335 (1974).

Employee with family--An employee with immediate family who has received a \$200 miscellaneous expenses allowance may not receive further reimbursement unless documentation is provided for all expenses. B-174648, January 18, 1972, and B-173365, September 3, 1971.

Employee without family--An employee without immediate family is entitled to an allowance for actual miscellaneous expenses if he can present acceptable evidence justifying the expenses claimed, provided that the aggregate miscellaneous expenses allowance may not exceed 1 weeks basic pay. B-183598, November 11, 1975.

#### Documentation required

Miscellaneous expenses in excess of the \$100 or \$200 minimum allowance may be paid only if supported by an acceptable statement of fact or if paid bills justify the greater allowance. B-169392, June 25, 1970. The necessary documentation may consist of actual

## RELOCATION

receipts, cancelled checks, or tradesman's estimates. B-184229, September 2, 1975, and B-162320, September 18, 1967.

### Determining maximum amount

The aggregate amount which an employee may be reimbursed for miscellaneous expenses actually incurred may not exceed the employee's basic salary rate (for 1 week if without family and 2 weeks if with family) in effect at the date the employee reports for duty at his new station. B-173365, September 3, 1971, and 54 Comp. Gen. 335 (1974).

### One allowance per transfer

#### Single transfer

When an employee changed permanent duty stations and it was necessary to transport his own mobile home and that of his dependent mother-in-law, he is only entitled to one \$200 miscellaneous expenses allowance, since there was only one change of permanent duty station involved. 54 Comp. Gen. 335 (1974).

#### Multiple transfers

An employee who was in the process of purchasing a new residence incident to his first transfer was prevented from completing the purchase transaction because of a second transfer. The employee may have the purchase deposit which he forfeited included in the miscellaneous expenses allowance to which he is entitled incident to the two transfers and he would be entitled to the maximum miscellaneous expenses allowance for each transfer not to exceed the actual miscellaneous expenses he incurred. 55 Comp. Gen. 628 (1976) and B-165521, November 19, 1968. Compare B-166752, July 2, 1969, allowing only one miscellaneous expenses allowance where the employee was transferred twice but relocated his residence only once.

## RELOCATION

### G. REIMBURSABLE EXPENSES

#### Alterations to old furnishings

##### Cutting and fitting rugs

The cost of cutting old carpets and fitting them to the employee's new residence is reimbursable as a miscellaneous expense. 55 Comp. Gen. 1251 (1976); B-185024, October 22, 1976; and B-167047, July 10, 1969.

##### Altering draperies

The cost of remaking draperies used in the employee's former residence to fit in his new residence is reimbursable as a miscellaneous expense. 55 Comp. Gen. 1251 (1976); B-163449, June 11, 1969; and B-168582, January 19, 1970.

#### Adjustments to old furnishings

##### Grandfather clock

A fee incurred for leveling and adjusting a grandfather clock, in order for the clock to operate properly, is an allowable miscellaneous expense. B-183789, January 23, 1976.

##### Piano tuning

A fee for tuning a piano upon its installation in the employee's new residence is reimbursable as a miscellaneous expense. B-190815, March 27, 1978.

##### Washing cycle check

The cost of a washing cycle check upon installation of an employee's washing machine in his new residence is reimbursable as a miscellaneous expense. B-168582, January 19, 1970.

#### Disconnection and connection

Costs associated with disconnecting and connecting appliances, equipment, and utilities are reimbursable as items of miscellaneous expense.

## RELOCATION

### Appliances

Washing machines--The cost of connecting a washing machine is reimbursable as a miscellaneous expense. B-163449, March 14, 1968.

Antenna--The cost of connecting an antenna system is reimbursable as a miscellaneous expense. B-174542, February 25, 1972.

### Utilities

Transformer--An employee may be reimbursed for the cost of transformers necessary to accommodate 110 volt electrical equipment. B-184352, June 14, 1976.

Telephones--The cost of connecting telephone service to replace the service in the employee's old residence is reimbursable as a miscellaneous expense. B-168582, January 19, 1970; B-165745, February 11, 1967; and B-170589, November 13, 1970.

### Equipment

Pictures and mirrors--Amounts expended for installation of pictures and mirrors may be reimbursed as a miscellaneous expense. B-174542, February 25, 1972.

### Utility fees and deposits

#### Buried wire charge

A buried wire charge assessed by a telephone company in a neighborhood serviced by underground utilities is reimbursable since it is a necessarily incurred utility fee or deposit not offset by eventual refund. B-183792, August 4, 1975.

### Real estate related expenses

#### Fee to locate housing

An employee transferred to New York City paid a realty company a fee to locate suitable rental housing after his own efforts to locate housing failed. The fee may be reimbursed as a miscellaneous expense since it is an established practice in New York to pay such a fee

## RELOCATION

to locate housing. B-177395, March 27, 1973, and B-169335, May 22, 1970.

### Telephone calls and telegrams

Costs of telephone calls and telegrams concerning otherwise allowable expenses may be reimbursed as part of the miscellaneous expenses allowance. Thus, an employee may be reimbursed for long-distance telephone calls made in connection with the sale of his residence at his old duty station. B-185160, January 2, 1976; B-189140, November 17, 1976; and B-163107, May 18, 1973.

### Forfeited deposits

Forfeited purchase deposit--An employee who was in the process of purchasing a residence at his old duty station at the time he was notified of transfer and who was prevented from completing the purchase by his transfer date may be reimbursed the purchase deposit which he forfeited as a miscellaneous expense. B-190764, April 14, 1978. Where an employee was in the process of purchasing a residence at his new duty station incident to his first transfer and was prevented from completing the purchase transaction because he was retransferred, the purchase deposit which he forfeited may be included and reimbursed as a miscellaneous expense incident to both transfers. 55 Comp. Gen. 628 (1976), and B-182929, November 26, 1975.

Forfeited lease-purchase deposit--An employee was transferred after entering into a lease-purchase contract whereby he agreed to pay \$295 per month and deposited \$1,500 for the right to occupy and purchase a residence. The amount of the deposit forfeited because of the employee's transfer may be reimbursed as a miscellaneous expense. B-177595, March 2, 1973.

Forfeited lease deposit--An employee made a \$150 deposit on an apartment in Chicago, but was transferred before signing a lease and occupying the apartment. Although the forfeited deposit is not reimbursable as a lease termination expense, it may be reimbursed as a miscellaneous expense. B-170632, September 10, 1970.

## RELOCATION

### Mobile home related expenses

A transferred employee who purchases a mobile home for use as a residence at his new station may be reimbursed miscellaneous expenses normally associated with relocation of mobile homes. 55 Comp. Gen. 228 (1975), and B-183598, November 11, 1975.

#### Preparation for movement

Costs of preparing the employee's mobile home for shipment and of reassembling it at the new duty station may be reimbursed as miscellaneous expenses. B-186711, January 31, 1978.

Oversized mobile home--The cost of separating an oversized trailer into two sections for shipment may be reimbursed as a miscellaneous expense. B-168109, November 14, 1969.

Portable room handling--Costs of dismantling and reassembling a portable room appended to a trailer may be reimbursed as part of the miscellaneous expenses allowance since no structural alteration or improvement was involved. B-166247, March 13, 1969.

#### Use taxes

An employee transferred from Utah to California who purchased a mobile home to use as his new residence may have a use tax imposed by the state of California as a prerequisite to registration of a mobile home included as part of the miscellaneous expenses allowance. 47 Comp. Gen. 687 (1968).

#### Weight certificates

An employee transferred to Alaska who moved his mobile home to his new duty station may, depending on the nature of the certificate, have the cost of an Alaska state certificate of weights and measures reimbursed as a miscellaneous expense. B-186256, November 17, 1976.

## RELOCATION

### Automobile related expenses

#### Automobile registration

The cost of registering all of the employee's family's automobiles may be reimbursed as a miscellaneous expense. B-184908, May 26, 1976; B-165745, February 11, 1969; and B-165521, November 19, 1968.

#### Title fees

Title fees assessed upon bringing the employee's automobile to his new station may be reimbursed as a miscellaneous expense. B-168582, January 19, 1970; B-165745, February 11, 1969; and B-182198, January 13, 1975.

#### Inspection fees

An employee may be reimbursed fees assessed for inspection of all of his family's automobiles as a miscellaneous expense. B-184908, May 26, 1976, and B-168582, January 19, 1970.

#### Tags and license plates

The cost of automobile tags and license plates may be reimbursed as a miscellaneous expense. B-184594, February 12, 1976, and B-168582, January 19, 1970.

#### Automobile taxes

Automobile-related taxes, including use taxes and excise taxes may be reimbursed as part of the miscellaneous expenses allowance. B-165521, November 19, 1968; B-168582, January 19, 1970; and B-165745, February 11, 1969.

#### Driver's license

The expense of obtaining driver's licenses for the employee and his family members may be reimbursed as part of the miscellaneous expenses allowance. B-184908, May 26, 1976, and B-184594, February 12, 1976.

## RELOCATION

### Driver's training

A transferred employee's son was compelled to take a Virginia driver's education course, although he was licensed in Ohio, because Virginia refused to recognize the Ohio driver's education course. Since the son was already licensed in Ohio the expenses incurred in attending the Virginia driver's education course may be regarded as a part of the cost of obtaining a new driver's license and may be reimbursed as a miscellaneous expense. B-178070, April 6, 1973.

### Pollution-control device

An employee transferred to California may be reimbursed the cost of installing a pollution-control device in his automobile. Since California requires the installation and certification of a pollution-control device on automobiles previously registered out of state prior to their registration in California, installation may properly be regarded as a necessary cost of automobile registration. 56 Comp. Gen. 53 (1976).

## Licenses

### Radio license

A transferred employee may be reimbursed the cost of an amateur radio license transfer as part of the miscellaneous expenses allowance. B-163107, May 18, 1973.

### Dog license

A transferred employee may be reimbursed the \$3 cost of a dog license fee paid at his new duty station as part of the miscellaneous expenses allowance. B-170589, November 13, 1970.

### Dental contract losses

Prior to his transfer an employee paid for orthodontistry services for his two sons under a contract which would have provided for their complete treatment at the old duty station. As a result of the transfer, however, it was necessary for the employee to obtain a contract at his new duty station for completion of orthodontic work for one son.

## RELOCATION

The amount forfeited under the original contract may be reimbursed as a miscellaneous expense. The amount forfeited should be determined on a "degree of completion" basis--not on the cost of the completion contract. 56 Comp. Gen. 53 (1976), and B-185048, November 1, 1976.

### H. NONREIMBURSABLE EXPENSES

#### New items

Reimbursement for new items under the miscellaneous expenses allowance is specifically precluded. 55 Comp. Gen. 1251 (1976).

#### New rugs

The cost of purchasing new rugs may not be reimbursed as a miscellaneous expense. 55 Comp. Gen. 1251 (1976). The cost of new carpet padding, similarly, is not a reimbursable miscellaneous expense. B-167047, July 10, 1969. The cost of cutting and fitting new rugs purchased for new quarters is not reimbursable as a miscellaneous expense. B-163835, July 9, 1968.

#### New draperies

The cost of purchasing new draperies is not reimbursable as a miscellaneous expense since the regulations do not contemplate underwriting the employee's expenses of purchasing new furnishings for his new residence. B-167047, July 10, 1969, and B-162503, October 13, 1967. The cost of purchasing new curtain rods is not a reimbursable miscellaneous expense. B-165745, February 11, 1969.

#### New furniture

The cost of new clocks may not be reimbursed as a miscellaneous expense. B-184352, June 14, 1976.

#### New appliances

Even though a transferred employee cannot convert his gas appliances for use on utilities available at his new residence, the cost of purchasing new electric appliances is not reimbursable as a miscellaneous expense. The employee may not be reimbursed for installing the new appliances. B-182139, March 5, 1973.

## RELOCATION

### New clothing

An employee's transfer from Okinawa to Texas was delayed by the Army while he was on leave in Michigan. During the period of delay the employee purchased new clothing. The cost of the new clothing purchased may not be reimbursed as a miscellaneous expense. B-185638, February 28, 1977.

### Replacement items

A transferred employee may not be reimbursed \$125 for replacing the garbage disposal in the residence he sold at his former duty station since the cost of replacing worn out or defective appliances is not reimbursable as a part of the miscellaneous expenses allowance. B-189295, August 16, 1977.

### Structural changes

#### Wiring

Washer and dryer--The cost of electrical wiring to accommodate a washer and dryer is not reimbursable as a miscellaneous expense since it is a cost of structural alteration. B-172333, April 23, 1971, and B-163449, March 4, 1968.

Air conditioner--A fee for installation of electrical wiring to accommodate an air conditioner may not be reimbursed as a miscellaneous expense since the installation involves a structural change. B-164111, June 10, 1968, and B-173572, August 23, 1971.

#### Plumbing

Washing machine--Installation of plumbing to accommodate a washing machine involves a structural alteration. The installation fee, therefore, constitutes a cost of remodeling and is not reimbursable as a miscellaneous expense. B-172333, April 23, 1971, and B-163449, March 4, 1968.

Ice maker--A charge for hooking up an ice maker is not a reimbursable miscellaneous expense since it involves a structural alteration. B-186435, October 13, 1977.

## RELOCATION

Water softener--A service charge for connecting a water softener unit, involving plumbing modification, is a charge for a structural alteration that may not be included as a miscellaneous expense. B-164111, June 10, 1968, and B-170589, November 13, 1970.

### Remodeling

A charge for venting a clothes dryer in the employee's new residence is a charge for remodeling. Since it involves a structural alteration it is not reimbursable as a miscellaneous expense. B-164111, June 10, 1968.

### Cleaning

A transferred employee is not entitled to reimbursement for expenses incurred for carpet and drapery cleaning and furniture touch-up since those expenses represent regular household maintenance costs which are not inherent in relocating a place of residence and, therefore, are not allowable under the miscellaneous expenses regulations. B-190815, March 27, 1978, and B-162320, September 18, 1967.

### Repairs

A transferred employee may not be reimbursed for the cost of adjusting television color controls knocked out of focus by the movers since the regulations specifically preclude the use of the miscellaneous expenses allowance to reimburse an employee for the cost of loss or damage to household goods while in transit to the new official station. B-178228, June 5, 1973, and B-165745, February 11, 1973.

### Real estate related expenses

#### Flea inspection and extermination

A transferred employee may not be reimbursed for a charge for exterminating fleas or inspection of his new residence as part of the miscellaneous expenses allowance since they are not required services customarily paid for by the purchaser and the miscellaneous expenses allowance may not be used to reimburse employees for expenses disallowed under other parts of the FTR. B-184594, February 12, 1976.

## RELOCATION

### Fee in the nature of rent

A transferred employee may not be reimbursed a fee for holding new permanent quarters available until he could occupy them since the fee is in the nature of rent and is thus not for allowance as a miscellaneous expense. B-171808, March 31, 1971.

### Mobile home related expenses

#### New items

Base skirting--A transferred employee purchased skirting for his mobile home to prevent the freezing of water pipes and connections. The cost of the skirting is not reimbursable as a miscellaneous expense since the skirting is a newly acquired item. B-183809, October 3, 1975; B-172536.03, July 23, 1975; and B-176476, August 21, 1972.

Tires--The cost of purchasing tires for the employee's mobile home is not reimbursable as a miscellaneous expense. B-183195, June 1, 1976.

#### Structural changes

An employee transferred from Arizona to Nebraska was required to equip his house trailer with an extra axle in order to comply with Nebraska law. Since the expenditure was for a structural change it is not reimbursable as a miscellaneous expense. 48 Comp. Gen. 226 (1968), and B-136256, November 17, 1976.

#### Rent

A transferred employee who had his mobile home moved may not be reimbursed for a non-returnable entrance fee paid to secure space in a mobile home park since it is in the nature of rent and, therefore, not authorized under the miscellaneous expenses allowance. B-184744, May 14, 1976, and B-164057, October 3, 1968.

#### Storage

The cost of storing a mobile home transported to the employee's new duty station is not reimbursable as a miscellaneous expense. B-184908, May 26, 1976.

## RELOCATION

### Automobile related expenses

#### New items

Tires--An employee transferred to Baltimore may not be reimbursed the cost of two snow tires, even though the use of snow tires in Baltimore is sometimes required by law, since the miscellaneous expenses allowance was not intended to cover the cost of personal property purchased by the employee incident to a change in his official station. B-161785, July 10, 1967.

Tow bar--A transferred employee may not be reimbursed for the cost of a tow bar purchased to tow the family's second car to his new station. B-183195, June 1, 1976.

#### Repairs

The cost of replacing an automobile muffler to prepare the employee's car for inspection at his new duty station is not a reimbursable miscellaneous expense. It is to be distinguished from allowable vehicle inspection and registration fees. B-163107, May 18, 1973.

### Other than initial expenses

An employee who was transferred to a permanent duty station in the Canal Zone effective October 9, 1973, claimed reimbursement for the cost of 1974 Panama license plates and a 1974 driver's license for his wife. Since the FTR limits reimbursement to initial fees upon relocation, an employee is not entitled to reimbursement for expenses incurred after his new residence has been established. B-186435, October 13, 1977.

A transferred employee, who was paid a \$200 miscellaneous expenses allowance at the time he moved into an apartment leased for a year, may not be reimbursed for the amount of a security deposit he lost when he moved into a new house at the end of 10 months or for the cost of cutting and fitting rugs. His move into the apartment is regarded as a move into permanent quarters and there is no basis for allowing additional miscellaneous expenses for moving into the house he later purchased. B-173326, October 27, 1971.

## RELOCATION

### Transportation expenses

#### Personal travel

An employee transferred to Panama City may not be reimbursed for taxi fares for his wife who preferred not to drive. Under the miscellaneous expenses allowance the use of a taxi in Panama City was a matter of personal preference and there is no authority for reimbursement of such transportation expenses. B-186435, October 13, 1977, and B-162503, October 13, 1967.

#### Rental of U-Haul

The cost of renting a U-Haul trailer to transport a storage shed and air conditioner that could not be transported in the employee's mobile home is not reimbursable as a miscellaneous expense. B-184744, May 14, 1976.

### Boarding of children

Expenses incurred by a transferred employee for boarding his children while he and his wife were on a house-hunting trip are not within the purview of the miscellaneous expenses allowance. B-167193, September 3, 1969, and B-180623, August 14, 1974.

### Tuition payments

A transferred employee who withdrew from academic courses because he was transferred mid-quarter may not be reimbursed for the amount he was required to repay to the Veterans Administration since such expenses are not among those contemplated by the miscellaneous expenses allowance. B-186346, January 3, 1977, and B-162828, November 16, 1967.

### Postal expenses

#### Postage stamps

A transferred employee's claim for reimbursement of the cost of postage stamps used to notify periodical publishers and creditors of his change of address is not allowable because the expense is considered to have been incurred for reasons of personal taste or preference. B-183789, January 23, 1976.

## RELOCATION

### Post office box rental

A transferred employee was required to rent a post office box at his new permanent duty station since he was occupying one of the first houses of a new subdivision to which the Postal Service had not extended delivery. The fee for rental of a post office box is not reimbursable as a miscellaneous expense. B-163107, May 18, 1973, and B-184908, May 26, 1976.

### Membership fees

A YMCA membership fee does not fall within the purview of expenses reimbursable under the miscellaneous expenses allowance. B-171808, March 31, 1971.

## I. RELATIONSHIP TO OTHER ALLOWANCES

### Spouse's dislocation allowance

An employee was transferred at approximately the same time as her military-member husband, who received a dislocation allowance. Payment of the miscellaneous expenses allowance to the employee would be considered a duplicate payment of permanent change of station allowances if the employee and her member husband reside in the same household. Such payment would not be duplicative if they maintained separate households. 54 Comp. Gen. 892 (1975).

## RELOCATION

### CHAPTER 5

#### TRAVEL TO SEEK RESIDENCE QUARTERS

##### A. AUTHORITIES

###### Statutory authority

Under 5 U.S.C. § 5724a(a)(2) funds are made available to pay expenses of per diem and transportation for the employee and his or her spouse for one trip to seek permanent residence quarters at the new official station when both the old and new stations are located within the continental United States.

###### Regulations

The regulations implementing 5 U.S.C. § 5724a(a)(2) are contained at FTR Part 2-4 and, as further implemented and applicable specifically to civilian employees of the DOD, are found at 2 JTR para. C4107.

##### B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a more general discussion of the conditions of eligibility for reimbursement of relocation expenses, including reimbursement for travel to seek residence quarters.

###### Location of duty stations

###### Both in continental United States

An employee ordered to transfer from Fairbanks, Alaska, to Washington, D.C., with delay en route for training in Michigan, upon completion of transfer to Washington, D.C., will be entitled to those relocation allowances authorized in cases of transfers from Alaska to the continental United States. His entitlements do not include an advance house-hunting trip since 5 U.S.C. § 5724a(a)(2) requires that both the old and new stations be within the continental United States to permit authorization of a trip to seek residence quarters. 52 Comp. Gen. 834 (1973).

###### More than 75 miles apart

The claim of an employee for house-hunting trip

## RELOCATION

expenses for travel between Chicago and Fort Sheridan may not be allowed in view of the regulatory provision prohibiting agencies from authorizing house-hunting trip expenses when the map distance between the old and new stations is less than 75 miles. B-163491, February 27, 1968, and FTR para. 2-4.1c(4).

### Incident to change of official station

#### New appointees

The law and regulations do not authorize payments for round-trip travel to an individual's first duty station to seek suitable housing. B-162215, September 6, 1967, and FTR para. 2-4.3b.

#### Assignments for training

FTR para. 2-4.3b prohibits authorization of house-hunting trips for employees assigned under the Government Employees Training Act or their spouses.

### Assignment to Government quarters

An employee transferred and assigned to Government quarters at Fort Irwin, California, terminated his employment 2 weeks after transfer in violation of the transportation agreement he had signed. In justification for the breach the employee argued that he had been denied an orientation visit. The lack of an orientation visit may not serve as a basis for payment of transfer expenses that are otherwise prohibited. Moreover, the regulations implementing 5 U.S.C. § 5724a(a)(2) provide that reimbursement for trips for seeking residence quarters shall not be authorized when the employee will be assigned to Government quarters at the new duty station. B-164200, May 24, 1968, and FTR para. 2-4.1c(1).

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement of relocation expense, including reimbursement for travel to seek residence quarters.

## RELOCATION

### Agreement to transfer

#### Trip before accepting transfer

An employee who made a trip to Coulee Dam before accepting a transfer from Montana may not be reimbursed expenses of travel as house-hunting trip expenses. The travel authorizations issued made no mention of a trip to seek residence quarters and the trip appears to have been made for the purpose of surveying the housing market at Coulee Dam prior to the employee making up his mind to accept the offered position at that location. B-162955, January 17, 1968. See also FTR para. 2-4.3 providing that a house-hunting trip shall not be authorized to permit an employee to decide whether he will accept the transfer.

#### Refusal to transfer

Where an employee accepts a transfer, makes a house-hunting trip to the new duty station, and subsequently declines to complete the change of station as a result of information about the position gained while on the house-hunting trip, the employee may not be reimbursed amounts expended for travel incident to such trip. B-183563, February 8, 1978.

### Authorization

FTR para. 2-4.3c provides that a trip for finding residence quarters shall not be made at Government expense unless a travel order has been issued which includes authorization for a roundtrip, specifies the date for reporting at the new official station, and indicates that the employee has signed the required agreement.

#### Administrative discretion

There is no authority to reimburse an employee for the cost of a house-hunting trip where nothing in the record shows that a house-hunting trip was authorized and where the box entitled "Living Quarters Locating Trip" contained in the employee's travel orders was marked "No." The regulations provide for administrative discretion in authorizing house-hunting trips and such discretion is to be exercised to avoid the

## RELOCATION

employee's incurrence of unnecessary expenses. 48 Comp. Gen. 115 (1968).

### Advance authorization required

Erroneous advice--On the basis of erroneous advice that he could be paid a temporary quarters subsistence expenses allowance for rental of his former residence from the purchaser, an employee elected to receive temporary quarters and did not request authorization for a house-hunting trip. Notwithstanding this erroneous advice, the employee may not be reimbursed house-hunting trip expenses. In the absence of authorization prior to performance of the trip by an official vested with the authority to grant such authorization, house-hunting expenses may not be reimbursed. B-185532, September 2, 1976.

Lack of knowledge of regulations--Although house-hunting expenses were not authorized in his travel order because the appropriate agency official was unfamiliar with applicable regulations, an Army employee who made a house-hunting trip incident to transfer may not be reimbursed expenses of a trip to seek residence quarters. The employee is not entitled to reimbursement for expenses incurred based upon post-approval of the trip by his agency since the trip was not authorized in advance and there was no administrative error in the travel order permitting its amendment. B-182508, June 3, 1975.

After-the-fact determination of benefit--An employee who located a new residence while on temporary duty at the location of the duty station to which he was thereafter transferred, thus shortening the period of his occupancy of temporary quarters, may not be reimbursed for the cost of his wife's accompanying him on the temporary duty trip as a house-hunting expense in the absence of advance authorization. Subsequent authorization for a house-hunting trip, given on the basis of an after-the-fact determination that authorization of such expenses would have resulted in reduced cost to the Government, furnishes no basis for payment. B-185511, March 3, 1976, and B-166977, June 18, 1969.

## RELOCATION

### Exceptions

Administrative error--House-hunting expenses have been allowed notwithstanding lack of prior written authorization where the lack of proper authorization was the result of an administrative error. Administrative errors which can be retroactively corrected by subsequent authorization of house-hunting trips are those in which the failure of advance authorization does not comport with the specific intent of the appropriate authorizing officials to authorize a house-hunting trip. B-179449, November 26, 1973; B-182508, June 3, 1975; and B-187673, November 21, 1977.

Where the travel order issued to an employee did not authorize a house-hunting trip because the employee requested temporary quarters subsistence expenses instead based on his understanding that his agency would not pay both such allowances, the employee may not be paid expenses of a trip to seek residence quarters since a house-hunting trip was not authorized in advance. Administrative errors in omission of authorization from travel orders which can be retroactively corrected are those which relate to the failure to follow the specific intent of the authorizing official to grant prior authorization and, since a house-hunting trip was not requested by the employee, the authorizing official could form no intent to authorize a house-hunting trip. B-188350, June 3, 1977; B-185532, September 21, 1976. Also see B-182508, June 3, 1975, denying house-hunting trip expenses for lack of prior authorization and finding no administrative error where agency officials were not aware of their authority to authorize house-hunting trips and, therefore, could not form specific intent with respect to advance authorization. The failure to timely process an employee's request for advance approval does not constitute administrative error. B-166977, June 18, 1969.

Affirmation of informal approval--The requirement for advance written authorization has been held less than absolute where a subsequent written authorization is merely an affirmation of advance verbal or other informal authority granted by an official properly vested with authority to grant entitlement to a house-hunting trip. Thus, an employee who traveled to her new duty station for a conference regarding her move

## RELOCATION

and to survey the area's housing situation, but without prior written authorization, may be reimbursed expenses claimed for a house-hunting trip since she was orally authorized to perform the trip in advance by an authorized official and that oral authorization was later affirmed by the written authorization of a properly authorized official. B-175938, November 16, 1972, and B-170329, October 19, 1970. Compare B-179449, November 26, 1973, and B-181260, September 20, 1974, denying house-hunting trip expenses in the absence of advance authorization where the official who induced the employee to perform travel to seek residence quarters did not have authority to approve house-hunting trips.

### Service agreement

An employee who traveled to his new duty station in advance of signing the required employment agreement for the purpose of locating residence quarters may not be reimbursed travel expenses for such trip. B-181260, September 20, 1974. Compare B-167919, October 29, 1969, permitting payment of expenses of a house-hunting trip taken before signing the required agreement where the employee's failure to sign the employment agreement was the result of administrative error.

## D. TIME LIMITATIONS

### Time to begin house hunting

FTR para. 2-4.1 provides that a house-hunting trip by the employee must be accomplished prior to his reporting to the new official station but that a round trip by the spouse, when authorized in lieu of a round trip by or with the employee, may be accomplished at any time before relocation of the family to the new official station but not beyond the maximum time for beginning allowable travel and transportation.

### Spouse's travel after transfer

Where an employee reported to his new duty station on March 10, 1969, but his family did not join him and begin occupancy of temporary quarters until July 31, 1969, the employee may be reimbursed expenses in connection with his wife's trip to seek residence quarters begun on July 22, 1969. B-169667, August 26,

## RELOCATION

1970. The cost of a house-hunting trip made by the employee's spouse is not precluded merely because the travel was performed after the employee had transferred if such trip is performed prior to the family's move to the new station. B-166119, March 6, 1969.

### Six-day period for house hunting

The regulations provide that a round trip should be allowed for a reasonable period of time considering the distance between the old and new station but limits the period of a round trip at Government expense to no more than 6 calendar days, including traveltime. 47 Comp. Gen. 189 (1967).

### Days run consecutively

An employee authorized house-hunting trip expenses traveled to his new duty station on January 22, 1973. His wife joined him on January 25. After househunting together they returned to the old duty station on January 29. The employee may be reimbursed per diem for his wife's travel for the full 19 quarter days claimed. The regulations are not so restrictive as to prohibit payment of the expenses of the spouse where both make the round trip but do not travel together so long as the total expenses reimbursed do not exceed what the cost to the Government would have been if they had traveled together. While the allowable 6 calendar days must run consecutively, they may be any 6 days during the period of travel performed by the employee or the spouse and the spouse's reimbursable per diem travel need not run concurrently with that of the employee. B-178441, June 18, 1973, and B-168829, May 22, 1975.

### Days include traveltime

The authorized period for a house-hunting trip is limited to 6 calendar days and there is no basis for excluding traveltime between duty stations from the 6 days. B-167193, December 15, 1969.

## E. NATURE OF TRIP

### One trip

Under 5 U.S.C. § 5724a(a)(2) expenses for locating a residence may be allowed only for one round trip. The

## RELOCATION

regulations at FTR para. 2-4.1a authorize expenses only for "one round trip " \* " for the purpose of seeking residence quarters." Thus, the statute and regulations contemplate only one round trip, not several trips with the per diem extending over a 6-day period. 47 Comp. Gen. 189 (1967). Where the employee and his wife made 6 separate house-hunting trips, five involving 1 day each and the sixth involving 2 days, the employee may not be reimbursed expenses for more than the single, most lengthy trip of 2 days, even though the total amount claimed for the six round trips is less than the constructive cost of one round trip with per diem for 6 calendar days. B-168829, October 23, 1970, and March 11, 1970.

### Separate trip by wife

Where the employee's wife traveled separately to Denver from July 13 through 16 for house-hunting purposes, and the employee traveled to Denver on a second separate trip from July 25 through 26 to follow up on actions initiated by his wife, the employee may be reimbursed only those house-hunting trip expenses incurred in connection with his wife's travel since the regulations clearly restrict reimbursement for house-hunting purposes to one round trip by both husband and wife or by either spouse. B-168829, July 27, 1976, and FTR para. 2-4.1a.

### Trip interrupted

An employee and his wife began their house-hunting trip on August 6 but, on August 8, the employee was recalled to his old station for official duties. He returned to his old official station on that date accompanied by his wife. From August 21 through 23 the wife returned to the new duty station to complete house hunting. The law authorizes only one round trip and, although the employee's return to his old official station was required on Government business, no reason is given for the wife's return that same day. Since she was not officially required to cut short her house-hunting trip on August 8, expenses for the second house-hunting trip are not payable. B-166414, April 9, 1969.

### Round trip

An employee who left his old duty station on November 24,

## RELOCATION

traveled 2,700 miles by POV to his new official station and reported for duty on December 2, may not be reimbursed transportation and per diem as house-hunting trip expenses because he did not return to his old duty station. Since the employee was presumably aware at the time of departure from his old duty station that he would be unable to return prior to the specified reporting date of December 2, his travel is to be regarded as having been performed primarily to effect a transfer of station and not for purposes of house hunting. B-166415, April 5, 1969.

### Transfers on short notice

Where the employee's house-hunting trip and reporting date are so close together that it is in the Government's interest for the employee to remain at the new station rather than to create unnecessary travel expenses by returning to his former station, he may be reimbursed house-hunting expenses even though his trip to the new station is not a round trip. B-165825, January 29, 1969. To the same effect see B-178383, June 6, 1973, and B-183908, November 14, 1975, authorizing house-hunting trip expenses even though the employee did not return to his old station under circumstances where the employee's travel orders were issued within 2 weeks of the reporting date stated therein.

### Purpose of seeking residence

#### Travel to seek residence quarters

The statute and regulations which authorize reimbursement of traveling expenses incurred in "seeking permanent residence quarters" at the new station may be regarded as embracing a trip to locate a lot on which to move a trailer for use as a permanent residence. 47 Comp. Gen. 119 (1967).

#### Travel for other purposes

Travel to decide to accept transfer--A house-hunting trip shall not be authorized to permit an employee to decide whether he will accept a transfer. B-163516, March 5, 1968.

Travel to settle house purchase--After having located his new residence the employee traveled to his new

## RELOCATION

station in order to make final inspection, arrange home financing, and execute settlement documents. He may not be reimbursed his expenses as incident to a house-hunting trip since a trip for a purpose other than to seek residence quarters is beyond the scope of 5 U.S.C. § 5724a(a)(2). B-162503, June 12, 1969.

Travel to ship household goods--Where the employee and his wife traveled to the employee's new station at Newark and shortly after arrival signed a lease for permanent residence quarters, the employee may not be reimbursed for his wife's round-trip travel to his old duty station in San Francisco and back to Newark as a house-hunting expense. The wife's travel between Newark and San Francisco was for the purpose of arranging for transportation of household goods to the new station and not for the purpose of seeking residence quarters. B-164279, June 24, 1968, and B-163835, October 9, 1968.

### To new duty station

Where the employee was transferred from Washington, D.C., to San Francisco, but his wife and children decided to establish a residence in San Diego, expenses of the wife's trip to San Diego to locate residence quarters may not be paid even though the wife was authorized house-hunting trip expenses. Expenses of househunting are reimbursable only for travel to the new duty station of the employee. B-190330, February 23, 1978.

### F. MODE OF TRANSPORTATION

Paragraph 2-4.2 of the FTR provides that in authorizing or allowing a mode of transportation in connection with a house-hunting trip, consideration shall be given to providing minimum time en route and maximum time at the new official station. Notwithstanding the regulations' use of the singular form of the term "mode of transportation," the term is not intended to be used in the restrictive sense and does not require that travel in both directions be made by the same mode of transportation. 47 Comp. Gen. 189 (1967). An employee may elect to use a mode of transportation other than authorized by his travel orders. However, reimbursement for such travel is limited to an amount that would have been reimbursed if the employee had used the authorized mode of travel. B-165697, January 9, 1969.

## RELOCATION

### G. REIMBURSABLE EXPENSE

#### Transportation expenses

##### Mileage

Rate applicable--Paragraph 2-4.2 of the FTR provides that if a house-hunting trip is performed by POV, the mileage allowance while en route between old and new stations shall be as provided in FTR para. 2-2.3b and c. Thus, an employee who traveled by POV with his wife on a house-hunting trip is entitled to reimbursement at the rate of 8 cents per mile then specified when the employee and one member of his family travel in a POV. 48 Comp. Gen. 276 (1968); B-177671, March 13, 1973; and B-162521, October 19, 1967.

Discretion to set higher rate--Where the employee's travel orders set a mileage rate of 15 cents per mile under the authority of FTR para. 2-2.3c to prescribe higher mileage rates for special circumstances, the employee may be paid mileage based on the 15-cent rate authorized and is not limited to the 10-cent-per-mile rate set by para. 2-2.3b for an employee and one family member traveling by POV. Paragraph 2-4.2 of the FTR authorizing house-hunting trip expenses makes it clear that the mileage allowance for house-hunting trips "shall be as provided in para. 2-2.3b and c." B-187223, February 18, 1977.

Two employees traveling together--Where two employees were each authorized a house-hunting trip in connection with transfers to Memphis and they elected to travel together in the POV of one, the driver may be paid mileage based on the 8-cents-per-mile rate then set for an employee who travels by POV together with one family member since the two employees were traveling under general orders that did not prescribe a specific mileage rate. While an agency cannot require two or more employees to travel together in the POV of one, where the employees find it convenient to do so and the proper administrative determination is made that such arrangement is advantageous to the Government, mileage rates may be prescribed on the same basis as the graduated rate scale applicable when authorized members of the employee's family accompany him. 53 Comp. Gen. 67 (1973).

## RELOCATION

Distance--An employee who is authorized travel to seek residence quarters is entitled to mileage for the distance traveled as shown in standard highway mileage guides or by speedometer reading, and if there is no substantial deviation between the two, the mileage claimed by the employee may be allowed without explanation. 48 Comp. Gen. 276 (1968).

### Airfare

An employee whose wife did not perform a house-hunting trip incident to his 1972 transfer from Mississippi to Georgia, but remained in Georgia until 1973 when the employee was given a second transfer to Virginia, may be reimbursed for his wife's round-trip airfare between Mississippi and Virginia in connection with a 1973 house-hunting trip even though that cost exceeds the round-trip airfare between Georgia and Virginia. 53 Comp. Gen. 123 (1973).

## Per Diem

### Employee traveling with spouse

The regulations provide for payment of per diem for the spouse who accompanies an employee on a house-hunting trip which amounts to 75 percent of the per diem authorized for the employee. Where the employee travels together with his wife and daughter and pays varying amounts for lodging based on their joint occupancy, the employee should ascertain the average single rate for the rooms occupied with his dependents to determine the per diem rate the employee would receive if traveling alone. That rate should then be used as a basis for determining the spouse's per diem entitlement. 52 Comp. Gen. 34 (1972).

An employee's wife made a house-hunting trip and, while at the new duty station, resided with her husband in temporary quarters. Per diem at the rate authorized for a spouse unaccompanied by the employee is payable for her traveltime. The three-quarters per diem rate is authorized for periods she stayed with her husband. However, since the per diem authorized for the wife during the time she occupied temporary quarters with her husband covered the cost of lodging, and since the employee's lodging expenses were already paid based on the full room rental fee, payment would

## RELOCATION

be duplicative and appropriate adjustment should be made to recover one-half the rental fee. B-172739, June 14, 1971, and B-166119, March 6, 1969.

### Continuation of per diem

Where an employee and his wife were injured en route to the airport on the seventh day of their house-hunting trip, per diem may be paid for 6 days only and not for additional days spent at the new duty station as a result of their injuries. The regulation providing for continuation of per diem for up to 14 days where an employee traveling on official business is incapacitated by illness or injury does not permit payment of continued per diem under circumstances, as here, where the employee's entitlement to per diem for himself and his wife terminated prior to the time the injury was incurred. B-166193, April 2, 1969.

### High-rate geographical areas

An employee transferred to Washington, D.C., a designated high-rate geographical area, and authorized a house-hunting trip, is entitled to reimbursement of per diem at the maximum statutory per diem rate of \$35 and is not entitled to the \$50 high-rate geographical area rate prescribed in connection with temporary duty travel to Washington. Reimbursement under the high-rate geographical area concept is not applicable to travel for seeking residence quarters. B-190018, September 27, 1977.

### Local transportation costs

Reimbursement is specifically prohibited by FTR para. 2-4.2 for expenses of local transportation in the locality of the new official station, other than the normal costs of transportation between depots, airports, and place of lodging. Thus, an employee transferred to Fort Lee, Virginia, who was erroneously authorized car-rental expenses for local travel incident to househunting at Fort Lee may not be reimbursed the \$79.92 cost of car rental. However, since the employee apparently rented the car upon arrival at the Richmond airport he may be paid for the constructive cost of transportation between the airport terminal and his lodgings. B-188106, March 3, 1977, and B-188051, May 4, 1977.

## RELOCATION

Expenses of transportation between neighborhoods, communities, school districts, realty offices, banks, savings and loan agencies, and insurers must be deemed expenses of local transportation in the locality of the new official station. An employee, therefore, may not be reimbursed expenses of car rental and gasoline purchased for such purposes at the new duty station incident to a house-hunting trip. B-182503, January 16, 1975.

### H. TRANSFER NOT CONSUMMATED

#### Cancelled transfer

Where a house-hunting trip is authorized in connection with a transfer, the employee in fact takes a house-hunting trip and his transfer is subsequently cancelled, expenses of the house-hunting trip may be paid. B-189953, November 23, 1977, and B-177671, March 13, 1973. Expenses incident to an advance house-hunting trip to an employee's proposed new permanent station are allowable despite the fact that official orders authorizing transfer to that duty station were never issued and the employee subsequently was offered and accepted another position. The house-hunting trip was duly authorized and, since the new position was in the same agency, acceptance of that position was tantamount to a cancellation of the proposed transfer in the interest of the Government. B-175489, April 27, 1972.

#### Refusal to transfer

An employee may not be reimbursed for travel expenses incurred in connection with a house-hunting trip incident to transfer of permanent duty station where, subsequent to the trip, the employee declines to effect transfer for personal reasons. B-183563, July 14, 1976. Compare B-174976, March 10, 1972, where an employee, who was given permanent change of station orders on the representation that the transfer involved a promotion, was reimbursed expenses of house hunting where he declined the transfer upon finding that the change would be to a position at the same grade.

### I. RELATIONSHIP TO OTHER ALLOWANCES

#### Temporary quarters subsistence expenses

Although FTR para. 2-4.1c provides that a trip for seeking permanent residence may be avoided if a temporary quarters subsistence expenses allowance is to be authorized,

## RELOCATION

authorization of a house-hunting trip does not preclude authorization for temporary quarters subsistence expenses if the circumstances warrant. B-184024, January 21, 1976.

## RELOCATION

### CHAPTER 6

#### TEMPORARY QUARTERS SUBSISTENCE EXPENSES

##### A. AUTHORITY

###### Statutory authority

Under 5 U.S.C. § 5724a(a)(3) an employee for whom the Government pays expenses of travel and transportation under 5 U.S.C. § 5724(a) may be reimbursed subsistence expense for himself and his immediate family for a period of up to 30 days while occupying temporary quarters when the new official station is within the United States, its territories or possessions, Puerto Rico, or the Canal Zone. When the employee moves to or from Hawaii, Alaska, the territories or possessions, Puerto Rico, or the Canal Zone, the period of residence or temporary quarters subsistence expenses reimbursement may be extended for an additional 30 days.

###### Regulations

The regulations implementing 5 U.S.C. § 5724a(a)(3) are contained at FTR Part 2-5. As further implemented and applicable specifically to civilian employees of the DOD, additional regulations are set forth at 2 JTR chapter 13.

##### B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a more general discussion of the conditions of eligibility for reimbursement of relocation expenses, including the temporary quarters allowance.

###### Location of new station

###### In United States or designated area

An employee transferred from the United States to Okinawa may not be paid temporary quarters subsistence expenses even though he was properly authorized temporary quarters subsistence expenses upon subsequent retransfer from Okinawa to the United States. Temporary quarters subsistence expenses may be paid in connection with the transfer to a new official station located in the 50 states, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone. Since

## RELOCATION

Okinawa is not a territory or possession, there is no authority to pay temporary quarters subsistence expenses upon transfer to that location. B-168031, November 3, 1970, and B-170921, November 12, 1970.

### Residence outside United States

An employee transferred to Buffalo, New York, who purchased a residence across the border in Fort Erie, Canada, may be reimbursed subsistence expenses for 30 days occupancy of temporary quarters in Buffalo. The regulations, in authorizing reimbursement when the new duty station is in the United States or other designated area, are unconcerned with the location of the employee's permanent residence. B-177930, March 27, 1973.

### Incident to change of official station

Three weeks after employees were transferred from Cincinnati to an Army installation in Chicago, the closing of that installation was announced and the employees were scheduled for transfer to either San Francisco or New York. Rather than purchase residences the employees continued to occupy temporary quarters in Chicago after closure of the installation was announced. At the time the employees were ostensibly transferred to Chicago, it was known to Army officials that the Chicago installation would be closed. Therefore, Chicago was not in fact to be their permanent duty stations. Their orders may be amended to designate Chicago as their temporary duty stations and the employees may be paid per diem while so assigned, making appropriate adjustment for temporary quarters subsistence expenses already reimbursed. B-172207, July 21, 1971.

### Transfer with training en route

An employee directed to travel from his duty station in Germany to Alabama for long-term training was given permanent change of station orders to Texas the following year. An assignment for training is not a transfer in connection with which temporary quarters subsistence expenses are payable. However, the employee may be reimbursed for temporary quarters occupancy in Alabama at the commencement of training since his selection for training was tantamount to selection for subsequent transfer to a then undetermined location. His occupancy of temporary quarters in Alabama

## RELOCATION

may be viewed as incident to his transfer to Texas with training en route. B-185281, May 24, 1976.

### Short-distance transfer

Incident to short-distance transfers, where the distance between the old residence and the new duty station is not more than 40 miles greater than the distance between the old residence and the old official station, an employee may not be paid temporary quarters subsistence expenses except for the period during which he is awaiting arrival of his household goods. FTR para. 2-5.2h. Temporary quarters subsistence expenses may not be paid in connection with a short-distance transfer during a period of delay in obtaining possession of the new residence. B-168458, December 22, 1969. However, in such cases an employee may be reimbursed temporary quarters subsistence expenses where he was unable to occupy his mobile home for 5 days because the electricity was not connected, since uninhabitability of a mobile home is equivalent to nonarrival of household goods. B-187774, February 1, 1977. A temporary quarters allowance may be paid upon a short-distance transfer where an employee was unable to occupy Government quarters at either his old or new duty station while both were being repainted and prepared for occupancy. B-186217, August 18, 1975.

### Cancelled transfer

Seven weeks after his transfer from Fort Detrick, Maryland, to Washington, D.C., the employee was given orders directing a second transfer to Alabama. The second transfer was cancelled. The employee occupied temporary quarters for a period of 60 days after transfer to Washington, D.C. Since the employee's extended occupancy of temporary quarters beyond 30 days was due to the anticipated but cancelled transfer to Alabama, he may be reimbursed 30 days temporary quarters subsistence expenses in connection with the cancelled transfer to Alabama. B-189457, August 23, 1975.

### Relocation upon reemployment

Reemployment without break in service--An employee who returns to his place of actual residence in the United

## RELOCATION

States for separation by one agency and who is reemployed without a break in service by another agency may be reimbursed by the second agency for expenses of relocation, including temporary quarters subsistence expenses, from his place of actual residence to his new duty station. 47 Comp. Gen. 763 (1968). The regulatory restriction relating to payment of expenses incident to separation does not preclude payment of temporary quarters subsistence expenses incurred after the date an employee was reemployed, without a break in service, by the Department of the Interior following his return to the United States upon termination of his employment agreement with the Trust Territory of the Pacific Island Saipan. B-163113, June 27, 1968.

Reemployment after service with international organization--A Department of Agriculture employee was separated from his position in College Station for employment in Austria with a public international organization under 5 U.S.C. § 3582. Upon expiration of his contract with that organization he was reemployed by the Department of Agriculture for an assignment in Gainesville. He may be considered reemployed at College Station and the designation of his new duty station at Gainesville may be considered a transfer of station. Therefore, he may be allowed temporary quarters subsistence expenses for days prior to the date he reported for duty in Gainesville to the extent necessary to locate and occupy permanent quarters. B-166678, May 23, 1969. Compare B-164004, May 8, 1968.

Reemployment with break in service--An employee who was recruited in Vermont for assignment overseas returned to San Francisco upon expiration of his 2-year contract. Four months later he received a temporary appointment with the Department of the Interior in San Francisco. The employee was not transferred to San Francisco but was returned there for separation. Although he was later reemployed, his reemployment did not constitute a transfer and he may not be paid a temporary quarters allowance for his temporary living arrangements in San Francisco. B-183970, January 21, 1976.

## RELOCATION

### Reemployment after reduction in force

An employee was separated on June 26, 1970, due to a transfer of function. He executed a transportation agreement on June 23, 1971, in connection with his reemployment in Texas, effective July 13, 1971. Since his reemployment was effective more than 1 year after his separation the employee may not be paid relocation expenses, including temporary quarters subsistence expenses. Under 5 U.S.C. § 5724(a)(c), those expenses are payable upon reemployment (at a different geographical location) within 1 year after an employee is separated by reason of reduction in force or transfer of function. B-181178, February 18, 1975.

### Shortage-category appointment

New appointees to manpower-shortage category positions are entitled to travel and transportation expenses in accordance with 5 U.S.C. § 5723 which provides for reimbursement of the appointee's travel expenses and transportation of his immediate family and household goods to the extent authorized by 5 U.S.C. § 5724. Temporary quarters subsistence expenses are authorized under section 5724a rather than under section 5724 and, hence, may not be paid to new appointees to manpower-shortage category positions. B-186162, September 20, 1976.

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement of relocation expenses, including the temporary quarters allowance.

### Authorization or approval

In the absence of administrative authorization or approval of the use of temporary quarters an employee may not be reimbursed temporary quarters subsistence expenses. B-167930, November 19, 1969; B-162741, March 21, 1968; and B-161860, September 5, 1967.

The term "approved" commonly used in statutes and regulations denotes administrative action after the fact. When, due to administrative error, authorization was not granted

## RELOCATION

prior to the time expenses were incurred, the employee's voucher for temporary quarters subsistence expenses may be certified for payment if properly approved by an appropriate official. B-172108, April 21, 1971. Where advance authorization for a temporary quarters allowance would have been granted but for the employee's failure to fill out a form requesting authorization, temporary quarters subsistence expenses may be post approved. B-173113, July 26, 1971, and B-168908, April 2, 1970.

### Authorization of period of occupancy

#### Less than 30 days authorized

Modification of orders--Where the travel authorization specified temporary quarters subsistence expenses for a maximum of 10 days, the agency may not refuse to pay for the last 5 of 10 days of occupancy of temporary quarters, even though its informal policy was to authorize only 5 days in the Sacramento area. Travel orders may not be modified retroactively to increase or decrease rights fixed under applicable statutes and regulations unless error is apparent on the face of the order and all facts and circumstances indicate that some provision previously and definitely intended has been omitted through error. Since error is not apparent on the face of the orders and since the authorization of 10 days does not clearly conflict with administrative policy, the orders may not be retroactively modified to reduce the authorized period of occupancy of temporary quarters to 5 days. B-153454, August 1, 1969.

Where his travel order specified 5 days temporary quarters subsistence expenses but included a reference to the "first 10 days of temporary quarters occupancy," an employee may be allowed 20 days temporary quarters subsistence expenses, since administrative error is apparent from the voucher. B-163025, January 18, 1968.

Ratification of oral authorization--Travel orders authorized 10 days temporary quarters subsistence expenses. Before the end of the 10-day period, the employee requested and was orally authorized an additional 10 days. Administrative approval 2 months

## RELOCATION

later of the additional 10-day period may be viewed as the ratification of an oral authorization. B-184025, June 3, 1976.

Period reduced by house-hunting trip--An employee who was authorized temporary quarters for up to 24 days and a house-hunting trip of up to 6 days, used only 2-1/2 days for househunting. He may be reimbursed 30 days less 2-1/2 days temporary quarters subsistence expenses in view of the agency's instruction directing the 30-day period for occupancy of temporary quarters to be reduced by the actual number of days used house hunting, and in view of the intent to authorize the maximum period for occupancy of temporary quarters. B-168358, December 24, 1969.

### Authorization or approval of additional 30 days

When an employee moves to or from Hawaii, Alaska, the territories or possessions, Puerto Rico, or the Canal Zone, the 30-day period for occupancy of temporary quarters may be extended for an additional 30 days to a total of 60 days. Temporary quarters subsistence expenses for a period in excess of 30 days must be authorized or approved. B-174986, May 11, 1972.

An employee transferred to Alaska was authorized temporary quarters subsistence expenses for 30 days. As a result of extenuating circumstances he failed to request an extension for an additional 30 days. After the fact, the agency indicated that it would have approved his request and amended the employee's orders to authorize an additional 30 days temporary quarters subsistence expenses. The employee may be paid for 60 days occupancy of temporary quarters since the regulations contemplate separate authorization or approval of the additional 30-day period and do not require authorization in advance. B-186317, January 24, 1977, and B-189556, December 15, 1977.

## D. PERIOD OF ENTITLEMENT

### Limited to 30 days

#### Transfers to the United States

Employees, other than those transferred to or from Hawaii, Alaska, the territories or possessions, the

## RELOCATION

Commonwealth of Puerto Rico, or the Canal Zone, are subject to a statutory limitation of 30 days on payment of subsistence expenses for occupancy of temporary quarters. Thus, an employee transferred to the United States from Brazil may not be reimbursed 18 days additional temporary quarters subsistence expenses beyond the 30-day period authorized, notwithstanding that the additional time was necessary to locate permanent living quarters. 55 Comp. Gen. 110 (1976), and B-176078, July 14, 1972. Also see B-175111, October 10, 1973, involving a transfer from Guantanamo Bay, Cuba, to the United States.

### Transfers within the continental United States

An employee transferred from California to Florida may not be reimbursed temporary quarters subsistence expenses beyond 30 days since the maximum 30-day time limitation applies to employees transferred between areas in the continental United States. The limitation may not be waived. 54 Comp. Gen. 638 (1975); 48 Comp. Gen. 119 (1968), and B-183484, June 9, 1975.

### Transfers within Alaska

Due to difficulties in obtaining living quarters employees transferred from Anchorage to Juneau, Alaska, requested a maximum of 60 days temporary quarters subsistence expenses. Their claims for temporary quarters subsistence expenses in excess of 30 days were denied since transfers within Alaska are not transfers "to or from" Alaska or other designated areas in connection with which an additional 30 days temporary quarters may be authorized. 50 Comp. Gen. 829 (1971).

### Limited to 60 days

Employees transferred to or from Hawaii, Alaska, the territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone may be authorized or approved an additional 30-day period of temporary quarters occupancy beyond the initial 30-day period. B-186317, January 24, 1977, and B-189556, December 15, 1977.

### Agency discretion

The determination to authorize an additional 30-day

## RELOCATION

period for temporary quarters is a matter within the discretion of the agency concerned. It was not arbitrary for the Army to refuse to grant an employee an additional period of 30 days temporary quarters subsistence expenses in connection with his transfer from Alaska to Pine Bluffs where the employee had previously resided in Pine Bluffs and owned a residence there, notwithstanding his decision to purchase another home in the area. B-174986, July 14, 1972.

### E. OCCUPANCY OF TEMPORARY QUARTERS

#### Necessity for occupancy

Because of shipping difficulties, the employee's household goods remained in his residence at the old station throughout the first portion of the period he and his family occupied temporary quarters at the new station. Noting that the employee's family could have remained in their old residence until the furnishings were moved, the certifying officer questioned whether they "necessarily occupied temporary quarters," as required by FTR para. 2-5.2a. Before payment of temporary quarters subsistence expenses may be made, there must be a determination that use of temporary quarters was necessary. The regulations, however, do not contemplate a determination that the employee and his family exhausted all alternatives to occupying temporary quarters. Under the circumstances, including the fact that shipment of the household goods was delayed, administrative approval of temporary quarters subsistence expenses was proper. B-184024, January 21, 1976, and B-164888, August 20, 1968.

The administrative determination as to whether occupancy of temporary quarters is necessary should be made on an individual-case basis. Generally, where quarters for the entire family are not available at the new station, the family may remain in their residence at old station. However, circumstances requiring the family to vacate the old residence may make it necessary for them to occupy temporary quarters elsewhere. B-185514, September 2, 1976.

#### Occupancy incident to transfer

##### New residence unrelated to transfer

Family residence elsewhere--An employee transferred from Raleigh to Salisbury, North Carolina, rented an

## RELOCATION

apartment in Salisbury for his own use. The members of his family vacated their old residence, resided with the employee for a few days, and thereafter moved to Gainesville, Georgia, where they made temporary living arrangements pending the employee's purchase of a residence there. Gainesville is 200 miles from Salisbury and the employee did not commute daily from the Gainesville residence to his duty station. Since their occupancy of temporary quarters was incident to the purchase of a residence in Gainesville, the family did not occupy temporary quarters in connection with the employee's transfer to Salisbury and may not be reimbursed temporary quarters subsistence expenses. B-185727, March 2, 1976, and B-163153, February 6, 1968.

Wife's separate residence--Where his wife and children resided in quarters separately from the employee prior to transfer, their continued occupancy of those quarters was not incident to the employee's transfer and temporary quarters subsistence expenses are not reimbursable. B-171780, June 15, 1971.

### Occupancy for medical reasons

Employee hospitalized--Upon transfer from Illinois to Missouri, the employee began occupancy of temporary quarters in Missouri while his wife remained in their Illinois residence. During the second week after his transfer, the employee was hospitalized. He claimed temporary quarters subsistence expenses for the period of hospitalization based on the hospital room charges. That portion of his claim for temporary quarters subsistence expenses was denied. The employee should not be considered as occupying temporary quarters while hospitalized since his hospitalization was not related directly to the transfer. B-165902, January 23, 1969.

Wife in boarding house--His wife did not accompany the employee to his new station, but remained in an outpatient boarding house at the old station for medical treatment after hospitalization. Their child stayed with relatives. The arrangement was temporary since the wife intended to join the employee at his new duty station at an early date and the record indicates that the particular boarding arrangements would not have been necessary if the employee had not been transferred. Therefore, lodging expenses of the wife and

## RELOCATION

child may be considered to have been incurred incident to occupancy of temporary quarters in connection with the transfer. B-179556, May 14, 1974.

### Children residing apart

Children sent to camp--Where an employee's children were sent to camp for a period of slightly over a month, temporary quarters subsistence expenses may be reimbursed for time at camp where the employee furnished information showing that they were sent to camp incident to his transfer. B-167976, December 12, 1969, and January 13, 1970. Where arrangements to send the employee's children to camp were made prior to the issuance of travel orders, payment of temporary quarters subsistence expenses for the children while at camp was denied. B-167976, October 30, 1969.

Children at college--The employee's sons did not move to the new duty station with their family but stayed in a hotel prior to moving into an apartment in order to attend college in the area of the employee's old duty station. Temporary quarters subsistence expenses may be paid for school-age children who are intending to live at schools away from the family notwithstanding that they do not intend, at the time, to move into permanent quarters at the new station. Expenses may be paid for their necessary occupancy of quarters other than those in which they intend to reside throughout the major portion of the school semester or session involved. B-164746, August 20, 1974.

### What constitutes temporary quarters

Paragraph 2-5.2j of the FTR defines temporary quarters as "any lodging obtained from private or commercial sources to be occupied temporarily by employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

## RELOCATION

### Quarters that are temporary

#### Occupancy of leased quarters--

##### Month-to-month lease

An employee rented an apartment on a month-to-month basis at his new duty station. The certifying officer questioned whether temporary quarters subsistence expenses could be paid since the employee's household goods were delivered to that apartment. In view of the fact that the apartment was rented on a month-to-month basis, that part of the household goods were not unpacked and that within 1 month after his arrival at the new station he placed a deposit on a new home under construction, the employee's occupancy of the rented apartment may be considered occupancy of temporary quarters. B-187622, June 13, 1977, and B-183239, June 25, 1975.

##### Terminable lease

An employee and his family occupied a church parsonage on a rental basis at the new duty station pending arrival of the church's new pastor. When the pastor declined the position the employee continued to occupy the parsonage under lease arrangements terminable on 3-weeks notice. During the first 30-day period of occupancy the employee made offers on two houses. Since the circumstances reasonably establish that the employee intended to remain in the parsonage temporarily, it may be regarded as his temporary quarters. B-163893, May 9, 1968.

##### Long-term lease

Where the employee and his family moved into a furnished apartment incident to transfer and remained there nearly 1 year, the apartment may, nonetheless, be considered temporary quarters since the employee manifested an intent not to occupy the apartment permanently. He first sought financing to purchase a residence soon after arrival at the new station. When he was unsuccessful, he began negotiations to purchase land on which to place a mobile home which he

## RELOCATION

intended to purchase with proceeds from the sale of his former residence. B-183829, January 2, 1976.

### Delay in seeking permanent quarters

Children in school--An employee did not immediately move his family to the new duty station in order to permit his children to finish the school semester. He rented an apartment for himself for 4 months pending the family's move. The employee may be paid subsistence expenses for his occupancy of the apartment even though he did not actually engage in seeking permanent quarters for immediate occupancy. While lack of action in seeking permanent quarters may tend to show that the quarters occupied were not temporary, the fact that the apartment was rented for a definite period of 4 months until the end of the semester demonstrates that he intended his stay in the apartment to be temporary. 47 Comp. Gen. 84 (1967).

Anticipating military duty--An employee signed a 6-week lease on an apartment suitable only for himself, intending to move to a new apartment suitable for his family upon their arrival at the new duty station. However, his family did not move to the new station because their old residence was not sold before the employee was called to active military duty. The fact that the employee did not intend to purchase a home at the new station because of the possibility of his entry on active duty in the near future does not negate the temporary nature of his occupancy of the first apartment. B-187834, June 21, 1977.

Anticipating involuntary separation--Because he was on a surplus list, subject to separation by reduction in force, the employee moved into a hotel upon arrival at his new duty station. Since he was separated for that reason, the fact that he never sought permanent quarters at the new station does not negate his entitlement to temporary quarters subsistence expenses for his stay in the hotel. B-168924, March 10, 1970, and B-181549, January 27, 1975.

## RELOCATION

Occupancy of Government quarters--The description of temporary quarters in 2 JTR para. C8250 as "any lodging obtained from private or commercial sources" does not prohibit payment of temporary quarters subsistence expenses when permanent-type Government quarters are occupied temporarily. Thus, an employee may be allowed temporary quarters subsistence expenses where he intended to move to family-type Government quarters when they became available, but, for 46 days of the 60-day period authorized lived in permanent bachelor-type Government quarters, rather than quarters intended for transient personnel. 55 Comp. Gen. 1429 (1976), and B-186549, March 7, 1977.

An employee transferred to the Canal Zone and enrolled on a waiting list for family quarters was assigned permanent bachelor-type quarters upon arrival but chose to reside in temporary vacation quarters for 30 days. The employee may be paid temporary quarters subsistence expenses since she manifested her intent to occupy the assigned bachelor quarters only temporarily by applying for family quarters for herself and her two dependents. The fact that the assigned bachelor quarters were considered permanent quarters suitable for individuals in an unaccompanied or bachelor status, does not defeat her entitlement. B-184618, April 16, 1978.

Occupancy of travel trailer--Upon transfer to Alaska, an employee and his wife lived in a small travel trailer, using public parking, laundry and bathing facilities, while locating and purchasing a residence. Since the travel trailer was occupied on a temporary basis, the employee may be reimbursed temporary quarters subsistence expenses therefor. B-178836, July 12, 1973.

An employee moved his travel trailer to his new duty station and occupied it for nearly 1 year. He originally intended for his family to join him but after his wife came to the new station on a house-hunting trip, the family decided to remain elsewhere. Since it was not decided that the employee would remain in the travel trailer permanently until after the wife's trip, payment of temporary quarters subsistence expenses for the period prior to the date of her house-hunting trip need not be questioned. B-114826, May 7, 1974.

## RELOCATION

Occupancy of mobile home--An employee made arrangements to purchase a residence at his new duty station. He leased a mobile home for temporary occupancy until the house became available. Upon encountering difficulties in purchasing the house, the employee decided to purchase the mobile home instead. He may be reimbursed temporary quarters subsistence expenses prior to the date of his decision to purchase the mobile home in view of his intent, prior to that date, to remain there only on a temporary basis. B-163307, February 7, 1968.

Occupancy of house purchased at new station--An employee may not be reimbursed temporary quarters subsistence expenses after he occupies the residence in which he intends to remain. However, where an employee occupied his newly purchased, unfurnished house for one night, returned to the motel for 2 days, reoccupied the house for 5 days, and returned to the motel for 2 days before moving to the unfurnished house, he may be reimbursed temporary quarters subsistence expenses for the period before his permanent move. His frequent returns to the motel manifested his intent to occupy the house only on a temporary basis. 53 Comp. Gen. 508 (1974).

An employee moved into a new house under a month-to-month lease while it remained for sale. Because of race, the employee encountered difficulty in finding suitable housing and, 6 months later, purchased the house he was renting. He may be paid temporary quarters subsistence expenses for occupancy of the rented house he later purchased since the record demonstrated his initial intent to occupy the house on a temporary basis. B-176367, August 4, 1972; B-175913, June 19, 1972; and B-167361, March 31, 1970.

### Occupancy of residence at old station--

#### Lack of quarters at new station

After the sale of his residence at his old duty station in Columbia, South Carolina, the employee intended to relocate his family to his new duty station in Atlanta but was unable to locate temporary quarters because of racial discrimination. The purchaser of his former residence allowed the family to occupy the house on a month-to-month

## RELOCATION

rental basis. The employee rented a small apartment in Atlanta while looking for permanent quarters. Temporary quarters subsistence expenses may be allowed only if the employee or his family vacate the quarters in which they were residing at the date of transfer. It is the intent to vacate those quarters that is controlling. Under the particular circumstances, the employee's family may be considered to have constructively vacated the former residence and temporary quarters subsistence expenses may be paid in connection with their reoccupancy of the Columbia residence. B-177965, March 27, 1973, and B-168649, January 20, 1970.

### Temporary duty at old station

Where the employee vacated his residence at his old station in Tulsa on August 13, but returned and occupied that residence with his family from August 22 to August 29 while in Tulsa on temporary duty, the family may be regarded as having vacated the Tulsa residence and may be paid temporary quarters subsistence expenses in connection with its reoccupancy. B-170597, November 23, 1970.

### Temporary return to old station

An employee vacated his residence at his old duty station. In order to visit his ailing mother he returned to the old station and stayed in his former residence for 3 nights. He may be paid temporary quarters subsistence expenses for those days since, under the circumstances, the employee is to be regarded as having vacated his permanent residence quarters at his old duty station prior to occupancy of temporary quarters. B-182617, February 4, 1975.

### Awaiting moving van

An employee closed the sale of his house at the old duty station on August 27 and packed his household goods. The moving van scheduled to arrive that day broke down and the employee and his family remained in the house until arrival of the van on September 1. Under the circumstances,

## RELOCATION

occupancy of the old residence may be considered occupancy of temporary quarters based on the theory that the employee and his family constructively vacated the premises. B-181032, August 19, 1964.

### Retransfer to old station

An employee transferred from Utah to Colorado leased rather than sold his former Utah residence and purchased a house in Colorado. A year later he was retransferred from Colorado to Utah and occupied the former residence while completing the purchase of a new home in the same area. The employee's action in promptly taking a house-hunting trip to Utah and executing a contract to purchase another house is consistent with the employee's claim that he occupied the former residence only on a temporary basis. B-173783.141, October 9, 1975.

Occupancy of residence not at old station--An employee transferred from Summerville, West Virginia, to Washington, D.C., rented a furnished apartment in D.C., and retained his furnished Summerville residence. Upon subsequent transfer from D.C. to Madison, West Virginia, the employee and his family lodged with friends or in a motel but returned to their home in Summerville for brief visits. Since the employee established a residence in D.C. for himself and his family, that residence and not the family's residence in Summerville is to be considered their residence at the time of transfer. Since they vacated that residence upon traveling to Madison, the family's temporary visits to Summerville do not evidence a failure to vacate their former residence and do not defeat their entitlement to temporary quarters subsistence expenses. B-183403, June 20, 1975.

### Quarters that are not temporary

Rental quarters not occupied--An employee transferred to the Canal Zone rented one apartment from October 6 to December 3, and a second apartment from November 15 to December 1. He did not move to the Canal Zone or occupy the apartment which he had rented until October 22. Temporary quarters subsistence expenses may not be paid for the period from October 6 to 21 during

## RELOCATION

which the quarters were not occupied, nor may the employee be reimbursed rent on the second apartment since he occupied the first apartment from November 15 to December 2. B-186435, October 13, 1977.

### No intent to vacate former residence--

#### Wife's return to old station

An employee and his wife traveled to the new station on March 18. The wife returned to their residence at the old station on March 26, came back to the new station April 5, returned to the old station April 7, and moved to new station permanently on May 22, 1974. Temporary quarters subsistence expenses for the wife may not be paid since the record does not support an inference of the requisite intent on her part to vacate the former residence. Mere statements of an employee's professed intent to vacate the former residence are not sufficient to establish entitlement to temporary quarters subsistence expenses. B-185696, May 27, 1976.

#### Reoccupancy of residence at old station

A transferred employee may not be reimbursed temporary quarters subsistence expenses where his family remained at the new duty station 30 days but thereafter returned to their residence at the old duty station for 1-1/2 years. Since the house was not placed for sale and since the record indicated that the family's return to the old station was to permit the employee's wife to pursue her teaching career, the record does not support a finding that the family intended to vacate their former residence. B-187519, January 26, 1977.

#### Residence occupied on detail

An employee had been detailed to San Francisco for nearly 4 years prior to the date of his transfer to that city. After his transfer, he continued to occupy the residence he had maintained while on detail. Since he did not vacate the residence in which he was residing at the

## RELOCATION

time of transfer, he may not be paid temporary quarters subsistence expenses. B-176531, March 12, 1973; B-179583, July 31, 1974; and B-168041, November 13, 1969.

### Lack of intent to occupy temporarily--

#### Subsequent move due to marriage

Upon transfer to Memphis, the employee and his son moved to the apartment in which they resided from January 16 until April 29, when the employee remarried and moved to another residence. There is nothing in the record which indicates that the employee had intended to make the apartment other than his permanent quarters, or that he would not have remained in that apartment had it not been for his remarriage. Temporary quarters subsistence expenses may not be paid in connection with employee's occupancy of that apartment. B-182107, February 4, 1975.

#### No effort to vacate quarters

An employee transferred to the Canal Zone moved into temporarily furnished Government quarters on a rental basis and continued to reside there for over a year. Temporary quarters subsistence expenses may not be paid for the first 60 days after transfer that the employee occupied those quarters. The fact that he remained there for more than 1 year raises a strong presumption that the quarters were permanent in nature and there is no evidence of a bona fide effort on the employee's part to vacate the quarters at any specific time. B-164379, August 21, 1968, and B-167632, August 20, 1969.

### Vague intent to locate other quarters--

#### Rented room

Where an employee moved into a rented room at his new duty station, intending to stay there indefinitely, the room must be considered his permanent residence. His intention at some time in the future to move to less expensive lodgings is too indefinite to support a conclusion that

the rented quarters were, in fact, temporary. B-179870, September 26, 1974, and B-172228, April 29, 1971.

House subsequently purchased

An employee transferred to Iowa on March 3 rented a residence which he purchased 6 weeks later. He claimed temporary quarters subsistence expenses in connection with its initial occupancy. Under the circumstances, and notwithstanding his claim that it was not his intent to purchase the residence at the time he began living in it, he may not be paid temporary quarters subsistence expenses in connection with its occupancy. Whether quarters are temporary is a matter of the employee's intent at the time he moves into the lodging. A mere intent to move to less expensive quarters at some future time is too vague to support a conclusion that the quarters are in fact temporary. B-184565, February 27, 1976.

Extended occupancy of apartment

A transferred employee rented an apartment under a 6-month lease, which he in fact occupied for nearly 1 year until he was retransferred. His temporary quarters subsistence expenses claim for occupancy of that apartment may not be paid even though the employee states that he delayed purchasing a home because of the "travel requirements of his position and because he had applied for a position elsewhere." His intent to relocate "as soon as it was reasonable to do so" is too indefinite to support a conclusion that the quarters occupied were temporary. B-185695, June 21, 1976; B-163043, June 18, 1968; B-187519, January 26, 1977; and B-175032, March 30, 1972.

Occupancy of residence at old station--

Lease of residence from purchaser

Although temporary quarters were available at his new duty station, a transferred employee arranged in advance to rent his former residence at his old station after closing of the sale. His claim for temporary quarters subsistence expenses for

## RELOCATION

the period of his continued occupancy of his former residence at the old duty station may not be paid since that residence was not vacated as required by FTR para. 2-5.2c. 56 Comp. Gen. 481 (1977); B-187212, March 7, 1977; and B-185532, September 21, 1976.

### After removal of furnishings

An employee remained at his former residence at the old duty station for 1 day after his household goods were picked up. He claimed reimbursement for meals eaten out before departing for his new duty station. Notwithstanding that his household goods had been picked up, there is no evidence that the employee intended to vacate the former residence prior to the date on which they actually moved out. Therefore, the temporary quarters subsistence expenses claimed may not be paid. B-190108, February 13, 1978.

### Short-term lease at old station

Upon learning of his impending transfer from Chicago, an employee was unable to extend the lease on his Chicago residence. Instead, he entered into a 3-month lease of a residence in Woodbridge, Illinois, until just prior to the date of transfer. The employee is not eligible for temporary quarters subsistence expenses while residing in Woodbridge since his transfer was not authorized until 2 months after he moved to Woodbridge and, hence, his occupancy of quarters in Woodbridge cannot be considered occupancy of temporary quarters after vacating permanent quarters in which he was residing at the time transfer was authorized. B-188650, October 18, 1977.

### Occupancy of residence at new station--

#### Rental pending purchase

An employee made arrangements to purchase a residence at his new duty station contingent upon the sale of his residence at the old station. Upon arrival at his new station and pending that contingency he rented the residence which he ultimately purchased. Notwithstanding that the

## RELOCATION

employee may have had to pay rent for the initial period of its occupancy, the residence was in fact occupied on a permanent basis. B-171046, November 23, 1970; B-169923, August 14, 1970; and B-184336, November 28, 1976. This is so even though the rental arrangement may result in a savings to the Government. B-185440, July 13, 1976, and B-177244, February 20, 1973. Such a rental arrangement does not constitute occupancy of temporary quarters even where the initial purchase contract is technically defective. B-183641, October 9, 1975. A temporary quarters allowance may not be paid even though the residence being purchased was occupied on a rental basis before its construction was completed and even though the employee occupied only the unfinished, unfurnished, basement. B-174831, April 13, 1972, and B-174971, February 28, 1972. Also see B-178658, October 4, 1974, and B-185983, September 17, 1976.

### Prior to arrival of furnishings

Upon arrival at his new duty station an employee moved into quarters he intended to occupy on a permanent basis. He submitted a claim for temporary quarters subsistence expenses for the first 6 days of his family's occupancy of that residence prior to arrival of their household goods. Since the quarters into which the family moved were actually their permanent quarters, they do not qualify as temporary quarters even though they were not completely furnished. 46 Comp. Gen. 709 (1967). This is so even though the employee and his family had to dine in restaurants. B-174514, December 10, 1971. Temporary quarters subsistence expenses may not be paid even though the furnishings were not delivered for over 1-1/2 months. B-174648, January 18, 1972; B-166729, June 24, 1969; and B-161348, August 9, 1967.

### Prior to hook up of utilities

An employee reported to his new duty station and thereafter entered into a contract to purchase a house. He moved his family into the house on a rental basis prior to the closing date. The employee may not be paid temporary quarters

subsistence expenses after he moved into the residence being purchased even though gas and power lines were not connected, since he had no intention of occupying the house on a purely temporary basis. B-177546, February 8, 1973, and B-170056, July 29, 1970. Where the employee moves into the residence he intends to occupy on a permanent basis, he may not be paid temporary quarters subsistence expenses even though appliances are not installed and there are no cooking facilities. B-161348, May 31, 1968. The same is true in the case where an employee moves into a permanent residence trailer before gas service is hooked up. B-162044, August 9, 1967.

#### Short-distance transfers

In cases of short-distance transfers, FTR para. 2-5.2h provides for payment of subsistence expenses while the employee occupies temporary quarters pending arrival of his household goods. Under that section, expenses of temporary quarters may be reimbursed incident to short-distance transfers while awaiting arrival of household goods only while the employee and his family occupy quarters other than the premises intended to be their permanent residence. Thus, temporary quarters subsistence expenses may not be paid where an employee moved into the residence being purchased on a rental basis prior to closing. B-183667, May 3, 1976.

#### Sublease of own residence

A transferred employee moved into a house which he owned and had leased to his parents for 2 years under an oral agreement. He paid his parents \$9 per day for room and board and continued to reside there for a period in excess of 1 year. Although the employee claimed an intent to obtain a permanent residence elsewhere, his failure to produce evidence to support this contention mitigates against allowance of the temporary quarters subsistence expenses claimed. Under such circumstances, the employee requesting reimbursement must bear the burden of providing convincing evidence of his claimed intent. B-188890, November 30, 1977.

## RELOCATION

### F. TIME LIMITATIONS

#### Time to begin occupancy

Under FTR para. 2-5.2e, the use of temporary quarters may begin as soon as the employee's transfer has been authorized and the written agreement signed. In order for the employee to be eligible for a temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement may be made must begin not later than 30 days from the date the employee reports for duty at his new official station, or, if not begun during such period, not later than 30 days from the date the family vacates the residence at the old official station, but not later than the maximum time for beginning travel and transportation. Prior to 1971, the regulations required use of temporary quarters to begin not later than 30 days from the date the employee reported for duty. See 48 Comp. Gen. 118 (1968), and B-169247, April 12, 1970.

The language of FTR para. 2-5.2e delineates the latest point in time at which the employee's claim for subsistence expenses may commence. It does not prohibit reimbursement for such expenses for claims commencing between the period ending 30 days after the employee reports to his new duty station and the 30-day period beginning when the family vacates their residence at the old station. Therefore, an employee who reported to his new station December 3, 1973, and whose family did not vacate their residence at the old station until March 11, 1973, may be reimbursed for his own occupancy of temporary quarters from January 8, 1973, to February 1973. 54 Comp. Gen. 13 (1974).

An employee may not be reimbursed temporary quarters subsistence expenses for the period of occupancy of temporary quarters from June 26 through July 18, 1973, since he and his family vacated their residence at the old station on May 10, 1973, and the employee reported for duty May 11. The period of his claim commences more than 30 days after he reported for duty and after the family vacated their residence. B-180286(2), July 2, 1975.

#### Effect of early departure

An employee transferred from Colorado to Oregon commenced permanent change of station travel 3 days prior to the date he was scheduled to travel and arrived at his new duty station early. Early departure

## RELOCATION

has no effect on the employee's entitlement to temporary quarters expenses since use of temporary quarters may begin as soon as the employee's transfer has been authorized and the employee has signed the required service agreement. B-184137, December 29, 1975.

### Effect of delay en route

Knowing that his household goods would not be delivered until the next day, an employee delayed travel en route to his new station for 1 day. Although he may not be reimbursed additional per diem for delay en route, the expenses he incurred while travel was delayed for 1 day may be reimbursed as temporary quarters subsistence expenses. It is reasonable to conclude that if the employee had proceeded directly to the new duty station, he would have incurred subsistence expenses for a like period of occupancy of temporary quarters at the new duty station, given the delay in movement of his household goods. B-161887, August 14, 1967.

### Beginning the period of claim

Paragraph 2-5.2f of the FTR provides that in computing the period for which temporary quarters subsistence expenses are payable the period will begin for the employee and all members of his immediate family when either the employee or any member of the immediate family begins the period of use of such quarters for which a claim for reimbursement is made.

An employee who filed a claim for his own occupancy of temporary quarters immediately upon arrival at his new station, may instead be paid temporary subsistence expenses for the period that he occupied temporary quarters with his wife and children who vacated their former residence and joined him at the new duty station 2 months later. The employee had the option of not claiming temporary quarters subsistence expenses for the earlier period and of waiting until his family joined him before commencing the 30-day period for which reimbursement may be claimed. B-177842, March 27, 1973. The maximum period for which reimbursement can be made begins to run from the first day for which the claim for reimbursement is made, regardless of whether temporary quarters were occupied prior to that date. 48 Comp. Gen. 119 (1968).

## RELOCATION

### End of period of occupancy

Paragraph 2-5.2f of the FTR provides that the period of eligibility terminates when the employee or any member of his immediate family occupies permanent residence quarters or when the allowable time limit expires, whichever occurs first.

#### Move to permanent quarters

An employee moved his household goods and his family to a permanent residence at his new duty station 1 month prior to the effective date of his transfer. He returned to his old duty station and claimed temporary quarters subsistence expenses for the month that he occupied temporary quarters there before transferring to the new duty station. He may not be reimbursed temporary quarters subsistence expenses since his eligibility terminated at the time his family moved into permanent quarters at the new duty station. B-188005, May 19, 1977.

A claim for temporary quarters subsistence expenses for an employee's occupancy of temporary quarters at his old duty station was disallowed where his family had previously moved into permanent quarters at the new duty station, even though the employee's occupancy of temporary quarters was due to the fact that the employing activity refused to release the employee from duty prior to the transfer date specified in his travel orders. B-188604, February 14, 1978. Compare B-181910, March 17, 1975. An employee's temporary quarters eligibility continued even though his minor dependent daughter moved into quarters intended for permanent occupancy for the brief period that her older sister could stay with her, since the minor daughter returned to the home of friends after the sister left. There was no intention on the employee's part that his daughter occupy the new residence. Her stay was temporary. B-181910, March 17, 1975.

#### Death of employee

An employee died shortly after transfer to his new station. Surviving members of his immediate family claimed subsistence expenses for their occupancy of temporary quarters after the employee's death. No allowance for temporary quarters subsistence expenses

## RELOCATION

may be paid subsequent to the employee's death since the benefit runs only to the employee and does not run directly to members of his immediate family. B-163442, February 8, 1968.

### Running of the period of occupancy

#### Runs concurrently for employee and family

Under the applicable regulations, the 30- or 60-day period for which reimbursement of temporary quarters subsistence expenses is authorized does not run separately for the employee and for his family, but runs concurrently for all family members. B-174695, January 24, 1972.

#### Period not interrupted

Return to old station--An employee reported to her new duty station on only 1-week notice, having had insufficient time to arrange for her family's move to the new station. She returned to the old station for 5 days to make moving arrangements. The employee claimed that the running of the 30-day period for which she was entitled to temporary quarters subsistence expenses was suspended for the 5 days that she returned to her old station, since the necessity for her return was due to the agency's failure to give her a longer period of notice before transfer. Her occupancy of temporary quarters at the new station was interrupted for personal reasons and was not a matter of official necessity. Therefore, the running of the 30 days is not suspended for the 5 days she returned to her old station. B-185338, February 19, 1976. Similarly, the period continues to run notwithstanding an employee's return to his old station on weekends to visit his family. B-166556, May 21, 1969.

Absence for personal reasons--The 30- or 60-day period for occupancy of temporary quarters refers to consecutive days unless the employee's occupancy is interrupted for reasons of official necessity. An employee transferred to Atlanta and entitled to temporary quarters subsistence expenses for 30 days claimed temporary quarters subsistence expenses for 18 days in June and 12 days in July, spanning the period from June 1 through July 20, with interruptions on weekends when he presumably visited his family. The period of

## RELOCATION

30 days for occupancy of temporary quarters runs from June 1 to July 2 and there is no basis for extending the allowable period since it was not interrupted for reasons of official necessity. 47 Comp. Gen. 322 (1967), and B-164251, June 26, 1968.

Annual leave--The taking of annual leave does not affect the granting of temporary quarters subsistence expenses absent an indication that the leave caused an unwarranted extension of the period that the employee occupied temporary quarters. B-178790, August 1, 1973. Thus, an employee may be reimbursed temporary quarters subsistence expenses while on annual leave unless he departs from his duty station on personal business. B-168218, August 11, 1970, and B-169525, May 11, 1970.

Upon arrival at his new duty station in Albany, the employee and his wife resided in a motel for 2 days until June 26, spent the next 3 days traveling to various cities, and returned to the new station on June 30. The agency disallowed the employee's claim for temporary quarters for the 3 days spent traveling, since he was away from the new station for personal reasons notwithstanding the employee's claim that he could not find temporary quarters in Albany because of a carnival being held at that time. Entitlement to a temporary quarters allowance is not restricted to instances when quarters are located at the old or new official station and expenses may be paid even though the employee is on annual leave. Since temporary quarters are intended as an expedient to be used only until the employee can move to permanent quarters, the employee's entitlement depends on whether his taking of leave and travel away from his new station caused an unwarranted extension of the period of temporary quarters or delayed his occupancy of permanent quarters. If the employee has acted expeditiously in locating permanent quarters and occupied them as soon as they were available, he is entitled to temporary quarters subsistence expenses for the entire period of his claim, including the 3 days while on leave. B-184137, December 29, 1975.

### Period interrupted

Temporary duty--An employee who was transferred to Spokane, claimed temporary quarters subsistence

## RELOCATION

expenses for himself and his wife for 1 week in July and for 9 days in September. He claimed 9 additional days in September for his wife. For the intervening period from July 12 to September 11, the employee was away from his new duty station on properly authorized temporary duty. The 30 days for occupancy of temporary quarters run consecutively, except where the period is interrupted by official travel. Where the official travel involved results from temporary duty after the employee begins to occupy temporary quarters, time spent on temporary duty travel while neither the employee nor a member of his family is claiming or occupying temporary quarters should not be counted in determining when the maximum period for reimbursement expires. B-171715, February 24, 1971; B-171607, March 10, 1971; and B-163689, March 20, 1968.

Military duty--On May 11, an employee stationed in Chicago was given orders directing his transfer to Miami on August 6. After departing from Chicago and before reporting for duty in Miami the employee was on military duty in New Jersey. He claimed subsistence expenses for temporary quarters occupied in Chicago in July and for temporary quarters occupied in Miami for the period following military duty. The running of the 30-day period for temporary quarters subsistence expenses is interrupted for "official necessity." The term "official necessity" may be viewed as including military duty and, hence, the employee's claim for interrupted occupancy of temporary quarters may be paid since his entitlement should not be reduced by reason of the military duty obligation falling within his period of transit. B-181482, February 18, 1975.

Travel to new station--The actual time for official travel from the old to the new duty station, not to exceed the authorized traveltime, should be excluded from the computation of the authorized period of consecutive calendar days for occupancy of temporary quarters. B-180286(1), July 2, 1975.

### G. LOCATION OF TEMPORARY QUARTERS

#### Not at old or new station

An employee stationed aboard a sea-going dredge was transferred from Portland, Oregon, to Jacksonville, Florida.

## RELOCATION

Subsistence expenses incurred in connection with a trip from the dredge, then in Texas, to the employee's temporary quarters in Florida may be reimbursed since nothing in the regulations restricts the location of the temporary quarters occupied by the employee. B-183588, August 20, 1975.

After the sale of his house, an employee was unable to locate temporary quarters for his family at his old station in California. Because he was reluctant to bring his family to his new station before finding permanent quarters, he moved them to Oregon to be near relatives. Subsistence expenses may be paid for the family's occupancy of temporary quarters in Oregon as there is no restriction on the location at which temporary quarters may be occupied. B-169065, March 17, 1970, and B-175594, May 3, 1975.

Incident to transfer from London to Fort Meade, Maryland, the employee and his family stayed in a motel for 8 days in Laurel, Maryland. Thereafter, his wife and three children moved into an apartment in Rehobeth Beach, Delaware, while the employee stayed at his son's residence in Laurel. When renovations to their new residence were completed they moved in. The family's temporary quarters subsistence expenses may be paid for the period they stayed in Rehobeth since the family's stay in Rehobeth was directly related to the employee's transfer and to their need to occupy temporary quarters, and since it does not appear that the family was merely planning a vacation. B-185376, July 23, 1976.

### At both old and new stations

Incident to transfer from Japan to Virginia, the employee and his family occupied temporary quarters in Japan before their departure and occupied temporary quarters in Virginia after their arrival. Expenses may be reimbursed for use of temporary quarters at both locations. Language of the JTR indicating that the employee will be eligible for reimbursement of temporary quarters subsistence expenses when he occupies temporary quarters at his "old or new" duty station is not intended to preclude reimbursement where the employee occupies temporary quarters at more than one of the locations specified. B-180286(1), July 2, 1975.

### Separate occupancy of family members

An employee and his family traveled to the employee's new duty station in the Virgin Islands. Finding no quarters available, the family stayed in hotels for approximately

## RELOCATION

2 weeks. Thereafter his dependents returned to the United States and the employee shared an apartment with another employee. Temporary quarters subsistence expenses may be reimbursed for the employee and for his dependents while residing separately. The regulations clearly contemplate reimbursement in the situation where an employee and his family occupy temporary quarters at different locations. B-167662, September 18, 1969; B-161796; September 1, 1967; B-185514, September 2, 1967; and B-185376, July 23, 1976.

### Occupancy of quarters overseas

An employee transferred from England reported for duty in Pennsylvania on May 11. His family remained in England after having vacated their former residence there. The employee may be reimbursed subsistence expenses for his family's occupancy of temporary quarters in England prior to joining him in Pennsylvania, since the statute and implementing regulations merely require that the employee's new duty station be located in the United States or specified nonforeign area. They do not require that the temporary quarters be located in the United States or specified area. B-180286(2), July 2, 1975.

## H. REIMBURSABLE EXPENSES

### Reimbursable items of expense

#### Costs incident to rental

In connection with the rental of a townhouse which he occupied as temporary quarters, an employee incurred expenses for trash collection, cleaning, and telephone service. Fees for trash collection and cleaning are reimbursable as temporary quarters subsistence expenses. However, only that portion of the employee's telephone bill that does not relate to installation or long-distance calls may be reimbursed as temporary quarters subsistence expenses. B-168384, February 19, 1975. Also see the more general discussion of lodging costs contained in 52 Comp. Gen. 730 (1973).

#### Laundry and dry cleaning

Upon his initial occupancy of temporary quarters an employee took a number of items for dry cleaning and laundering and incurred costs of \$52 in a single day. Because of the likelihood that clothes will become

## RELOCATION

soiled or wrinkled in transit, it is not unreasonable to delay laundry and dry cleaning until after moving. The costs claimed may, therefore, be reimbursed. B-188289, November 14, 1977.

### Cleaning deposit

The unrefunded portion of a cleaning deposit on leased temporary quarters is a fee incident to lodging and may be reimbursed as a temporary quarters subsistence expense. B-163107, January 30, 1968.

## Nonreimbursable items of expense

### Child care expenses

A transferred employee informally contracted with his mother-in-law to provide child care for her two children, ages 2 and 4, at a cost of \$50 for 30 days. Babysitting and child care fees may not be paid as temporary quarters subsistence expenses. B-180623, August 14, 1974.

### Transportation expenses

An employee claimed \$76.50 in temporary quarters subsistence expenses representing the cost, at 15 cents per mile, of transporting his three children to school during the period that his family occupied temporary quarters. The amount claimed may not be paid as temporary quarters subsistence expenses since the allowance is intended to cover meals, lodging, and laundry expenses and FTR para. 2-5.4b specifically provides that expenses of local transportation incurred for any purpose during occupancy of temporary quarters may not be reimbursed. B-189295, August 16, 1977. Mileage expenses for travel to an employee's relatives' residence may not be paid as temporary quarters subsistence expenses in lieu of lodgings and food, even though the employee's stay with his relatives may have saved 2 days temporary quarters subsistence expenses. B-172157, May 27, 1971.

### Automobile-related expenses

When costs for parking or storing an employee's automobile are paid separately from the cost of his lodgings, those costs may not be reimbursed as temporary

## RELOCATION

quarters subsistence expenses. The term subsistence expenses does not extend to the cost of garaging a vehicle when the employee is in temporary quarters. 47 Comp. Gen. 189 (1967), and B-178343, December 26, 1973.

### Forfeited deposit

An employee entered into a 3-month lease on temporary quarters at his new duty station and paid a security deposit of \$50. Before the end of the 3-month period the employee cancelled the lease and moved into permanent quarters. He claimed reimbursement for the unrecovered \$50 deposit as an item of temporary quarters subsistence expenses. As distinguished from a subsistence expense in the nature of rent, a security deposit protects the lessor against violation of the lease and may not be reimbursed as a temporary quarters subsistence expense. 55 Comp. Gen. 779 (1976), and B-178343, December 26, 1973.

### Evidence of lodging expenses

#### Requirement for receipts

Paragraph 2-5.2b of the FTR requires receipts for lodging and laundry and cleaning expenses. Where neither the employee nor the lodging facility could document the employee's stay and where the only evidence submitted was the employee's own statement, he may not be reimbursed lodging expenses. The employee's own statement, even though accompanied by an affidavit, does not constitute a receipt for the purpose of reimbursement. B-181412, October 2, 1975, and February 5, 1975; and B-176882, November 14, 1972.

Stolen receipts--An employee's claim for reimbursement for temporary quarters subsistence expenses for 5 days, including costs of lodgings, may be reimbursed notwithstanding the absence of lodging receipts where the employee submitted a police report confirming the theft of her briefcase containing her lodging receipts. B-180242, April 8, 1974. Under such circumstances, where replacement receipts cannot be obtained, the employee's affidavit may be accepted as evidence of lodging costs. B-183265, May 27, 1975.

## RELOCATION

Lost receipts--Where an employee could not obtain duplicate receipts he may be reimbursed lodging costs notwithstanding his loss of receipts since he kept a daily contemporaneous work record on which he noted his actual lodging costs. B-173312, October 8, 1971.

Additional requirements under 2 JTR--Where the JTR imposes the additional requirements that the lodgings receipts show locations and dates of the temporary quarters occupied and list the persons occupying such quarters, a DOD employee may not be reimbursed lodging costs claimed on the basis of receipts not indicating the names or addresses from which lodgings were obtained. Although the FTR does not require receipts specifically indicating the location of the quarters or the names of occupants, the FTR sets forth only minimum requirements and the JTR may impose additional requirements necessary to an adequate review of the claim. B-185514, September 2, 1976.

### Evidence of subsistence expenses

#### Itemization on daily basis

Under FTR para. 2-5.4b actual expenses are required to be itemized in a manner prescribed by the head of the agency that will permit at least a review of amounts spent daily for lodging, meals, and other items. An employee who submitted a claim for lump-sum amounts for subsistence expenses ranging from \$100 to \$480, may not be reimbursed since he has not submitted the required itemization. B-170583, October 29, 1970; B-161796, September 1, 1967; and B-162887, December 21, 1967.

#### Receipts not required

Receipts are not required for meals or groceries consumed while occupying temporary quarters. Such expenses are allowable if reasonable in amount and properly itemized. B-175918, June 15, 1972.

#### Estimates

Although the regulations do not require a meal-by-meal statement of costs, they do require that the actual amounts spent be shown. B-164251, June 26, 1968. While average estimated meal costs are not generally

## RELOCATION

held to be acceptable, claims have been allowed on the basis of such estimates where the expenses claimed are reasonable and are based on actual expenditures. B-171098, January 28, 1971; B-169923, August 14, 1970; and B-166238, March 27, 1969.

### Proration and averaging

On days for which the employee itemized expenses for groceries he did not claim other reimbursement for breakfast or for lunch, but treated his grocery expenditures as in lieu of claims for breakfast and/or lunch. The employee may be reimbursed for the grocery expenses claimed even though the temporary quarters he occupied had no kitchen facilities. However, since the regulations contain no authority for reimbursement of lump-sum amounts without reference to the 10-day computation periods, the amount claimed for groceries should be prorated over the number of meals, at a reasonable amount for each meal not otherwise claimed by the employee. B-190583, February 10, 1978, and B-165553, November 25, 1968. Where subsistence expenses are itemized on an averaging basis the amounts must be clearly reasonable. B-165020, September 9, 1968.

### Reasonableness of amounts claimed

It is the responsibility of the employing agency, in the first instance, to determine that subsistence expenses are reasonable. Where the agency has exercised that responsibility, the General Accounting Office will not substitute its judgment for that of the agency, in the absence of evidence that the agency's determination was clearly erroneous, arbitrary, or capricious. However, the General Accounting Office has the right and the duty to review the circumstances of each case to make an independent determination as to the reasonableness of the claimed subsistence expenses. In this connection, the fact that the expenses claimed are within the maximum amounts specified in FTR para. 2-5.4c does not automatically entitle the employee to reimbursement. Rather, an evaluation of reasonableness must be made on the basis of the facts in each case. 52 Comp. Gen. 78 (1972). Accordingly, the amount claimed may be reduced to a reasonable sum as determined on the basis of the evidence in an individual case. Such a determination may be made on the basis of statistics and other information gathered by Government agencies regarding

## RELOCATION

living costs in the relevant location. 55 Comp. Gen. 1107 (1976), 56 Comp. Gen. 604 (1977), and B-188289, November 14, 1977.

### Lodgings provided by friends and relatives

Upon change of station an employee lodged temporarily with relatives and claimed reimbursement for temporary quarters subsistence expenses based on the maximum amount reimbursable. Receipts from relatives evidencing payment of the amounts claimed were submitted in support of the employee's claims. Although the regulations do not preclude reimbursement for payment of rent to relatives whose premises are occupied as temporary quarters, the amount must be reasonable; that is, it must be related to the relatives' actual cost of providing lodgings to the employee, and considerably less than motel charges. It is unreasonable and unnecessary for employees to agree to pay relatives the same amount they would have to pay for commercial lodgings or to base such payments to relatives upon the maximum amounts reimbursable under the regulations. What is reasonable depends on the circumstances. Factors to be considered include the number of individuals involved, whether the relative hired extra help, and extra work performed by the relative. 52 Comp. Gen. 78 (1972), and B-187419, June 1, 1977.

### Unreasonable food costs

During the first 10-day period that the employee and his three dependents occupied temporary quarters in the Washington, D.C., area, they spent \$582.63 for groceries. For the second and third 10-day periods they spent \$147.38 and \$182.58, respectively. The amount claimed may be reduced to a reasonable sum based on evidence in an individual case. Based on Department of Labor statistics a reasonable expenditure for groceries for a family of four in the D.C. area would be \$109.62 for each allowable 10-day period. Since the \$912.59 claimed for food is considerably in excess of the monthly budget of \$413 derived from Bureau of Labor statistics, reimbursement for food for the period the employee's family occupied temporary quarters should be based on \$413. 55 Comp. Gen. 1107 (1976), 56 Comp. Gen. 604 (1977), and B-190583, February 10, 1978.

## RELOCATION

### I. COMPUTING REIMBURSEMENT

#### First day of entitlement

##### Beginning entitlement

An employee who was in a travel status until he arrived at his new duty station at 1:30 p.m., whereupon he began to occupy temporary quarters, may be paid temporary quarters subsistence expenses for that day as well as per diem for travel. B-161348, May 31, 1967; B-161878, July 21, 1967; and 47 Comp. Gen. 189 (1967)

##### Whole-day concept

Notwithstanding that an employee is eligible for temporary quarters subsistence expenses from the end of the quarter of the calendar day after which he ceases to receive per diem for travel, the concept of calendar-day quarters is used only to ascertain when the employee's eligibility begins and not throughout the period to determine when his eligibility ceases. The statutory authority for temporary quarters reimbursement limits payment to a "period of 30 days" and, in that context, the word "days" refers to calendar days. Thus, the portion of the day on which an employee becomes eligible for reimbursement of temporary quarters subsistence expenses constitutes one of the 30 calendar days during which such expenses may be paid. Thereafter, reimbursement is made for each calendar day (midnight to midnight) that the employee occupies temporary quarters, including the day on which he enters his permanent residence, up to the maximum allowable period of 30 days. 56 Comp. Gen. 15 (1976).

Where the employee arrived at his new station at 6:45 p.m. and immediately began to occupy temporary quarters, the day on which he enters temporary quarters is considered a whole day for the purpose of computing the maximum amount which he may be reimbursed for the first 10-day period under FTR para. 2-5.2g. Therefore, the maximum allowable for comparison purposes for the first 10-day period for an employee with a spouse and child would be \$612.50 (10 days X \$61.25) rather than \$566.56 (9-1/4 days X \$61.25). 57 Comp. Gen. 6 (1977).

## RELOCATION

### Daily rate

#### Rates less than maximum

Where travel orders provided "Not to exceed \$12 for subsistence expenses while occupying temporary quarters \* \* \*," even though a rate of \$16 could have been established, the \$12 amount prescribed established the base rate upon which temporary quarters subsistence expenses entitlement is to be computed. In the absence of an agency regulation to the contrary, the authorizing official may prescribe a lesser base rate than the maximum per diem rate applicable for the locality in which the temporary quarters are located. B-163876, May 29, 1968.

#### No rate set in orders

Where travel orders authorized "allowable expenses provided for in FPMR 101-7 for temporary quarters subsistence expenses," an agency may not limit the employee's reimbursement by using a base rate of \$12 per day since the travel authorization did not limit the per diem rate to other than the \$25 rate set out in the FTR. B-183636, July 31, 1975.

#### Rates at different locations

An employee transferred from Guam to San Diego occupied temporary quarters at both locations. Temporary quarters subsistence expenses reimbursement is to be computed on the basis of two rates, \$49 for Guam, and \$35 for San Diego. Since the regulations require temporary quarters subsistence expenses to be based on the per diem rate for the locality of the temporary quarters, they contemplate that the rate will change for temporary quarters located in different areas. B-188365, November 16, 1977, and B-167662, September 18, 1969.

#### High-rate geographical areas

An employee transferred from San Diego to Los Angeles, occupied temporary quarters in Los Angeles, a designated high-rate geographical area in which actual subsistence expenses not to exceed \$37 are payable in connection with temporary duty travel. The employee's claim for temporary quarters subsistence expenses may

## RELOCATION

not be paid based on the \$37 high-rate geographical area rate since FTR para. 2-5.4c provides for payment subject to a daily maximum per diem at the various percentage levels of the maximum statutory per diem rate of \$35 established by 5 U.S.C. § 5702. The \$33 rate of per diem established by the FTR for travel within the United States is not applicable. 55 Comp. Gen. 1337 (1976).

### Applying the formula

Paragraph 2-5.4c of the FTR sets forth the formula for computing the maximum amount an employee may be reimbursed for each of the 10-day periods of temporary quarters subsistence expenses entitlement. He may be reimbursed the lesser of either the actual amount of allowable expenses incurred for each 10-day period or the amount determined under the formula. Under the formula actual subsistence expenses for each 10-day period must be itemized and totaled and then compared with the maximum allowable for the particular period. 47 Comp. Gen. 322 (1967), B-176541, November 9, 1972, and B-171158, February 18, 1971.

### Formula establishes a maximum

An employee who has been reimbursed the maximum amount for temporary quarters allowable under the formula set forth in the regulations is not entitled to the additional amount spent for laundry and dry-cleaning. B-158706, February 13, 1975.

## J. RELATIONSHIP TO OTHER ALLOWANCES

### Temporary lodging allowance

Paragraph 2-5.2i of the FTR provides that in no case shall a temporary quarters subsistence expense allowance be allowed that duplicates, in whole or in part, payments received under other laws or regulations covering similar costs. The temporary lodging allowance is discussed in chapter 14 of this title of the Civilian Personnel Law Manual.

### Temporary quarters in the United States

During the last 30 days prior to his departure from a foreign area for which quarters allowances have been prescribed under the Standardized Regulations an

## RELOCATION

employee may be paid a temporary lodging allowance. A temporary lodging allowance is in lieu of a permanent quarters allowance, whereas a temporary quarters subsistence expenses allowance is associated with the employee's acquisition of a residence at his new station in the United States. Since the two allowances are designed for different purposes and are not duplicative of one another there is no restriction on payment of subsistence expenses while occupying temporary quarters in the United States merely because the employee also received a temporary lodging allowance prior to departure from his foreign post. B-165392, November 1, 1968.

### Temporary quarters in a foreign area

Temporary quarters subsistence expenses may be paid for an employee's occupancy of temporary quarters at his old duty station in a foreign area. To the extent that a temporary lodging allowance is payable for a like period of occupancy in a foreign area prior to departure from post, the two allowances are duplicative and reimbursement of the temporary quarters subsistence expenses allowance must be reduced by the amount received as a temporary lodging allowance for occupancy of the same temporary quarters during the same period. B-180286(1), July 2, 1975.

### Quarters allowance

Where, for the same period that a transferred employee claims temporary quarters subsistence expenses, the employee's military-member spouse receives a basic allowance for quarters (BAQ) and subsistence (BAS), the spouse's entitlements do not defeat the employee's entitlement to temporary quarters subsistence expenses. Whereas the temporary quarters subsistence expenses allowance is intended to lessen the economic burden an employee faces when transferred, BAQ and BAS are in the nature of basic pay, designed to cover the normal day-to-day expenses a member of the uniformed services incurs for food and shelter not provided in kind by the Government. 52 Comp. Gen. 962 (1973), and 54 Comp. Gen. 892 (1975).

### Per diem allowance

An employee rented temporary quarters at her new duty station in Dallas for 30 days at a cost of \$8 per day which

3 of 4



## RELOCATION

she was obligated to pay even though she was away from Dallas. For approximately one-half of that 30 days she was assigned to temporary duty away from Dallas. The employee may not be reimbursed temporary quarters subsistence expenses for the days she was on temporary duty and entitled to receive per diem since the two allowances duplicate one another. B-175499, April 21, 1972.

### House-hunting trip

Paragraph 2-4.1e of the FTR provides that if, in connection with a permanent change of station, temporary quarters are to be authorized, a trip for seeking a permanent residence may be avoided. However, this does not mean that house-hunting trips must, in all circumstances, be avoided if temporary quarters are to be authorized nor does it mean that if a house-hunting trip is authorized, temporary quarters cannot be. In fact, FTR para. 2-5.1 recognizes that a temporary quarters allowance may be authorized in addition to a house-hunting trip although, as a general policy, the allowable period for temporary quarters should be reduced or avoided if a trip to seek a permanent residence has been made. B-184024, January 21, 1976. The entitlement of a transferred employee to travel to seek residence quarters is discussed at chapter 5 of this title of the Civilian Personnel Law Manual.

### Mileage

In lieu of moving to temporary quarters at his new duty station, an employee remained at his old station and drove 120 miles roundtrip each day to report for duty. The employee may not be paid mileage in lieu of temporary quarters subsistence expenses even though his actions may have resulted in a savings to the Government. B-164460, July 11, 1968.

# RELOCATION

## CHAPTER 7

### RESIDENCE TRANSACTION EXPENSES

#### SUBCHAPTER I--ENTITLEMENT

##### A. AUTHORITY

###### Statutory authority

Under 5 U.S.C. § 5724a(a)(4), funds are made available for reimbursement of real estate transaction expenses as follows:

"(4) Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. However, reimbursement for brokerage fees on the sale of the residence and other expenses under this paragraph may not exceed those customarily charged in the locality where the residence is located, and reimbursement may not be made for losses on the sale of the residence. \* \* \*

###### Regulations

The regulations governing reimbursement of residence transaction expenses are found at FTR chapter 2-6 and, as further implemented and applicable specifically to civilian employees of the DOD, are found at 2 JTR chapter 14.

##### B. ELIGIBILITY

###### Old and new stations in United States

Under 5 U.S.C. § 5724a(4) and FTR para. 2-6.1a, both the old and new stations of a transferred employee must be located within the 50 States, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, or the Canal Zone to entitle him to reimbursement for expenses incurred in buying or selling a residence. Thus, an employee may not be reimbursed for the cost of selling his residence in the United

## RELOCATION

States incident to a transfer to a foreign post of duty, and he may not be reimbursed for his residence purchase expenses upon reassignment to the United States. 47 Comp. Gen. 93 (1967); B-176452, February 21, 1973; and B-184987, May 28, 1976.

### Reemployment rights in United States

An employee who was transferred to Germany from Massachusetts, with reemployment rights in Massachusetts, is not entitled to reimbursement for real estate expenses incurred in selling his Massachusetts home and purchasing a home in California incident to reemployment in California, instead of Massachusetts. Under the FTR requirement that both the old and new duty stations be located within the United States or other designated area, the actual transfer rather than a theoretical transfer between Massachusetts and California is to be considered. B-130230, November 30, 1976, and B-187289, November 2, 1976.

### New station not permanent

An employee transferred from California to Saigon may not be reimbursed for real estate expenses related to the sale of his California residence or the purchase of a new home in Washington, D.C., when retransferred from Saigon to the location of his California residence and shortly thereafter transferred to Washington, D.C. An employee may not be transferred to a place where he is not expected to remain for an extended time in order to increase his relocation allowances. B-172594, March 27, 1974.

### Specific locations

Okinawa--An employee who was separated due to a reduction in force while stationed in Okinawa, and was reemployed within 1 year in Washington, D.C., may not receive reimbursement for his real estate expenses, since Okinawa is not a territory or possession of the United States. 54 Comp. Gen. 1006 (1975).

Saipan--An employee's claim for reimbursement of real estate expenses upon his return to the United States after serving on Saipan is denied since FTR para. 2-6.1a requires that both the old and new stations be located within the 50 States, or the territories or

## RELOCATION

possessions. Since Saipan is administered by the United States under a United Nations trusteeship, it is not a territory within the requirement of those regulations. B-163113, June 27, 1968.

Guantanamo Bay, Cuba--An employee transferred from Guantanamo Bay, Cuba, to Dayton, Ohio, may not be reimbursed real estate expenses since the Naval Station at Guantanamo Bay was leased from Cuba in 1903 and the United States did not obtain title. Guantanamo Bay is not a possession of the United States within the meaning of 5 U.S.C. § 5724a(a)(4). B-178396, June 18, 1973.

### Change of official station

On the basis of an announcement to all employees that a contract had been awarded for the construction of a new building incident to an impending relocation of agency headquarters, an employee relocated her residence from Maryland to Virginia. Although the announcement established notice of the agency's intention to move, there is no authority for the payment of real estate expenses until the transfer of official station is consummated or cancelled. 52 Comp. Gen. 8 (1972).

After his position was abolished an employee stationed in Alaska returned to the continental United States for separation by retirement. His claim for reimbursement of real estate expenses incurred in selling his Alaskan residence is not allowed since such reimbursement is authorized only when there is a permanent change of duty station. Return from Alaska for a purpose other than assuming a new Government position does not constitute a permanent change of station. 54 Comp. Gen. 991 (1975).

### Reemployment after reduction in force

An employee separated involuntarily due to reduction in force who, within 1 year, is reemployed by the Government at another geographical location is entitled to reimbursement for real estate transaction expenses under 5 U.S.C. § 5724a(c) which provides that an employee so separated may receive prescribed benefits "as though he had been transferred in the interest of the Government without a break in service. B-172824, May 28, 1971. Compare 54 Comp. Gen. 747 (1975).

## RELOCATION

### Employees not eligible

Moves to Government quarters--An employee may not be reimbursed real estate transaction expenses where, incident to a promotion, he was required him to move his family and household goods into a Government-owned house. Relocation of the employee's residence may not be regarded as a transfer of official station. However, expenses of moving his household goods between his residence and the assigned Government quarters may be paid as an administrative expense of the installation. B-163088, February 28, 1968, and B-172276, July 13, 1971. See discussion of transportation of household goods at chapter 9 of this title of the Civilian Personnel Law Manual.

Transfers under the Foreign Service Act--A Federal Aviation Administration employee who was transferred from Germany to the United States and paid allowances as authorized by the Foreign Affairs Manual is not entitled to real estate expenses incident to his purchase of a new residence since the FTR excludes from coverage "officers and employees transferred in accordance with the provisions of the Foreign Service Act of 1946." B-177277, May 3, 1973, and B-182002, May 29, 1975.

Assignments for training--An employee whose first duty station was Boston and who was assigned to Louisiana for the purpose of training is not entitled to reimbursement of expenses incurred in selling his Boston residence inasmuch as an assignment solely for the purpose of training is not regarded as a change of official station. B-169471, November 13, 1970. The relocation expenses payable in connection with training are strictly limited by 5 U.S.C. § 4109 and do not include real estate transaction expenses. 56 Comp. Gen. 85 (1976).

New appointees--A new appointee, even though appointed to a manpower-shortage-category position, is not entitled to reimbursement of real estate transaction expenses. His benefits are limited to those authorized under 5 U.S.C. § 5723. 54 Comp. Gen. 747 (1975), and B-182716, July 1, 1976.

Intergovernmental Personnel Act assignments--An employee stationed in Kansas City, Missouri, was given an Intergovernmental Personnel Act (IPA) assignment to

## RELOCATION

Jefferson City, Missouri, and upon termination of the IPA assignment was transferred to Dallas, Texas. He may not be paid relocation expenses incurred upon the sale of his home in Jefferson City, since Jefferson City was not his "official station." B-183283, October 15, 1976, and 53 Comp. Gen. 836 (1974).

### Cancelled transfers

Real estate expenses incurred in connection with the sale of the employee's residence in Ohio, incident to permanent change of station, may be reimbursed even though the travel order authorizing such expenses was later revoked. The employee, in complying with the change-of-station order prior to its cancellation, incurred expenses in good faith during the time the transfer order was in effect and the expenses claimed would have been payable had the transfer been consummated. B-170259, September 15, 1970; B-177898, April 16, 1973; and B-174505, December 21, 1971.

Avoidable expenses--An employee incurred house-sale expenses at his old official station after his transfer was cancelled on the erroneous assumption that the exclusive listing agreement with his realtor was irrevocable. His claim for reimbursement of real estate expenses may not be allowed since, under applicable state law, he could have unilaterally cancelled the listing agreement at any time without obligation and without incurring any expenses. B-181321, November 19, 1974.

Cancelled transfer outside United States--An employee who had a heart attack after receiving orders transferring him from Maryland to England and whose orders were, therefore, revoked may not be reimbursed real estate expenses for buying and selling residences in Maryland since the cancelled transfer was to a location outside the United States and to other than an area designated by 5 U.S.C. § 5724a(a)(4). B-189900, January 3, 1978.

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement to relocation expenses including real estate transaction expenses.

## RELOCATION

In general, an employee may only be reimbursed for relocation expenses incurred after he has received notice of his change of official station. Ideally, notice is given by the agency's timely issuance of a travel order. 54 Comp. Gen. 993 (1975). However, under particular circumstances where actual notice of transfer is conveyed by less formal means, the employee may be paid for relocation expenses subsequently incurred. The subject of notice, discussed more fully at chapter 2, supra, is particularly significant in determining entitlement to real estate sale expenses because of the requirement that the residence sold be the employee's residence when he was notified of transfer.

Expenses incurred for residence sale incident to an employee's transfer to San Diego are not reimbursable since the house had previously been sold and repossessed, but not reoccupied by the employee. For the purpose of reimbursement of expenses in connection with the second sale of the house, the house was not the employee's residence at the time he was informed of the transfer to San Diego. However, the employee could claim expenses in connection with the original sale of the property since that sale took place after he had received notice from competent authority that his duty station would be transferred to China Lake. B-174051, December 8, 1971.

### Authorization

#### Uniformity of allowances

Where a transferred employee's travel authorization did not expressly provide for reimbursement of expenses in connection with the purchase of a residence at her new duty station, the 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 in FTR para. 2-6.1 contemplates a uniform allowance of such expenses to transferred employees. 55 Comp. Gen. 613 (1976), and B-168658, January 14, 1970.

#### Incident to transfer determination

Within 90 days after he was retransferred to his former duty station, an employee purchased a house even though he still owned the residence he had occupied during his prior tour of duty. His claim for reimbursement of real estate expenses for the purchase was

## RELOCATION

denied by the agency, based on FTR para. 2-6.1e, and its finding that the transaction was not reasonably related to the transfer. That paragraph applies only when an extension of the 1-year settlement date limitation is requested and does not preclude payment of the employee's claim. B-173783.141, October 9, 1975, and B-182572, October 9, 1975.

Short-distance transfer--An employee who lived in Salem, Utah, moved one and one-half blocks to a new house after his official station was changed from Provo, Utah, 13 miles from Salem, to Salt Lake City, Utah, 55 miles from Salem. In the case of a short-distance relocation, FTR para. 2-1.5b provides that the agency should determine whether the relocation was incident to the change in official station. Since the agency found that the employee was building the new home before he knew of the transfer and determined that his purchase of the new residence was not incident to transfer, the employee is not entitled to relocation expenses. B-186711, October 7, 1976; 51 Comp. Gen. 187 (1971); B-187162, February 9, 1977; and B-188083, June 27, 1977.

### D. TRANSACTIONS COVERED

#### Purchase of residential property

An employee who purchased a residence at his new duty station, which included a dwelling, a garage, a barn, other outbuildings and 18 acres of land, is entitled to reimbursement of his expenses because, in the absence of evidence that the employee is utilizing or intends to utilize any portion of his property for commercial purposes, there is no basis for regarding the transaction as other than a purchase of residential property. B-166709, May 21, 1969.

#### Collateral land transaction

Expenses, including the real estate commission, incurred by a transferred employee incident to the sale of a parcel of land he had accepted in partial payment for his residence at his old duty station are not reimbursable under the FTR, notwithstanding the possible savings to the Government by reason of the real estate broker relinquishing his commission on the residence for the opportunity to sell and receive a commission on the sale of the land. 48 Comp. Gen. 419 (1968).

## RELOCATION

### Land contract or contract for deed

At the time of his transfer an employee occupied a residence under a "land contract" whereby the vendor agreed to convey equitable title and the vendee agreed to pay the purchase price in installments with retention of legal title in the vendor as security for payment. Although the employee did not hold legal title the sale of his interest under the land contract effected a "sale" permitting reimbursement of real estate expenses. B-174644, April 20, 1972. The same rule applies where the transaction is called a "contract for deed." B-188300, August 29, 1977.

### Lease with option to purchase

An employee may not be reimbursed expenses incurred incident to his execution of a lease with an option to purchase a residence at his new duty station. Under 5 U.S.C. § 5724a(a)(4) and the FTR, the term "purchase" requires, at the least, a transfer of equitable title to property. An option to purchase does not, in itself, give a lessee any title to the property. B-185095, August 13, 1976.

### Gift of property

A transferred employee may be reimbursed expenses incurred in taking title to a residence as a gift from a relative. The word "purchase" as used in the FTR and 5 U.S.C. § 5724a(a), includes the situation in which an employee obtains title by gift. B-173652, October 27, 1971.

### Exchange of property

Where an employee conveyed his home at his old duty station to another person in exchange for that person's residential property at the new duty station, with the understanding that the other person would assume the mortgage on the employee's old residence, the transaction is tantamount to a sale, and expenses incurred in the transaction may be reimbursed under 5 U.S.C. § 5724a(a)(4). B-166419, April 22, 1969.

### Lease of land

Where an employee was transferred to Honolulu, and incurred expenses incident to execution of an Agreement of Sale, which included purchase of the seller's interest in a long-term lease on the land where the house stood, the employee

## RELOCATION

may be reimbursed for the expenses relating to the lease as well as for those relating to the sale. The entire matter should be treated as one transaction, and is the equivalent of a purchase of a residence. B-177328, March 2, 1973.

### Houseboat

A transferred employee who purchased and occupied a houseboat at his new residence may be reimbursed for the cost of a marine survey which was required for financing the purchase of the houseboat, since 5 U.S.C. § 5724a(4) and the FTR do not limit an employee to reimbursement for expenses incurred incident to the purchase of a dwelling on land at his new duty station. 53 Comp. Gen. 626 (1974).

### Mobile home

Under FTR para. 2-6.1b a house trailer or mobile home is a "residence" or "dwelling" as those terms are used in the regulations. Therefore, a brokerage fee paid by a transferred employee to sell his mobile home at his old duty station may be reimbursed. Although a fee of 15 percent of the actual sale price paid is the normal commission charged by dealers in the area, reimbursement is subject to the overall limitation of 10 percent. 49 Comp. Gen. 15 (1969) and B-175561, April 27, 1972.

### Sale after use at new station

A transferred employee shipped her mobile home to her new duty station and used it as her residence for 4 months before purchasing a new residence and selling the mobile home. Reimbursement for the expenses of purchasing the new residence and selling the mobile home after transporting the mobile home to the new duty station is not permitted, absent unusual circumstances. B-183195, June 1, 1976, and B-185476, July 21, 1976. See chapter 8 of this title of the Civilian Personnel Law Manual.

### Used as downpayment on house

A transferred employee transported a housetrailer to his new station for use as a residence. The trailer was damaged en route and the employee traded it in as part of the downpayment on his new house instead of paying \$1,155 in estimated repair expenses. The

## RELOCATION

employee is entitled to otherwise reimbursable expenses for purchasing the house, absent any evidence of negligence or intentional wrongdoing to subvert his certification that he intended to use the transported trailer as his residence. B-168123, December 9, 1969.

### Interim financing

An employee obtained an interim financing loan in order to purchase a new residence while awaiting receipt of the proceeds from the sale of his former residence. Three months later, after receiving the sale proceeds, he obtained permanent financing by executing a first mortgage against the newly purchased residence. The employee may be reimbursed expenses incurred in connection with the mortgage transaction as if the mortgage had been executed simultaneously with the earlier transfer of title. B-188176, July 6, 1977.

### Marital property settlement

A transferred employee sold his interest in his residence to his estranged wife. The employee may be reimbursed legal expenses for the preparation of a deed and an affidavit of title since the sale of his interest in the residence constitutes a residence transaction within the meaning of FTR para. 2-6.2c. 56 Comp. Gen. 862 (1977).

### Forfeiture of deposit

An employee who was in the process of purchasing a new residence incident to a transfer, but was prevented from completing the purchase by a second transfer, may be reimbursed the deposit he forfeited as part of the miscellaneous expense allowance incident to both transfers. 55 Comp. Gen. 628 (1976), and B-190764, April 14, 1978. See chapter 4 of this title of the Civilian Personnel Law Manual.

## E. SPECIFIC CONDITIONS OF ENTITLEMENT

### Relationship of residence to duty station

An employee, who was transferred from Washington, D.C., to Denver, Colorado, claims reimbursement of real estate expenses incident to the sale of his residence in Arlington, Virginia, and the purchase of a residence in Staunton, Virginia. He may not be reimbursed for the purchase of a

## RELOCATION

residence in Staunton because it bears no relationship to his new station. B-186185, November 15, 1976.

### Residence in Canada

An employee transferred from St. Louis to Buffalo, New York, who purchased a residence in Canada--directly across the Niagara River--may be reimbursed for real estate expenses since the applicable regulations are not concerned with the location of permanent quarters provided both "official stations" or "posts of duty," are located in the United States. B-177930, March 27, 1973.

### Remote duty station

An employee's claim for real estate expenses previously disallowed because his new residence was not in the vicinity of his new duty station (home port), may be allowed. If an employee works at a remote duty station where adequate family housing is unavailable, the place where the family resides is the residence eligible for reimbursement of expenses under the FTR. B-183588, August 20, 1975.

### Residence from which employee commutes daily

#### Generally

An employee who was stationed in Wyoming and was transferred to Maine may not be reimbursed for real estate expenses incident to the sale of his residence in New Hampshire in which his family resided. Paragraphs 2-1.4i and 2-6.1 of the FTR require that the residence which is sold be situated at the employee's old "official station," which is defined in para. 2-1.4i as the residence or quarters from which the employee regularly commutes to and from work. B-189998, March 22, 1978; B-177583, February 9, 1973; and B-191111, March 31, 1978.

Long-distance commuter--An employee who transferred to a new official duty station sold his home and relocated to a new residence in the same area as was his old residence. He may be reimbursed for his real estate expenses for the sale of his former home and other relocation expenses since the record shows that the employee commuted daily to his new station from

## RELOCATION

his new residence. 54 Comp. Gen. 751 (1975) and B-181415, February 5, 1975.

Weekend commuter--The residence of an employee which was situated 182 miles from his duty station, and to which the employee returned on weekends after commuting daily from a motel or apartment room rented in the immediate vicinity of his duty station, cannot be viewed as the residence from which the employee "regularly commuted to and from work," under FTR para. 2-1.4i, so as to confer an entitlement to the reimbursement of real estate expenses incident to its sale. B-176787, October 25, 1972; B-185584, June 30, 1976; B-173672, August 5, 1971; and B-164958, August 26, 1968.

Successive transfers--An employee who was successively transferred from Canon City, Colorado, to O'Neill, Nebraska, on March 25, 1968, and to Pueblo, Colorado, in May 1970, but whose dependents resided in Fort Collins, Colorado, until after the second transfer, may not be reimbursed costs incurred incident to the sale of the Fort Collins residence since that house was neither located at the employee's old duty station, O'Neill, nor was it the place from which he commuted daily. Successive or multiple transfers cannot negate the requirements of FTR para. 2-4.li. B-171110, January 28, 1971; B-185669, September 29, 1976; and B-176687, October 13, 1972.

### Temporarily out of residence

House being purchased--Where an employee had entered into a contract for the purchase of a house at his old duty station, but did not occupy the house because of his transfer, he may be reimbursed the costs of selling that house even though he did not occupy it as a residence, since his occupancy was prevented by the act of the Government. 54 Comp. Gen. 67 (1974); B-168818, February 9, 1970; and B-168186, November 24, 1968. Compare B-162443, September 26, 1967.

Residing at training station--An employee, selected for participation in a training program away from his duty station which, upon successful completion, would result in his assignment to a new permanent official

## RELOCATION

station, may be reimbursed for real estate expenses incurred in connection with the sale of his residence which was located at his official station at the time his participation in the program began, even though he was not actually living there when notified of transfer to the new official station. However, such reimbursement cannot be made until the employee's actual transfer to his new official station. B-164043, May 28, 1968; B-166030, February 19, 1969; and B-161795, June 29, 1967.

Extended temporary duty--An IRS employee who was notified of transfer from Gary, Indiana, his permanent duty station, to Indianapolis while on a 2-year temporary detail in Buffalo, New York, may be reimbursed expenses incurred incident to the sale of his house in Gary. The employee's residence was in Gary, and he would have been residing there but for the action of the Government in detailing him to Buffalo. B-188657, December 30, 1977.

Residence let upon prior transfer--An employee who returned from an overseas tour of duty in May 1966, but postponed the reoccupancy of his Washington residence until July 1 to accommodate the tenant is entitled to reimbursement for expenses of the sale of that residence notwithstanding the fact he was not occupying the premises on June 13 when he was informed of transfer to Hawaii. Since the employee had title to and had made arrangements to reoccupy the premises by the date he received notification of his transfer, there was substantial compliance with the FTR. B-165839, January 31, 1969.

Residence being remodeled--An employee who sold the residence in Compton, California, that he had occupied for over 20 years, incident to a change of station to Tracy, California, may be reimbursed for the real estate expenses incurred in connection with that sale, even though he was temporarily living elsewhere while the Compton house was being remodeled. During the remodeling some household effects remained in the dwelling, the employee paid the utility bills, and he contemplated moving back into the residence upon its completion. B-166270, March 21, 1969.

Barred from residence by court order--At the time he was notified of his transfer, an employee was

## RELOCATION

prohibited by court order from residing in his house at his old official station pending his divorce. He was ordered by the court to make all mortgage payments during this period and he was eventually awarded the house by the court. Since the employee would have resided in the house but for the court order, he may be reimbursed for the real estate expenses incurred incident to its sale. B-189122, November 7, 1977.

### Exceptions

No fixed duty station--An employee who was transferred from Paducah, Kentucky, to Louisville, Kentucky, claimed reimbursement of real estate expenses incident to the sale of his residence in Dale, Indiana. While the employee did not live in Paducah or regularly commute there, he may be reimbursed since the record shows that he was regularly assigned to work, not in Paducah, but at various temporary duty locations, that his residence was closer to the temporary duty locations than Paducah was, and that Paducah was designated his official duty station primarily for purposes of establishing his per diem entitlement. B-184004, April 27, 1976, and B-167708, September 26, 1969.

Remote duty station--Although generally the cost of selling a residence not located at an employee's old official station or the place from which he commutes on a daily basis may not be reimbursed under 5 U.S.C. § 5724a(a)(4), an exception to the daily commuting rule may be made where the employee cannot obtain a residence for himself and his family in a location which permits commuting to work on a daily basis. Therefore, an employee who is unable to find suitable housing at his new duty station, who resides in bachelor quarters at that station and who moves his family from 559 miles to within 349 miles of his new station to permit him to go home weekends, may be reimbursed upon a further change of duty station for the cost of selling the residence located 349 miles from the station from which he is transferred. 47 Comp. Gen. 109 (1967), and B-183588, August 20, 1975.

## RELOCATION

### Occupancy of residence when notified of transfer

#### Generally

An employee seeking reimbursement of real estate expenses incurred in the sale of his house incident to a change of official station, may not be paid since, at the time of his transfer, he was employed in a state other than the state in which the house was located, and he was renting out that house. Under FTR para. 2-6.1d the dwelling for which reimbursement of selling expenses is sought must have been the employee's residence at the time he was first definitely informed by competent authority of his transfer to a new station. B-172534, May 25, 1971, and B-177643, April 9, 1973.

Sale before date of orders--An employee was notified by letter of November 22, 1966, that he was to become "surplus" within a few months and should submit his application for transfer to the regional office within 7 days. He sold his home on March 25, 1967, prior to the June offer of another position. On July 3 he was issued transfer orders. He was properly paid allowable real estate expenses incident to the sale of his residence, since the employee sold his home only after he was advised that his assignment was being terminated and that he should file an application for a transfer, which transfer was officially ordered shortly after the house sale. B-165796, February 12, 1969.

Residing at temporary duty station--An employee who sold his home and moved his family to the area where he was detailed for up to 2 years, and to which he was permanently assigned some 7 months later, may not be reimbursed real estate expenses since the house he sold was not his residence at the time he was notified of his permanent assignment to the detail station. B-176757, March 12, 1973.

#### Exceptions

Occupancy prevented by transfer--Where an employee entered into a contract for the purchase of a residence at his old duty station, but did not occupy the residence because of his transfer, he may be reimbursed the costs of selling the residence since he was

## RELOCATION

prevented from occupying the residence by the act of the Government. 54 Comp. Gen. 67 (1974).

Residing at training station--An employee, temporarily attending school in Tallahassee, Florida, may be reimbursed for the real estate expenses incurred in the sale of his Miami residence incident to his transfer to Maryland, even though, because of the training assignment, the dwelling sold was not actually occupied by the employee at the date he was notified of transfer. B-164043, May 28, 1968.

Barred from residence by court order--At the time he was notified of his transfer, an employee was prohibited by a court order from residing in his house at his old official station pending his divorce. Since the employee would have resided in the house but for the court order, reimbursement of real estate expenses was proper. B-189122, November 7, 1977.

Occupancy of new spouse's home--Subsequent to receiving notice of his proposed transfer, but prior to the actual date he was transferred, a newly married employee established residence in a dwelling which was owned and occupied by his wife at the time he was officially informed of the transfer. Since the employee and his wife were occupying that dwelling at the time of the transfer, he is not precluded from being reimbursed for real estate expenses incident to the move to his new official station. 53 Comp. Gen. 90 (1973).

### Title requirements

A transferred employee sold the residence at his old duty station which he owned jointly with his brother. The FTR requires that title to the residence be held in the name of the employee alone, or jointly with one or more dependents, or solely in the name of one or more dependents. Under the regulations, an employee's brother is not a dependent or a member of the immediate family. Reimbursement of real estate costs is therefore limited to the extent of the employee's interest in the residence, in this case 50 percent. B-184478, May 13, 1976.

## RELOCATION

### Title in spouse's name only

An employee who, subsequent to receiving notice of his proposed transfer but prior to the actual date he was transferred, marries and establishes residence in a dwelling which was owned by his wife may be reimbursed for real estate expenses. 53 Comp. Gen. 90 (1973).

### Title held jointly with nondependent

A transferred employee whose nondependent mother-in-law held part title to both the sold and the purchased residences is entitled to reimbursement of real estate transaction expenses only to the extent of his and his wife's interest, namely 51 percent on the sale and 66-2/3 percent on the purchase, notwithstanding that he paid all sale and purchase expenses. Under FTR para. 2-6.1c reimbursement is authorized where title is in the employee's name or in his name and the names of one or more members of his immediate family, and FTR para. 2-1.4d excludes nondependent parents from the definition of "immediate family." B-167962, November 7, 1969, and B-184478, May 13, 1976.

### Title in nondependent's name only

A transferred employee may not be reimbursed for the real estate expenses incurred incident to the sale of his residence at his old duty station, where title to that residence was in name of the employee's mother-in-law, even though the employee made all mortgage payments and paid all other expenses associated with the residence, and notwithstanding that title was taken in the mother-in-law's name for financing purposes. B-183048, May 13, 1976.

### Title in mother's estate

Where an employee paid the state's lien on his deceased parents' home in which he lived and, upon transfer, entered into an agreement to sell the property, with title passing directly from the executor of his mother's estate to his brother, the employee is not entitled to reimbursement for real estate expenses incurred incident to the sales transaction since the employee did not hold title to the property either alone or jointly with a member of his "immediate family." B-172244, June 3, 1971.

Equitable title under "land contract"

At the time of his transfer an employee occupied a residence under a "land contract" whereby the vendor agreed to convey title and the vendee agreed to pay the purchase price in installments with the title retained in the vendor as security for payment. Although he did not hold legal title under the land contract, transfer of the employee's interest under the "land contract" effected a sale which permits reimbursement of real estate expenses. B-174644, April 20, 1972, and B-188300, August 29, 1977.

Settlement date limitation

The FTR provides for reimbursement of real estate transaction expenses where the purchase or sale or lease termination occurs not later than 1 year after the date on which the employee reported for duty at his new official station. The regulations currently provide for the granting of an extension of 1 additional year within which to buy or sell a residence or terminate a lease based on the employee's written request for extension provided that it is determined that the particular residence transaction is reasonably related to the transfer. Earlier regulations permitted extensions for an additional year on a more restricted basis as discussed below.

Earlier requirements for extension

Extension because of litigation--Where an employee sold his residence at his old station approximately 18 months after he reported for duty at his new duty station, his claim for reimbursement of real estate expenses incurred in connection with the sale was properly disallowed. Section 4.1d of BOB Circular No. A-56 then in effect did not authorize reimbursement when the settlement date was later than 1 year after reporting for duty at the new station, unless the settlement was delayed because of litigation. There was nothing in the file to indicate that the delay in selling the dwelling was caused by litigation. B-166324, April 1, 1969; B-164201, May 27, 1968; B-166666, May 9, 1969; B-165033, September 11, 1968; and B-164104, May 27, 1968.

Litigation defined

Where a transferred employee requested an extension of the 1-year settlement date limitation under BOB Circular No. A-56, section 4.1d, because of his building contractor's litigation to quiet title, the court action by the builder may be regarded as "litigation" as used in the regulation and the extension may be granted. B-167371, August 13, 1969, and B-167403, August 13, 1969. "Litigation" means "action before courts." B-165367, October 22, 1968; B-166916, June 5, 1969; B-181983, March 25, 1976; B-167518, August 8, 1968; and 48 Comp. Gen. 71 (1968).

Extension for litigation or signed contract--Where an employee was transferred effective October 30, 1969, sold his former residence March 13, 1971, and purchased a new residence on October 29, 1971, his claim for reimbursement of real estate expenses incurred incident to the transfer was properly disallowed. Under the regulations then applicable, reimbursement was not allowable when settlement did not occur within 1 year and the time limitation was not subject to extension except for a delay because of litigation, or where the sale or purchase contract was executed within the initial 1-year period. B-181627, January 24, 1975; B-172160, April 6, 1971; B-174998, March 27, 1972; and B-180674, April 2, 1974.

A transferred employee reported for duty at his new station on May 11, 1970, and on June 4 entered into an agreement to purchase a residence there, contingent upon the sale of his former residence. However, he could not conclude the sale of his old residence within 1 year from his reporting date. Since the employee had not entered into a contract for the sale of his old residence, no extension of time could be granted for the settlement on that residence. However, since the contract for the purchase of a residence at the new station was entered into within the initial 1-year period, an extension may be granted with respect to the purchase transaction. B-173506, September 27, 1971.

## RELOCATION

### Effective date of regulation change

An employee reported to his new duty station August 13, 1967, but the sale and purchase of his old and new residences were not closed until May 5 and June 16, 1969, respectively, and neither contract was entered into prior to August 13, 1968. The employee's claim for reimbursement of real estate expenses was denied. Section 4.1e of the amendment to BOB Circular No. A-56, which became effective June 26, 1969, was not retroactive, and was applicable only where the initial 1-year period had not expired prior to its effective date. That section, therefore, was inapplicable, and the claim was governed by the old section 4.1d under which the only exception to the 1-year settlement requirement was for delay because of litigation. B-168663, January 21, 1970; B-166126, April 20, 1970; and B-173955, October 7, 1969.

### What qualifies as a contract of sale

Listing agreement--The mere placing of a residence on the market does not constitute entering into a sale contract and is not sufficient justification for granting a 1-year extension. B-169699, May 19, 1970, and B-181627, August 27, 1976.

Oral agreement--An employee entered into an "oral rental/purchase option" for a residence within 1 year after his transfer to a new duty station in June 1971. There is no basis for an extension of time since, under Florida law, an agreement to purchase land must be in writing. B-181983, March 25, 1976.

Documentation required--A transferred employee seeking an extension of the 1-year settlement date limitation must include a copy of the purchase or sale contract with his request for an extension and his claim for reimbursement. B-182597, November 24, 1975.

Original contract not consummated--Notwithstanding that a contract for the sale of a residence entered into within the 1-year time limit had

been cancelled, and that a subsequent contract of sale with another purchaser was not executed until shortly after the expiration of the 1-year period, the employee's real estate expenses may be reimbursed. An extension of the 1-year period for settlement may be granted where a contract was entered into in the initial year, regardless of whether it was not in existence at expiration of the initial year. 52 Comp. Gen. 43 (1972).

#### Current requirements for extension

Extension for reasons relating to transfer--Under the current version of FTR para. 2-6.1e, a transferred employee need not have entered into a sale or purchase contract within the initial year following his transfer in order to be eligible for a 1-year extension of the settlement date limitation. The employee's written request for the extension need not be in any special form; the submission of a claim beyond the initial year is sufficient. Additionally, the agency action on the request may occur outside of the period allowed for settlement. B-182988, November 26, 1975.

An employee transferred from Washington to San Francisco decided not to sell his Fairfax, Virginia, residence on the expectation that he would be rotated back to Washington. Instead, he was permanently assigned in Sacramento. He may be granted an extension of the 1-year settlement date limitation even though his request was made after the expiration of the initial 1-year period. 54 Comp. Gen. 553 (1975).

An employee transferred from Pennsylvania, to New Jersey commuted to his new station for 3 months. Later, while waiting for his new residence in New Jersey to become available, he leased an apartment in New Jersey. Settlement was made after the initial 1-year settlement date limitation had expired. Since the settlement was made within 2 years of the transfer, reimbursement may be allowed if the employee's request for a time extension is administratively granted on the basis that the purchase was reasonably related to the transfer. B-187027, April 5, 1977, and B-183013, March 20, 1975.

Effective date of regulation change

The effective date of the amendment of FTR para. 1-6.1e permitting extension of the 1-year settlement limitation for any reason relating to transfer was October 28, 1972, and was not retro-active. It covers those situations where it is shown that the initial 1-year period after the employee reported for duty at his new station had not expired as of October 28, 1972. B-176586, March 12, 1973.

What is settlement

Contract for deed--Incident to his change of duty station in August 1966, an employee entered into a contract to sell his old residence on December 16, 1966. Under the contract, he was to transfer title to the purchaser by a general warranty deed upon the purchaser's payment of 48 monthly installments. The "settlement date" is the date the contract was executed, not the date on which the deed transferring legal title to the property is executed. The purchaser received equitable title under the "contract for deed," when the contract was signed. 46 Comp. Gen. 677 (1967) and B-188300, August 29, 1977.

New construction--An employee transferred to a new official station in September 1966 and contracted on May 1, 1967, to purchase a residence to be constructed. The residence was not completed until December 1967 and "settlement" was held on January 4, 1968. The employee's claim for reimbursement of real estate expenses incurred in purchasing the residence may not be paid since there is no basis to treat any other date than January 4, 1968, as the "settlement date," which was not within the 1-year limitation. B-160799, May 20, 1968, and 47 Comp. Gen. 75 (1968). The date of settlement is the date on which the obligations of the parties finally are determined. B-165577, January 6, 1969, and B-166317, May 9, 1969.

A transferred employee reported for duty on March 1, 1967, and contracted for the purchase and construction of a dwelling. Although construction was not completed, he was given a warranty deed so that he could occupy the house on December 26, 1967, even though the loan closing was held on March 26, 1968. Settlement

## RELOCATION

occurred when the employee obtained title to the real estate by the warranty deed on December 26, 1967. B-164638, August 13, 1968.

### Lot purchase and construction

An employee who was permanently transferred and assumed his duties at his new station on October 23, 1968, purchased a building lot in February 1969, and obtained a mortgage loan for house construction in September 1969 (with the settlements being in February and September, respectively), may have these transactions viewed as a single transaction under the FTR. All transactions occurred within 1 year after the employee reported for duty, including deed and mortgage recording, B-168484, January 5, 1970.

### Lot purchase only

A transferred employee purchased land near his new station for the purpose of constructing a dwelling. The employee occupied a mobile home on the land during construction. Although the house was not fully constructed 2 years after transfer, the employee may be reimbursed for the expenses incident to the purchase of land under the FTR since he occupied a mobile home on that land from which he regularly commuted to work. B-189997, February 1, 1978.

Contract for sale--A transferred employee who reported for duty on May 1, 1967, may not be reimbursed for real estate expenses incurred in the sale of his residence at his old official station on the basis of a contract for sale dated April 26, 1968, requiring settlement within 30 days and a memorandum of settlement dated May 21, 1968. The term "settlement" refers to the closing of the real estate transaction by the payment of the contract price and the conveyance of a deed or title to the purchaser. Since this action was effected on May 21, 1968, it was not within the 1-year limitation. B-165115, September 11, 1968, and B-186003, October 4, 1976.

Costs placed in escrow--A transferred employee reported to his new duty station on April 17, 1967,

## RELOCATION

where he entered into a contract to purchase a dwelling to be constructed. Following VA approval on March 21, 1968, the employee placed \$957 in escrow to cover the tentative closing costs, but the closing statement was dated August 12, 1968. The settlement date was more than 1 year after he reported for duty at his new station. B-164457, December 12, 1968.

### Limitation not subject to waiver

A Postal employee was appointed to the position of Postal Service Officer effective December 17, 1966. After a training period during which he was paid per diem, he was advised not to move to his new duty station in anticipation of a rearrangement of territories. The employee may not, nearly 3 years after his transfer, be authorized reimbursement of real estate expenses, as the time limitation for purchase and sale of residences may not be waived. 49 Comp. Gen. 145 (1969) and B-187677, December 3, 1976.

### Circumstances not warranting exception--

#### Delay due to discrimination

A transferred employee's claim for reimbursement of real estate expenses incident to the purchase of a residence at his new station may not be allowed on the basis of the claimant's statement that he was unable to complete the purchase of a suitable residence within the period for settlement because of discriminatory practices in Charlottesville real estate transactions. There is no authority to waive or extend the time limitation for settlement. B-166400, April 17, 1969.

#### Away from duty station

Although a transferred employee arrived at his new official station on July 28, 1969, the date of settlement for the purchase of his new dwelling was not until June 7, 1971. Notwithstanding that the employee was on an extended temporary duty assignment from January 1, 1970, to June 4, 1971, expenses for the June 7, 1971 settlement may not be paid. B-174176, October 26, 1971.

Error in travel orders

Where an employee's travel orders erroneously failed to authorize reimbursement of real estate expenses and were amended 4 months later correcting that error, the employee may not be granted a 4-month extension of the 1-year time limitation for real estate settlements because of the error committed by the officer or employee of the Government. B-181627, August 27, 1976.

Storm damage

There is no legal authority to grant a time extension requested by an employee where his former residence was severely damaged by tropical storm Agnes, thus preventing its timely sale, inasmuch as the employee had already received the maximum time extension allowable. B-177096, December 22, 1972.

Additional time for military duty--A civilian employee transferred on June 16, 1970, was separated July 21, 1970, for military duty. He was discharged from military duty on March 30, 1972, and was reemployed on July 3, 1971. He is entitled to have the 1-year initial period for settlement of real estate transactions extended to February 24, 1973, to compensate for his period of active military duty. 54 Comp. Gen. 427 (1974).

Procedural requirements for extension

Agency discretion--The determination to grant the extension for an additional 1-year period is for the head of the agency in accordance with FTR para. 2-6.1e, and will not be disturbed unless found to be arbitrary and capricious. B-191087, March 14, 1978, and B-174500, December 21, 1967.

Extension vests when granted--A transferred employee, after 8 months at her new duty station, requested and was granted a 1-year extension of time to complete the sale of her home at her former duty station. One month later the employee was retransferred to her former duty station. Before the extension expired, she completed the sale of her former home. The employee is entitled to reimbursement notwithstanding

## RELOCATION

the agency's determination that the sale was not related to her transfer. No administrative determination that the sale relates to the transfer is required, except when an extension is requested. Once an extension is properly granted it may not be revoked. B-182572, October 9, 1975.

Period to request extension--A transferred employee reported to his new duty station on July 1, 1974, and purchased a residence on December 12, 1975. He did not request an extension of the 1-year initial settlement date limitation period to purchase a residence until more than 2 years after his transfer. FTR para. 2-6.1e does not specify the time within which a request for an extension must be filed. The employee's claim is allowed since the purchase was made within 2 years. A request for an extension may be made even after the 2 years have passed. 57 Comp. Gen. 28 (1977).

Period to grant extension--A transferred Air Force employee requested an extension of time to sell his house at his old duty station under FTR para. 2-6.1e because a renovation project began before his transfer was not complete. The extension is valid even though it was approved more than 2 years after the effective date of transfer. B-182564, November 26, 1975, and B-182988, November 26, 1975.

Form of request--An employee's written request for an extension of the settlement date limitation need not be in any special form. The submission of a claim beyond the initial year is sufficient. B-182988, November 26, 1975.

### Computation of time period

Under FTR para. 2-6.1e, the settlement date must be not later than 1 year after the date the employee reported for duty at his new official station, with the year beginning on the day following his reporting date. Where an act is required to be done within a limited period from or after a particular time or event, the day designated when the time or the event occurs is excluded and the last day of the specified period is included in fixing the beginning and the termination dates. B-173207, July 13, 1971, and B-168318, December 10, 1969.

## RELOCATION

Beginning of time period--An employee claimed reimbursement of expenses of selling his residence at his old duty station, where settlement date was May 1, 1968, and his transfer was to begin on or about November 15, 1966. Because the employee was on special assignment he did not report to his new station until May 15, 1967. He may be reimbursed real estate expenses, since May 15, 1967, is the date from which the 12-month limitation must be calculated. B-161266, May 1, 1967, and B-164871, August 19, 1968.

### Successive transfers

An employee who was transferred successively from Washington, D.C., to Albany, New York, effective January 13, 1969, and from Albany to Syracuse, New York, effective August 18, 1969, whose family remained at their Washington area residence until its sale was consummated on September 9, 1969, is entitled to reimbursement of real estate expenses related to that sale because it occurred within 1 year of the first transfer. B-169155, June 30, 1970.

### Expenses customarily paid

Closing costs may not be reimbursed to an employee who pays such costs when selling his residence at his old duty station if the local HUD office determines that it is customary for the purchaser to pay such costs in that particular area, since, under FTR para. 2-6.3c, local custom controls. B-186734, September 23, 1976.

Where an employee agreed to pay the settlement costs in connection with the sale of his home, since these charges are customarily paid by the purchaser, such costs are not reimbursable. Even though the practice may be quite common in the area it is not customary. However, expenses normally associated with the seller may be borne by the purchaser if it is the custom in the area for the purchaser to pay such costs, and costs normally charged to the purchaser may be paid by the seller provided the costs are customarily paid by sellers in the area. B-164181, July 22, 1968, and B-179414, January 25, 1974.

When a seller customarily pays closing costs on the sale of his residence where a VA guaranteed loan is involved, a transferred employee may be reimbursed for such expenses, even though the local custom may differ for FHA and

## RELOCATION

conventional type financing. The requirements in the FTR for the use of local custom should be applied specifically to each particular type of transaction. B-185863, August 25, 1976, and B-185680, August 4, 1976.

### No clear local custom

Where there is no clear local custom as to who pays state revenue and documentary stamps on the purchase of a residence at the employee's new station an otherwise allowable item may be paid the buyer in accordance with the terms of the sales contract wherein the seller and the buyer agreed to split the costs and the record shows that in the majority of cases handled by HUD closing costs are split. B-182076, February 5, 1975.

### Expenses payable upon sale OR purchase

An employee may be reimbursed for the expenses incurred in connection with his change of official station if he does not sell his residence at his old station but purchases one at the new station, or conversely if he incurs expenses incident to selling his residence at the old station but does not purchase a residence at the new station. 47 Comp. Gen. 93 (1967).

### Completed transaction

An employee had his residence at his old duty station appraised to set the selling price. Because of market conditions, the home was never sold but the employee submitted a claim for the cost of the appraisal. The claim is disallowed because, generally, only expenses incurred incident to a completed sale or purchase transaction may be reimbursed. B-187848, August 23, 1977; B-168857, February 4, 1970; and B-190122, November 23, 1977.

Before an employee succeeded in selling his residence at his old duty station, he had entered into three contracts for the sale of the same property that were not consummated due to the inability of the purchasers to obtain financing. The employee may not be reimbursed for the expenses associated with the preparation of those incomplete contracts because they are duplicative of the cost of the contract that resulted in the sale. B-184869, September 21, 1976, and B-180122, November 23, 1977.

## RELOCATION

### Pro rata reimbursement rule

#### Joint ownership of property

A transferred employee sold the residence at his old duty station which he owned jointly with his brother. The FTR requires that title to a residence be held in the name of an employee alone, or jointly with one or more dependents, or in the name of one or more dependents. Under the regulations, the employee's brother is not a dependent or a member of the immediate family. Reimbursement of real estate expenses is limited to the extent of the employee's interest in the residence, in this case 50 percent. B-184478, May 13, 1976; B-177091, December 12, 1972, and B-180767, May 16, 1974.

Employee and spouse divorced--A transferred employee was divorced prior to the sale of his residence at his old duty station, and the gross sale proceeds were equally divided between the employee and his former wife. Since it appears that the employee was vested with only a half interest in the property, his entitlement to reimbursement must be correspondingly limited to one-half of the real estate expenses claimed. B-174612, July 14, 1972.

#### Cooperative ownership of property

Incident to the sale of his ownership interest in a cooperatively owned dwelling an employee may be reimbursed a broker's fee, which did not exceed those generally charged in the locality involved for the services rendered in selling such an interest, and \$50 of the \$100 settlement fee paid to the cooperative is reimbursable since it represents the maximum amount customarily charged for the preparation of documents and reports required in such a transaction. B-177947, June 7, 1973; B-183812, May 4, 1976; B-190815, March 27, 1978; and B-188265, November 8, 1977.

#### Multi-family dwellings

An employee who purchased a two-family dwelling is entitled to pro rata reimbursement of otherwise allowable real estate expenses since the FTR does not contemplate the application of a fixed 50 percent formula whenever an employee purchases a two-family dwelling.

## RELOCATION

In establishing the applicable reimbursement percentage when more than 50 percent is claimed, the agency should require the employee to submit specific information as to the space occupied by the employee as residence and living quarters and, if necessary, an expert opinion as to the propriety of the percentage claimed. Real estate expenses which are based on a flat fee, without regard to the purchase price, should, if reasonable, be reimbursed in toto. 55 Comp. Gen. 747 (1976).

A transferred employee who sold a two-family dwelling is entitled to full reimbursement of allowable real estate expenses since, due to the small size of his dwelling (five rooms) and the large size of family (six persons), the employee used the second unit for the storage of his family's personal items. B-187884, February 22, 1977.

### Property in excess of residential lot

A transferred employee purchased 43.003 acres of land on which she located her mobile home. The administrative agency should determine how much of the land is "reasonably related to the residence site" as directed by FTR para. 2-6.1f by taking into consideration zoning laws, valuation by local real estate experts on the basis of the location and use of the land, percolation of soils, etc., and the manner in which real estate brokers, attorneys and surveyors charge their fees, i.e., whether they are percentage derivatives of the purchase/sale price or flat fees. Where an employee purchases or sells land in excess of that reasonably related to a residence site and there is doubt as to the propriety of the agency proration determination under FTR para. 2-6.1f or the employee takes exception to the agency determination, the case should be forwarded to the Comptroller General with supporting evidence for review and disposition. 54 Comp. Gen. 597 (1975), and B-182525, January 16, 1975. Agency proration determinations will not be disturbed unless clearly erroneous, arbitrary, or capricious. B-190607, February 9, 1978.

Where a transferred employee purchased a house and two separate lots, he may be reimbursed for the real estate expenses incurred incident to the purchase of both lots, because the properties were offered for

## RELOCATION

sale as an entity, the second lot had no separate access to the street and the combined size of both lots was comparable to the size of the other properties in the neighborhood. B-176369, October 4, 1972.

More than one transaction--A transferred employee sold property at his old duty station in two parcels. Although reimbursement of real estate expenses for the 3-1/2 acre parcel containing the house, barn, and garage is proper, reimbursement of the expenses for the sale of the additional 20 acres may not be made since FTR para. 2-6.1f states that a pro rata reimbursement will be made when land is sold in excess of that which is reasonably related to the residence site, and the 20 acres is excess land. B-186931, September 2, 1976; B-188717, January 25, 1978; and B-186527, February 9, 1977. Where property is divided into separate parcels for sale purposes, parcels other than those upon which the house is located are not considered to relate to the "residence site" within the meaning of para. 2-6.1f. B-171493, February 2, 1971.

### Closing costs included in selling price

Reimbursement of closing costs that were paid by the seller and included in the sales price of a residence purchased by an employee incident to his transfer may be allowed where the closing costs are added to the purchase price of the house and are clearly discernible and separate from the price allocable to the realty. 52 Comp. Gen. 11 (1975); B-186814, March 8, 1977; and 56 Comp. Gen. 287 (1977).

### Documentation

Where, through no fault of the employee's, destruction of construction company records prevented the calculation of the actual closing costs paid by the seller which were included in the selling price of the employee's residence, a showing of the average closing costs for the type of dwelling purchased is sufficient for allowance of the employee's claim. B-174527, August 23, 1974.

### Payment of part of closing costs

A transferred employee agreed to pay \$500 toward the closing costs when he purchased his new home, with the

## RELOCATION

remainder of the closing costs to be paid by the seller. The sum paid by the employee should be applied first to the reimbursable expenses to insure maximum benefit to the employee. B-188253, September 28, 1977, and B-174645, January 20, 1972.

### Construction loan

The claim of a transferred employee for reimbursement of the closing costs paid by the seller-builder and included in the sales price of the residence which he purchased at his new station may not be allowed because these costs were incurred incident to the closing of the construction loan by the seller-builder. They are an inherent part of the builder's cost and cannot be considered separate from the price allocable to realty. B-187123, February 9, 1977.

## Death or separation after transfer

### Death

An employee died 5 months after the effective date of his transfer. His widow thereafter sold their former residence more than 1 year after his transfer. The widow is entitled to reimbursement for expenses incurred in the sale and may be granted an extension of the settlement date of 1 year, for the sale of her residence under provisions of FTR para. 2-6.1e. B-183389, November 24, 1975, and B-164937, August 26, 1968.

### Retirement

Although an employee voluntarily retired from Government service 4 months prior to settlement on the sale of his residence at his old official duty station, he is entitled to reimbursement of real estate expenses where the sale was completed within the 2-year extended time period following the effective date of his transfer since he completed the 12 months of service required by his transportation agreement. A transferred employee's right to reimbursement of real estate expenses continues after the date of voluntary retirement, where all other conditions are met. 55 Comp. Gen. 645 (1976).

SUBCHAPTER II--REIMBURSABLE EXPENSESA. REAL ESTATE BROKERS' COMMISSIONSGenerally

A transferred employee seeks reimbursement of the 7 percent real estate broker's commission he paid when he sold his residence at his old duty station. The HUD schedule of closing costs for the area showed 6 percent as the prevailing rate. The HUD schedule of closing costs creates a rebuttal presumption of the prevailing commission rate, and is the proper rate for reimbursement when there is no evidence to the contrary. Since the employee did not present evidence showing that 7 percent was the prevailing rate, reimbursement at the 6 percent rate was proper. B-182850, July 14, 1975; B-186741, November 30, 1976; and B-190902, February 14, 1978.

A transferred employee who paid a 9 percent real estate commission when the HUD schedule of closing costs showed the prevailing commission rate to be 6 percent, did not overcome the presumption created by the HUD schedule by showing that real estate commissions paid in the area ranged from 6 percent to 10 percent, without showing that any rate other than 6 percent was dominant. B-182431, July 14, 1975.

A transferred employee who paid a 7 percent brokerage fee for the sale of his residence at his old official station, but was reimbursed only 6 percent on the basis of a year-old FHA schedule for the area, may be reimbursed an additional 1 percent since a recent survey showed that approximately 70 percent of the realtors in the area charge 7 percent. B-173091, June 22, 1971; B-174625, January 17, 1972; and B-178531, July 16, 1973.

Commission paid by purchaser

An employee, transferred from Arizona to Baker, Oregon, who was compelled to pay a \$900 real estate commission "as required by local custom" when he purchased a home in Baker, may not be reimbursed for the commission, even though it is not unusual for a purchaser in Baker to be required to pay the commission normally assumed by the seller, since FTR para 2-6.2a provides that a broker's fee or commission is not

## RELOCATION

reimbursable in connection with the purchase of a home at a new official station. B-177632, May 18, 1973, and B-184063, June 15, 1976.

### Special services

A transferred employee who paid a 10 percent broker's fee in connection with the sale of his residence may not be reimbursed for the amount in excess of the customary 6 percent, even though the higher fee was paid to expedite the sale within the FTR time limitations. B-166764, May 21, 1969; B-165200, September 23, 1968; and B-182431, July 14, 1975. Where a transferred employee paid a 7 percent real estate brokers' commission to a firm because it advertised nationally and the HUD data showed that 6 percent was the prevailing real estate commission rate in area, the employee may not be reimbursed in excess of 6 percent. B-188527, January 26, 1978.

### Reductions in commissions

To complete the sale of his old residence, a transferred employee was required to pay \$1,470 in points. The real estate agent voluntarily gave the employee \$470 towards the points. The agency properly regarded the \$470 as a reduction in the agent's \$2,520 commission and disallowed the claim in that amount. B-171953, April 9, 1973; B-184501, October 9, 1975; and B-184743, March 17, 1973.

## Who is a real estate broker

### Individuals not licensed

A transferred employee agreed to pay a broker's fee to two acquaintances, neither of whom possessed a real estate license, if they found a buyer for his residence at his old duty station. Reimbursement for the broker's fee may be allowed only where an employee is legally liable for such fee. Reimbursement would not be proper in this case since New York law not only prohibits a person from acting as real estate broker without first procuring a license, but also states that no person shall bring or maintain an action in court for a broker's fee without first alleging and proving that he is a licensed broker. B-190107, February 8, 1978, and B-165747, January 7, 1969.

## RELOCATION

### Relative as broker

An employee, transferred from Mobile, Alabama, to Washington, D.C., is entitled to reimbursement for a broker's commission paid to his mother who performed brokerage services in connection with the sale of his residence in Mobile. Although his mother did not possess a city of Mobile real estate license, she did possess an Alabama state licence. Her failure to possess a city license did not make her son's debt unenforceable. B-189375, October 12, 1977.

### Unsuccessful broker

An employee was transferred from California to Idaho. His father-in-law, a licensed real estate broker, unsuccessfully attempted to sell the employee's California residence. He billed the employee for his personal services and expenses, including advertising costs, mileage and consulting services. The employee may be reimbursed only for the \$54 advertising expense incurred, since paragraphs 2-6.2a and b authorize reimbursement of a payment to a broker only when the sale is consummated by the broker. B-163709, April 19, 1968.

## Transactions covered

### Cooperatively owned dwelling

A broker's fee, which did not exceed those generally charged in the locality involved, for services in selling an interest in a cooperatively owned dwelling is reimbursable under FTR para. 2-6.2a. B-177947, June 7, 1973, and B-183812, May 4, 1976.

### Mobile home

A transferred employee who was unable to sell his mobile home prior to the date of his transfer and entered into an agreement with another employee in the area to act as custodian and agent for the sale of the mobile home for the sum of \$125, may be reimbursed for that expense, which is within scope of FTR para. 2-6.2a relating to payment of brokerage fees for sale of a residence. B-175285, July 9, 1973.

## RELOCATION

### Property zoned commercial

The reimbursement of an additional real estate commission on the sale of a transferred employee's residence where the property had been zoned for commercial uses and the employee was required to pay the 10 percent commercial property commission is allowed. The employee purchased the house for his residence at a time when it was zoned residential and he lived there until his transfer. The fact that it was zoned commercial subsequent to his purchase would not affect his rights under 5 U.S.C. § 5724(a)(4) and the FTR. The broker's fee did not exceed the fee normally charged in the area for the type of property sold. B-167950, October 1, 1969.

### Lease of former residence

The expenses incurred by an employee in leasing his dwelling at his old duty station are not reimbursable expenses under FTR para. 2-6.2a or 5 U.S.C. § 5724a. Therefore, an employee may not be reimbursed for expenses of newspaper advertising or the services of a real estate agent in leasing his house at his former place of residence. 46 Comp. Gen. 705 (1967) and B-179079, November 13, 1973.

### Broker in multiple roles

#### As broker and buyer

The fact that a licensed broker bought the residence of a transferred employee when difficulty was experienced in disposing of the property does not preclude the broker from collecting his commission. Absent the use of an inflated value in setting the sales price, the expense of the commission--which was no greater than if the residence had been purchased by a third party--is reimbursable to the employee whose settlement sheet reflects that his proceeds were reduced by the amount of such commission. 47 Comp. Gen. 559 (1968).

A transferred employee who sold his residence at his old duty station to a purchaser who was a licensed real estate broker at a price which reflected a reduction equal to the customary 6 percent broker's commission may not be reimbursed for the amount of the

## RELOCATION

broker's fee under FTR para. 2-6.2a, absent a showing that he was under a legal obligation to pay the commission to the broker/purchaser for the sale of the house to the broker himself. B-180986, September 18, 1974.

### As broker and settlement agent

A transferred employee who engaged a realtor to handle the formalities of the sale of his residence at his old duty station, and who was charged and paid \$225 for the services rendered in connection with that transaction, may properly be reimbursed for the amount paid, to the extent that those charges were reasonable and were customarily paid by sellers of residential property in the area involved. B-165022, September 6, 1968.

### Charges in addition to commissions

#### Percentage of ground rent

An employee who paid a real estate commission of 7 percent of the sale price plus an additional amount based on one-half of the annual ground rent in connection with the sale of his residence incident to his transfer may be reimbursed for the total commission paid by him since the total commission was for services rendered in selling the residence and it does not exceed the rates generally charged by brokers for such services in that locality. B-179634, April 8, 1974.

#### Penalty for late notice to mortgagee

A transferred employee paid the real estate commission on the sale of his residence. The realty agency reimbursed the employee for a penalty charged to the employee by the mortgagee for failure to give timely notice concerning the loan payoff. Since the liability arose through failure of the realty agency to give the required notice, reimbursement by the realty agency may not be considered to be voluntary and under FTR para. 2-6.2a, the employee may be reimbursed for the full commission without reduction for the penalty reimbursement. B-171953, March 17, 1976.

## RELOCATION

### Fee for guaranteed sale

A transferred employee agreed to pay a broker his customary fee incident to the sale of his residence at his old duty station and entered into a "Guarantee to Purchase Plan Agreement" whereby the broker agreed to purchase the residence if it was not sold by a certain date. The employee may not be reimbursed for the 2-1/2 percent fee and the \$125 fee for the additional cost of the resale charged by the broker who purchased the residence under the plan. B-181129, August 29, 1974.

### Advertising and listing fees

A broker agreed to advertise, multiple list, and show the property of a transferred employee without expense to the employee, in exchange for the employee's agreement to the broker's insertion in the listing agreement of a requirement that the seller pay the cost of advertising not to exceed one-half of 1 percent of the sale price. The \$20 multiple-listing fee and the \$40.65 advertising charge are allowable in addition to the broker's 6 percent commission as "not in excess of the rates generally charged for such services by the broker," as provided in FTR para. 2-6.4a since the services were not paid for in the broker's fee or commission. B-160799, October 15, 1970.

### Commission paid in installments

A claim by a transferred employee for reimbursement of a real estate broker's fee for the sale of his residence at his old official station for which the purchaser owed him a sum in excess of the applicable broker's fee as the balance of the purchase price, may be allowed only to the extent of the amount actually paid by the purchaser to the broker in satisfaction of the broker's fee obligation, where the purchaser has agreed to pay \$20 per month until he has paid the purchase price and the employee has authorized the \$20 monthly payments to be turned over to the real estate broker. B-161910, July 26, 1967.

### Commission as a finance charge

A brokerage fee paid for securing a loan commitment and processing of the loan papers incident to purchase of a residence may not be reimbursed since the fee amounts to

## RELOCATION

a finance charge which is not reimbursable under FTR para. 2-6.2d. B-173814, October 21, 1971.

### B. ADVERTISING EXPENSES

When a transferred employee incurs expenses of advertising his residence at his old official station but is unable to sell the property himself, and the residence is subsequently sold by a broker whose fee includes advertising expenses, the employee may not be reimbursed for the advertising costs he incurred, because FTR para. 2-6.2b precludes reimbursing the employee for separate advertising expenses. 46 Comp. Gen. 812 (1967).

Absent a provision in a listing agreement which expressly excludes the costs of advertising from a broker's commission, a transferred employee who was reimbursed for advertising costs as part of the realtor's fee or commission is not entitled to reimbursement for separate advertising to facilitate the sale of his residence at his old station. B-174692, February 14, 1972; B-178531, July 16, 1973; B-161560, January 22, 1971; and B-161320, April 12, 1968.

### Multiple-listing fee

A transferred employee paid \$10 to list his dwelling at his old official station with the Multiple-Listing Service of Greater Atlantic City and the County Real Estate Board. In the Atlanta area the custom is for the seller to pay the Multiple-Listing Service fee as well as the sales commission. The employee may be reimbursed the \$10 fee since the multiple-listing expense was not included in the broker's commission and payment of the fee was part of the transaction giving the realtor an exclusive agency to sell rather than a cost associated with an earlier independent effort by the seller to sell the property. B-163253, February 27, 1968.

### C. APPRAISAL COSTS

A transferred employee claims \$412.50 for the lender's appraisal fee incident to the purchase of his new residence. Under FTR para. 2-6.2b such an expense is reimbursable to the extent it is customary in the area. Since the HUD Schedule of Closing Costs shows that the customary appraisal fee in the area is \$35, the claimant is entitled to be reimbursed only for \$35. B-187437, February 7, 1977.

## RELOCATION

### Included in loan origination fee

A transferred employee was charged \$620 as a loan origination fee which included an appraisal (\$43) and a credit report (\$17.16). While \$559.84 is a finance charge not reimbursable under FTR para. 2-6.2d the costs of the appraisal and the credit report are reimbursable since they are excluded in the computation of the finance charge. B-183177, March 17, 1975; B-183317, May 14, 1976; and B-177636, March 13, 1973.

### More than one appraisal

A transferred employee obtained both FHA and VA appraisals to facilitate the sale of his residence at his old duty station. He sold the residence under FHA financing and received reimbursement for the FHA appraisal fee. The employee may not be reimbursed for the cost of the VA appraisal, since there is no authority for reimbursement of more than one appraisal fee. 47 Comp. Gen. 306 (1967), and B-186009, October 12, 1976. However, an employee who pays two appraisal fees may be reimbursed based on the higher of the two fees. B-174011, November 15, 1971, and B-182412, May 14, 1976.

### Sale not consummated

A transferred employee had his residence at his old duty station appraised to set the selling price. Because of market conditions, the home was never sold. The employee may not be reimbursed for the cost of appraisal, since only expenses incurred incident to a completed sale or purchase transaction are reimbursable. B-187848, August 23, 1977.

### D. SURVEY COSTS

A transferred employee claimed reimbursement of the \$443 fee paid to a surveyor for locating and monumenting the corners of his property at his old duty station, on the recommendation of the broker. The usual survey fee is \$35 when the lender requests a survey to satisfy mortgage requirements. If the survey was obtained merely to make the property more readily marketable, reimbursement would be limited to the cost of a survey customary or required in the area, and, while the employee has shown that the surveyor's charges were similar to charges made by other surveyors in area for similar services, he has not shown that such an extensive survey was necessary incident to

## RELOCATION

the sale or was customary in the area. B-163709, April 19, 1968; B-165657, June 3, 1969; and B-188213, December 12, 1977.

### E. TITLE EXAMINATION AND INSURANCE

#### Paid for by seller

The prohibition in FTR para. 2-6.2d against reimbursing a transferred employee for the cost of an owner's title insurance policy refers to insurance obtained by the employee for his own protection when purchasing a residence. It does not preclude reimbursement of the cost of an owner's title insurance policy which the employee, as seller, is required by local custom to purchase for the benefit of a buyer of his residence in lieu of showing marketable title by a title search, abstract of title, or legal opinion. 46 Comp. Gen. 884 (1967); 47 id. 559 (1968); and B-161459, October 21, 1970.

#### Paid for by purchaser

##### Examination in lieu of insurance

A transferred employee claims reimbursement for an attorney's fee paid incident to the purchase of a residence at his new duty station on which the employee assumed an existing mortgage. The charge for the examination and certification of the title and survey is reimbursable to the extent it covers updating of the title examination and survey from the date of the existing loan since updating is the practice in the area of the residence. B-183443, July 14, 1975; B-173222, August 10, 1971; and B-186254, March 16, 1977.

##### Removal of liens on property

A mechanic's lien fee paid by a transferred employee in connection with the purchase of a home in the Pittsburgh area is reimbursable. The fee was required by Pennsylvania lenders for the protection of both the lender and purchaser against liens filed against the property by unpaid subcontractors, similar to the protection afforded by an owner's title insurance policy obtained by a purchaser for the lender's protection. B-169617, July 13, 1970.

## RELOCATION

### Title policy in favor of mortgagee

A transferred employee's claim for \$190 representing the cost of a standard title policy, which was required for obtaining financing on the residence he purchased at his new official station in Mendocino County, California, may be certified for payment. In Mendocino County, a standard title policy is issued after a careful search of the public records and the title company insures ownership of land. In the area, not only is the policy required for the protection of the lender, but the cost thereof is regarded as a customary cost of searching title payable by the purchaser. B-164867, September 4, 1968, and B-183958, April 14, 1976.

A transferred employee who constructed a residence at his new official station and obtained both a permanent mortgage loan and a construction mortgage loan may not be reimbursed for the cost of a title policy on the construction mortgage loan since there may be reimbursement only for expenses incident to a permanent mortgage loan. However, a mortgage title policy fee incident to the permanent mortgage loan may be reimbursed. B-184928, September 15, 1976, and B-164491, August 20, 1968.

### Owner's title policy

Policy required--A transferred employee purchased a house in Pennsylvania and incurred a lump-sum charge for title insurance which covered both the mortgage title policy and the owner's title policy. The policies were issued in accordance with a Pennsylvania regulation requiring title insurance to cover the interests of both the mortgagee and the new owner. The employee may be reimbursed for the cost of such insurance, notwithstanding that the FTR disallows the cost of owner's title insurance, because the owner's title policy was purchased as a prerequisite to the transfer of property or to obtaining financing incident to such a transfer. B-186579, October 28, 1976; B-189488, August 18, 1977; and B-188716, July 6, 1977.

Policy optional--A transferred employee who voluntarily purchased an "owners title policy" incident to the purchase of his residence at his new duty station,

## RELOCATION

as opposed to a "mortgage title policy," is precluded by FTR para. 2-6.2d from being reimbursed for such cost. 55 Comp. Gen. 779 (1976).

Allocation--A transferred employee who purchased a residence at his new official station paid \$359 for the cost of owner's title and mortgage title insurance. The mortgage title policy was required by the lender. The employee was charged \$329 for the owner's title policy and \$30 for the mortgage title policy. The employee may be reimbursed for \$284 since the mortgage title policy is allowable under FTR para. 2-6.2d and would have cost \$284 if purchased separately. The claim for the remaining \$75, allocable to the cost of the owner's title insurance, is disallowed, since there was no requirement that the employee purchase such coverage. B-161459, November 23, 1977, and B-184720, July 1, 1976.

### Loan assumption

A transferred employee who assumed a first trust incident to his purchase of a home in Virginia may be reimbursed \$465 for title examination and preliminary certification, and \$25 for title insurance papers and final certification. It is customary in Virginia to require a title search when assuming a loan, and the FHA advises that the charges paid by the employee are customary in the area and are usually borne by the purchaser. B-171323, February 5, 1971.

### Customarily paid by seller

A transferred employee bought a house at his new station, and paid for the owner's title insurance policy. Since it was customary in the locality for the seller to have paid for the owner's title policy the employee may not be reimbursed for the title policy. B-189093, October 13, 1977.

Incident to taking title to a residence by way of a gift from a relative a transferred employee paid \$31 to bring the title abstract up to date. The employee may not be reimbursed for the title abstract fee since such fee is customarily paid by seller in the area and, in the case of a gift of a residence, the recipient is to be regarded as the purchaser for purposes

## RELOCATION

of reimbursement of real estate transaction expenses. B-173652, October 27, 1971.

### F. ATTORNEYS' FEES AND LEGAL EXPENSES

#### Rule for settlements after April 27, 1977

Necessary and reasonable legal fees and costs, except for litigation, incurred by reason of the purchase or sale of a residence incident to a permanent change of station constitute "similar expenses" within the meaning of FTR para. 2-6.2c. Such costs may be reimbursed, and a single overall fee charged by an attorney may be paid without itemization if it is within the customary range of charges for similar services in that locality. 56 Comp. Gen. 561 (1977).

#### Rule applies prospectively

A transferred employee went to settlement on the purchase and sale of residences before April 27, 1977, the date of the decision in 56 Comp. Gen. 561 (1977), supra. Since that decision is prospective in application, the employee may not be reimbursed for the expenses claimed absent an itemized statement of legal fees. B-160040, January 3, 1978; B-185548, July 19, 1977; and B-188487, July 15, 1977.

#### More than one attorney

An employee purchased a residence in the Buffalo, New York, area incident to his transfer and incurred legal fees for the bank's (mortgagee's) attorney and for his own attorney for the performance of legal services in connection with the transaction. The employee may be reimbursed for both sets of legal fees because under 56 Comp. Gen. 561 (1977), supra, except for costs of litigation, necessary and reasonable legal fees customary in the locality of the residence transaction may be reimbursed. It is customary in the Buffalo area for the purchaser to pay the expenses of the mortgagee's attorney and his own attorney for similar legal services performed on behalf of the respective parties. B-190616, March 22, 1978.

#### Rules governing earlier settlements

Where a transferred employee claimed reimbursement for a lump-sum bill for attorney's fees incident to the sale of

## RELOCATION

his residence at his old duty station, payment may not be made absent an itemized statement since the only legal fees that may be paid are those listed at FTR para. 2-6.2c. 54 Comp. Gen. 67 (1974); B-174011, November 15, 1971; B-163203, March 24, 1969; and B-167985, October 15, 1969. When the bill for legal fees is itemized, an employee may be reimbursed for those portions of the legal fees allocated to services specifically enumerated in FTR para. 2-6.2c. B-183240, June 1, 1976; B-180752, June 12, 1974; and B-169621, June 25, 1970.

### Advisory services

A flat fee for legal services based on a percentage of the mortgage amount may not be reimbursed as a legal expense since only those expenses enumerated in FTR para. 2-6.2c are reimbursable. A legal fee for examining title insurance is advisory and therefore not reimbursable under FTR para. 2-6.2c and a legal fee for attendance at the closing is not reimbursable under para. 2-6.2c where there is no indication that the services required to be performed by an attorney were needed at closing. B-183037, March 21, 1975, and B-186254, March 16, 1977. Attorney's services, including consultations, conferences, correspondence, review of documents, and preparation of income tax rebate forms, are advisory or representational in nature or relate to the personal income tax liability of the employee. B-186290, September 30, 1976. Services of the employee's attorney at closing in arranging for extended coverage under the owner's title insurance policy to protect the employee against unrecorded liens and participating in the computation of pro-rated credits are advisory in nature or for the sole benefit of the employee and are not reimbursable. B-178399, June 13, 1973.

### Preparing documents

A transferred employee may be reimbursed for the fee paid to the lending institution's attorney for drawing up the mortgage note, since FTR para. 2-6.2c specifically authorizes reimbursement of the cost of preparing conveyances, other instruments, and contracts. B-175716, July 5, 1972; B-176876, November 27, 1972; 56 Comp. Gen. 862 (1977); and B-189140, November 23, 1977.

## RELOCATION

Power of attorney--A transferred employee claimed reimbursement of attorney's fees for the preparation and recordation of a power of attorney in connection with the purchase of his residence at his new official station because his wife was not present at the closing. If his wife's absence from the closing was caused by the necessity for her to be at the old station to wait for the sale on their former residence and to make arrangements for the family's relocation the fees may be reimbursed. B-185800, April 14, 1976.

Will--Legal fees incurred for the preparation of wills incident to an employee's transfer from a community property state to a common-law property state are expenses incurred for reasons of personal preference and are not reimbursable under FTR para. 2-3.1b or 2-6.2c. B-163107, May 18, 1973.

### Title examination and title opinions

A transferred employee claims reimbursement of attorney's fees incurred incident to the purchase of a residence at his new duty station. The portion of the claim for examination of title, preparation of title abstract, and title certification are reimbursable under FTR para. 2-6.2c where such expenses are customarily paid by the purchaser of a residence and do not exceed the amounts customarily charged in the locality of the residence. B-187437, January 3, 1978; B-188300, August 29, 1977; B-179573, December 13, 1973; and B-174649, February 17, 1977.

Curing title defect--Reimbursement of an attorney's fee for curing a title defect in connection with the employee's sale of property should be disallowed in the absence of a provision in the sales contract requiring the seller to furnish a marketable title or a showing that it is local custom to furnish a marketable title when selling a residence. B-160040, July 13, 1976, and B-183102, June 9, 1976.

### Conducting settlement

An employee who sold his home at his old station without the use of a realtor retained an attorney to prepare the documents and handle the settlement of the sale transaction. Since the attorney actually conducted the settlement and did not merely attend the

## RELOCATION

settlement in an advisory capacity, the attorney's fee for conducting the settlement may be reimbursed. B-188970, October 13, 1977; B-185739, June 3, 1976; B-188300, August 29, 1977; and B-186254, March 16, 1977.

### Attorney's fee as part of finance charge

The decision in 56 Comp. Gen. 561 (1977), *supra*, permitting payment of legal fees without itemization is not applicable to reimbursement of finance charges. Thus, legal or attorney's fees which comprise part of the finance charge must be itemized, and reimbursement may be made only for specific services which are excluded from the computation of the finance charge by Regulation Z. B-189381, December 15, 1977.

### Attorney's fee in lieu of closing costs

An employee who paid \$275 as an attorney's fee in lieu of closing costs in connection with the purchase of a residence at his new duty station may not be reimbursed since FTR para. 2-6.2(c) does not authorize payment of an attorney's fee in lieu of closing costs and the amount in question includes legal costs for which payment is not authorized under FTR para. 2.6.2c. B-187698, December 11, 1975.

### Subdivision work

A transferred employee who incurred legal expenses for the deplatting and replatting of his property into two parcels incident to the sale of his residence at his old duty station may not be reimbursed for the attorney's fee since the employee incurred the expense solely because market conditions forced him to sell his property in two parcels rather than in one parcel as is customary. B-180945, August 29, 1974.

### Itemization required

A transferred employee's claim for reimbursement of a \$250 attorney's fee incurred in connection with the purchase of a residence at his new official station is denied because of the claimant's failure to furnish evidence showing the exact nature of the services performed and the amount of the total fee allocable to each service, and because reimbursement of attorney's

## RELOCATION

fees for representing and counseling an employee in real estate transactions is not authorized under FTR para. 2-6.2c. While at least two of the services performed by the attorney appear to be reimbursable, the amount of the total fee allocable to each item is not identified. B-165380, December 31, 1969; B-183694, November 24, 1975; B-184290, October 3, 1975; and B-183673, October 24, 1975. However, where it is clear that all the legal services are reimbursable, a further detailed itemization is not required. B-177323, January 2, 1973.

### More than one attorney

Conflicting interests--A transferred employee was required to pay the bank's legal fees in connection with the purchase of a residence at his new official station. He also retained his own attorney because of complications with the abstract of title. The employee may be reimbursed the fee paid for the bank's attorney. That portion of the fee paid to his attorney because of the title problem is reimbursable since independent legal services were necessary to assure clear title, but the balance of the fee is duplicative and may not be reimbursed. B-183160, November 17, 1975.

Services duplicative--An employee-purchaser was reimbursed for legal fees incurred for the preparation of a sales agreement by Title Guaranty Escrow Services, Inc. Believing the sales contract to be faulty he retained an attorney who made certain revisions in the agreement. Because retention of counsel was duplicative of legal services provided by Title Guaranty, the second attorney's fee may not be reimbursed. B-185825, April 22, 1976.

### Attorney for lending institution

An employee was disallowed \$35 of attorney's fee charges relating to his purchase of a house at his new station on the ground that the amount was for review of documents by the bank's attorney. He is entitled to reimbursement of that amount because the documents were drawn by the bank's attorney and the review of documents was to insure proper execution and recording and thus related to the preparation of the documents. B-183807, August 30, 1976.

Employee acting as own attorney

The performance of legal services by an employee, in his capacity as an attorney, incident to the sale of his own residence at his old official station does not justify reimbursement for customary legal fees. Under FTR para. 2-6.2c payment of fees for legal services requires documentation showing that the expenses were in fact incurred pursuant to a binding obligation, which cannot be created by an employee performing a service for his own benefit. B-168074, October 29, 1969.

Attorney's travel expenses

Incident to the purchase of a residence near his new duty station, an employee retained an attorney whose office was not located in the vicinity of the new residence. The employee was charged a \$25 travel fee by the attorney for travel on two different occasions, one for the purpose of searching title and the second for recording papers. Reimbursement therefor may not be allowed since FTR para. 2-6.2c does not contain authority for reimbursement of an attorney's travel expenses under these circumstances. B-183694, November 24, 1975, and B-183102, June 9, 1976.

Lease transactions

Incident to lease termination, an employee may be allowed the attorney's fee of \$28.70 billed to the employee by the lessor since the lessor engaged an attorney to collect the rent for the remaining term of the lease. B-175381, April 25, 1972.

After notice of termination of his lease at his old duty station a transferred employee was threatened with litigation if rent and damages were not paid within 5 days. The employee hired an attorney to settle the dispute. Reimbursement of the attorney's fee was proper since the lease provided for payment of an attorney's fee in the event of litigation, under the circumstances it was reasonable for the employee to hire an attorney to obtain settlement of the matter and the fee was reasonable in terms of the amount of the settlement. B-169526, May 22, 1970.

## RELOCATION

### G. FINANCE CHARGES

#### Rule prior to Truth-in-Lending Act

If the various financing costs incurred by transferred employees incident to purchase, referred to as "placement fees," "commission loan fees," or "origination fees" were expenses of originating and closing the loan as distinguished from "points"--mortgage discounts--which are part of the price for the hire of money, the fees were reimbursable under section 4.2a of BOB Circular No. A-56, which provided for the reimbursement of fees for loan applications and the lender's loan origination, but not for the reimbursement of mortgage discounts or points. 47 Comp. Gen. 213 (1967).

#### Effective date of regulation change

A transferred employee rescheduled the final settlement date on his house purchase from June 15 to July 14, 1969, when settlement was made. The claim for \$340, representing the loan origination fee, may not be paid since revised BOB Circular No. A-56 (T.M. No. 5, effective June 26, 1969), removed a "lenders loan origination fee" from the listing of reimbursable expenses under section 4.2d. As of July 14, 1969, the regulations no longer authorized reimbursement for a loan origination fee. B-168513, December 29, 1969.

#### Current rule following Regulation Z

Under FTR para. 2-6.2d, no charge or expense is reimbursable if it is determined to be part of a finance charge under the Truth in Lending Act or Regulation Z issued thereunder. A finance charge is defined as the sum of all charges, payable directly or indirectly by a debtor, and imposed directly or indirectly by a creditor as incident to or as a condition of the extension of credit. B-178454, June 19, 1973, and B-181037, July 16, 1974.

Although the settlement statement is unclear as to the items included in the \$580.50 "origination fee," a supplemental letter from the lender states that the fee covers the lender's overhead expenses in connection with the preparation of enumerated documents. The origination fee may not be reimbursed since the lender's overhead expenses are costs incident to the extension of credit and thus are part

## RELOCATION

of the finance charge under Regulation Z, 12 C.F.R. § 226.4 (1976), or FTR para. 2-6.2d. B-186312, December 21, 1976, and B-189639, March 24, 1978.

### Itemization requirement

A transferred employee may be reimbursed only for those portions of a "finance or service charge" that are listed as excludable charges under Federal Reserve Regulation Z. The determination of reasonableness of the amount of the individual items is a factual determination to be made by the certifying officer after an examination of the entire record and after consultation with the appropriate regional office of HUD. 54 Comp. Gen. 827 (1975). The itemization of a 2 percent loan origination fee which consisted only of the lender's estimated charges based on assessments by other lenders for similar services provides an insufficient basis for reimbursement. The lender must identify with specificity its own actual fees which comprise the finance charge. B-189381, December 15, 1977.

### All items reimbursable

Old rule--Although the Memorandum of Settlement did not clearly indicate the items included in the "Initial Loan Charge," a supplemental letter from the lending institution shows that the charge included fees for a required title search, preparation of documents and mortgage title insurance policy, all of which are reimbursable under FTR para. 2-6.2d. Therefore, reimbursement is proper without itemization. B-156118, December 4, 1974.

New rule--Charges included in a loan origination fee may be reimbursed only if they are (1) expressly excluded from the finance charge by Regulation Z, 12 C.F.R. § 226.4(e), (2) reasonable in amount, and (3) itemized to show the portion of the origination fee allocable to each item. Itemization is required even where all of the charges are reimbursable so that their reasonableness can be determined. This rule is for prospective application to cases settled after March 24, 1978. B-189639, March 24, 1978.

## RELOCATION

### Exclusions from finance charge

Title insurance--A transferred employee may be reimbursed for the cost of a mortgagee's title policy since FTR para. 2-6.2d specifically states that the cost of a mortgagee's title insurance is reimbursable, and such costs are excepted from the definition of finance charges in the Truth in Lending Act and Regulation Z. B-183958, April 14, 1976, and B-185706, December 17, 1976.

Appraisal fee--Although an employee is not entitled to reimbursement for a loan service fee, appraisal and credit report fees are reimbursable since they are excluded from the definition of a finance charge by Regulation Z. B-183317, May 14, 1975.

Credit report--A credit report fee is excluded from the definition of a finance charge by Regulation Z and it is reimbursable. B-187123, February 9, 1977.

Revenue stamps and recording fees--Recording fees and state revenue stamps are excluded from the definition of a finance charge under Regulation Z and are reimbursable. B-187123, February 9, 1977.

Loan release fee--A loan release fee of \$14 assessed by the lending institution to prepare and record the release of the deed of trust which secured the transferred employee's obligation on the residence he sold may be reimbursed under FTR para. 2-6.2d since it is distinguishable from a mortgage release fee which is assessed against a seller to release him from personal liability on an existing mortgage. B-174011, November 15, 1971, and B-178039, April 9, 1973.

Loan assumption fee--Where a creditor accepts a subsequent customer as an obligor under the existing mortgage obligation, first lien or equivalent security and an assumption fee is charged to allow the subsequent customer to acquire the dwelling, the assumption fee is a finance charge and not excluded under Regulation Z. Therefore, reimbursement of a 3 percent mortgage assumption fee charged an employee in connection with the sale of his former residence was properly denied. B-173045, June 23, 1971; B-180103, June 14, 1974; and B-184626, February 12, 1976.

## RELOCATION

Tax search fee--An employee who purchased a residence was charged a fee to search for, identify, and report property taxes and assessments on the mortgaged real property. The fee is not reimbursable under FTR para. 2-6.2d since it is actually a finance charge. B-180981, October 1, 1974, and B-189295, August 16, 1977.

### Points or loan discount fee

A transferred employee may not be reimbursed for "points," notwithstanding that such charges are normally paid by a seller since their reimbursement is specifically prohibited by FTR para. 2-6.2d. B-171830, March 1, 1971, and B-174063, November 19, 1971.

VA loans--Incident to the sale of his home, an employee paid "points" to enable the buyer to obtain a VA mortgage. The employee may not be reimbursed for "points" which are part of the price for the hire of money and, as such, are excluded under FTR para. 2-6.2d. B-181909, April 2, 1975.

### VA application fee

A transferred employee who obtained a direct loan from VA in connection with the purchase of a residence and paid a \$175 application fee may be reimbursed based on a letter from the VA stating that the application fee was comprised of an appraisal fee, a credit report fee, and a closing fee, none of which are included in the finance charge under Regulation Z. B-174106, October 21, 1971.

### VA funding fee

The prohibition in FTR para. 2-6.2d against reimbursement of any fee, cost, charge, or expense determined to be a finance charge under the Truth in Lending Act, or Regulation Z, precludes reimbursing an employee for the VA funding fee paid as a condition precedent to securing a VA loan guarantee. 49 Comp. Gen. 483 (1970).

FHA loans--A transferred employee sold his residence under a contract which provided that a 1 percent loan

## RELOCATION

placement fee was to be paid by the purchaser with an additional 2 percent chargeable to the seller. The employee is not entitled to reimbursement of the 2 percent amount which is part of the price for the hire of money. Such mortgage discounts (points) are not reimbursable under FTR para. 2-6.2d. B-166512, May 7, 1969.

### FHA application fee

A transferred employee may be reimbursed for an FHA loan application fee incident to purchase of a residence. Since the fee is required of a mortgagee to cover the cost of processing his application and includes a property appraisal fee, the application fee qualifies as an "appraisal fee" and, therefore, is not a finance charge under the Truth in Lending Act. B-169790, July 2, 1970.

Points deducted from real estate commission--To complete the sale of his old residence, a transferred employee was required to pay \$1,470 in points. The real estate agent voluntarily gave the employee \$470 towards the points. While the agency regarded the \$470 as a reduction of the \$2,520 real estate commission and disallowed the claim, the employee claimed the full \$2,520 commission and contended that the \$470 represented a reduction in the points. The voucher may not be certified for payment. The points cannot be recast as a reimbursable item, such as a brokerage fee, through an informal agreement. B-171953, April 9, 1973, and B-163253, May 24, 1968.

Conflict with income tax laws--A transferred employee incurred a finance charge in the form of a "closing fee" expressed as one percent of the purchase price of his new residence. Even though such a service charge may not be deductible as interest for income tax purposes, the employee may not be reimbursed for the service charge since it is regarded as a nonreimbursable finance charge under the Truth in Lending Act and Regulation Z. B-187890, February 17, 1977.

## H. MORTGAGE PREPAYMENT COSTS

Under FTR para. 2-6.2d an employee may be reimbursed for a mortgage prepayment penalty, which is either imposed by

## RELOCATION

contract or is not in excess of 3 months interest incident to the sale of his old residence. B-175424, June 8, 1972.

### Loan assumption fee distinguished

In those cases where a purchaser has assumed the indebtedness of the original debtor and has been charged a percentage of the unpaid outstanding loan amount by the mortgagee, the fee is a finance charge under the Truth in Lending Act and Regulation Z. Since the charge does not represent a fee for the prepayment of the original loan, there being no evidence that the loan was paid off, the fee paid by the seller represents a charge for the "assumption" of a mortgage by the purchaser and the mortgagee's release of the seller from the original indebtedness. No basis exists for reimbursement of such a fee. B-170495, December 18, 1970.

### Limited to sale of property

A mortgage prepayment charge is not payable when incurred incident to the purchase of a residence. B-177632, May 18, 1973.

### Second mortgages

An employee sold his residence and incurred an expense for prepaying the second deed of trust which had been executed after initial financing of the house. Expenses connected with the second mortgage transaction may be reimbursed since they are not precluded by either 5 U.S.C. § 5724a(a)(4) or FTR para. 2-6.2d. B-183251, May 29, 1975.

## I. TAXES

### Sales tax as transfer tax

An employee paid a sales tax in connection with the purchase of a mobile home at his new duty station in Colorado. The Colorado sales tax, as construed by the Colorado courts, is an excise or sales tax on the transaction and is not a tax on the property. The burden of its payment is on the consumer. Under Colorado law it appears that the city and transportation district taxes are treated in the same way as the state sales tax. Therefore, such taxes are transfer taxes and are reimbursable. B-190484, February 14, 1978.

## RELOCATION

Under the Ohio Revised Code the sales tax paid by a transferred employee on the purchase of a mobile home is an excise tax on the sales transaction, with the ultimate burden of the tax imposed on the consumer. Under FTR para. 2-6.2d, the tax may be reimbursed as a transfer tax. B-189377, February 13, 1978. Similarly, the sales tax paid under the Code of Alabama, title 51, section 786(3), on the purchase of a mobile home is a reimbursable transfer tax. B-187056, November 24, 1976. The excise tax on real estate which was authorized by the State of Washington is a reimbursable transfer tax since it is in fact a tax on the sale of real estate. B-187337, March 29, 1977.

The sales tax paid by an employee on a mobile home purchased incident to his transfer to Florida may be allowed since the tax appears to be an excise tax on the privilege of transacting sales of "tangible property" as defined in the Florida statutes and not a tax on the property itself. Therefore, it is reimbursable as a transfer tax under FTR para. 2-6.4d. B-178453, June 14, 1973.

### Sales tax as mortgage tax

The payment by a transferred employee of a sales tax on the service of extending credit, which is measured as a percentage of the loan origination fee incurred in connection with the purchase of a residence in Ketchikan, Alaska, is reimbursable. The tax, in the nature of a general sales tax imposed on all types of home loan transactions, is a mortgage tax that is reimbursable under FTR para. 2-6.2d. B-185487, August 3, 1976.

### Business privilege or gross receipts tax

A transferred employee may not be reimbursed for a New Mexico Gross Receipts and Compensating Tax levied in connection with his purchase of a newly constructed residence. The tax is a business privilege tax not assessed on a casual sale of a previously occupied home. Therefore, it is not a transfer tax within the meaning of FTR para. 2-6.2d. 54 Comp. Gen. 93 (1974) and B-181795, November 11, 1974. Similarly, a transferred employee may not be reimbursed the Hawaii tax levied in connection with his purchase of a new condominium apartment since the tax is a business privilege tax not assessed on the sale of a previously occupied home. B-178943, September 17, 1974.

## RELOCATION

### Intangible tax

A transferred employee who purchased a residence in Miami, Florida, may be reimbursed for the payment of the Florida surtax, since the surtax is a "mortgage or transfer tax" within the meaning of FTR para. 2-6.2(d). B-183162, January 27, 1976, and B-160060, July 13, 1976. Since it is customary for the purchaser of a residence in the Atlanta area to pay the Georgia intangible tax as a closing cost in connection with conventional and VA loan transactions, the employee may be reimbursed for the intangible tax paid in connection with his purchase of a residence in Atlanta. B-178873, April 22, 1974, and B-182082, January 22, 1975.

### J. CONSTRUCTION OF NEW RESIDENCE

Under FTR para. 2-6.2d the only expenses that are reimbursable in connection with the construction of a residence are those that are reimbursable upon the purchase of an existing residence. Sales taxes, construction loan charges, and plans and engineering charges are not reimbursable, and expenses specifically related to the construction process are not allowable. B-170057, August 11, 1970.

A transferred employee contracted to purchase a residence which was under construction at his new duty station. Under a prior contract with the bank, the builder was subject to a penalty of 1 percent of the construction loan if the purchaser of the house obtained a mortgage from another bank. When the employee obtained a mortgage from another source, the builder passed on the 1 percent penalty to the employee. The penalty charge may not be reimbursed. B-186923, October 13, 1976.

### Construction costs

#### Utility hook ups

There can be no reimbursement of water and sewer hook-up charges incurred incident to a transferred employee's construction of a new home since 5 U.S.C. § 5724a(a)(4) only authorizes reimbursement of expenses in connection with the purchase of a home but not any portion of the purchase or construction price. Whether or not included in the construction price, hook-up costs are considered part of the cost of construction. B-165879, February 7, 1969, and B-187203, October 19, 1976.

## RELOCATION

### Inspections

A transferred employee who constructed a residence at his new official station may be reimbursed for inspection expenses comparable to inspection expenses that are reimbursable in connection with the purchase of an existing residence, but not for the cost of making inspections which result from construction. In addition, an employee may not be reimbursed for the expense of installing a drain since it is an expense that results solely from construction and is not comparable to an expense reimbursable in connection with the purchase of an existing residence. B-184928, September 15, 1976.

### Plans

A transferred employee may not be reimbursed under FTR para. 2-6.2c for the \$475 fee paid to a firm of architects for the design of a residence constructed incident to his change of station. The reference in para. 2-6.2c to "drawings or plats" authorizes reimbursement only for the costs of preparing illustrations of property and improvements thereon showing relationships to surrounding properties, i.e., a plat, and does not authorize reimbursement for the cost of architectural plans. B-164926, September 30, 1968, and B-164491, November 15, 1968.

### Settlement costs

An employee who contracted to have a home constructed at his new duty station sought reimbursement of fees for the preparation and recording of documents and for title examination and/or title insurance for the closing of both the construction mortgage loan and the permanent mortgage loan. Since fees relating to the construction loan result directly from construction they cannot be reimbursed. Expenses may be reimbursed only in connection with the permanent mortgage loan. B-182412, April 18, 1975, and B-164491, August 20, 1968.

### Sales taxes

A transferred employee purchased a lot and constructed a residence. The state sales tax he paid on the newly constructed home may not be paid if the employee would

## RELOCATION

not have incurred the tax in purchasing an existing dwelling. B-164491, August 20, 1968, and B-178943, September 17, 1974.

### Prior ownership of lot

An employee who purchased a lot 5 years before his permanent change of station and who incurred expenses in connection with the construction of a house after his transfer may be reimbursed for expenses to the extent they would be comparable to expenses incurred in the purchase of a completed residence and are not specifically related to the construction process. While no reimbursement is allowable for expenses incurred in acquiring the lot, prior purchase of the lot does not preclude payment of otherwise reimbursable expenses. B-168710, February 4, 1970.

## K. OTHER RESIDENCE TRANSACTION EXPENSES

### Insurance

#### Mortgage guarantee

Mortgage guaranty insurance is not the type of insurance for which reimbursement is authorized under FTR para. 2-6.2d and its cost may not be reimbursed notwithstanding that mortgage guaranty insurance is different from ordinary mortgage insurance in that it is designed to make the mortgagee whole if insufficient monies are realized upon foreclosure to liquidate the mortgage indebtedness. B-162673, November 13, 1967; B-169477, June 2, 1970; B-183958, April 14, 1976; and B-183611, September 2, 1975.

#### Home warranty

A transferred employee claims reimbursement for the cost of a "Homeguard Service Contract" purchased in connection with the sale of his old residence to protect the buyer against defects in the major systems of the home for 1 year. Even though the real estate agent required the seller to purchase the contract, its cost may not be reimbursed because it was not required for the sale of the employee's residence. B-187493, April 1, 1977. An employee may not be reimbursed for an expenditure which is not essential to consummation of the real estate transaction. B-189662, October 4, 1977, and B-190902, February 14, 1978.

## RELOCATION

### Incidental services

#### Termite inspection

A termite inspection fee paid in connection with the sale of a transferred employee's residence is reimbursable if it is customary in the area for the seller to pay for such an inspection. B-175918, June 15, 1972; B-189093, October 13, 1977; and B-170007, July 13, 1970.

#### Lender's inspection

A transferred employee who purchased one lot on which he planned to build a home, but was then forced to purchase a second lot because the first lot was unsuitable, may be reimbursed for the appraisal and inspection fees in the amount of \$125 as this was the basic fee charged by the lending institution for these services. The fact that only a \$50 inspection fee was allocated to the lot actually used is not controlling. B-182412, May 14, 1976.

#### Engineering inspection

A claim for reimbursement of a fee for an inspection of the general physical condition of a residence may not be paid where the inspection was not required incident to the purchase transaction. B-185783, April 29, 1976, and B-184594, February 12, 1976.

#### Marine survey

An employee who purchased and occupied a houseboat as his new residence, may be reimbursed for the cost of a marine survey, a necessary condition for financing the purchase of the houseboat. B-180099, February 25, 1974, 53 Comp. Gen. 626 (1974).

#### Exterminator

A transferred employee's claim for \$150 representing the cost of a termite extermination which he was required to have performed prior to the sale of his residence at his old station may not be allowed since the cost of exterminating termites is clearly an item of maintenance and, therefore, not reimbursable. However, a termite inspection fee may be reimbursable

## RELOCATION

under the FTR. B-163801, May 1, 1968; B-172151, May 18, 1971; and B-184594, February 12, 1976.

### Photographs

A transferred employee is not entitled to reimbursement of expenses for photographs of his new residence where such photographs were not customarily required and were not customarily paid for by the purchaser of a new residence. B-185160, January 2, 1976. Incident to the sale of his residence at his old official station to a purchaser who obtained a VA mortgage, an employee may be reimbursed for the cost of photographs, since, in the case of a VA mortgage, this cost is usually paid by the seller in the area. B-176052, July 26, 1972.

### Escrow fees

#### Purchase of residence

Reimbursement of expenses incident to the purchase of a residence at an employee's new duty station which were listed by the bank as prepaid finance charges may be allowed since a letter from the title company shows that the charges were in fact an escrow fee covering the costs of preparing and recording documents and for handling the escrow fund. B-170007, July 13, 1970; B-168870, February 13, 1970; and B-184063, June 15, 1976.

#### Assumption of mortgage

A transferred employee sold his house at his old duty station, but the mortgage holder would not allow the buyer to assume the mortgage. The employee entered into an escrow agreement whereby the buyer was to make the monthly mortgage payments into an escrow account, and the escrow agent was to then make the actual mortgage payments. The employee may not be reimbursed for his share of the cost of the escrow agreement as it was solely for his convenience and not directly related to the sale itself. B-171338, April 29, 1976.

## L. LOSSES RESULTING FROM MARKET CONDITIONS

A transferred employee had his residence at his old duty station appraised to set a selling price. Because of

## RELOCATION

market conditions, the home was never sold, but the employee submitted a claim for the cost of the appraisal. The claim is disallowed because, generally, only expenses incurred incident to completed sale or purchase transactions may be reimbursed, and losses or expenses due to market conditions are not reimbursable in any case.

B-187848, August 23, 1977; 56 Comp. Gen. 561 (1977); and B-186435, October 13, 1977.

### M. LEASE TRANSACTIONS

#### Limited to old duty station

The expenses incurred by a transferred employee for settling an unexpired lease of premises he owned and rented at the site of his new duty station are not reimbursable. Both 5 U.S.C. § 5724a(4) and FTR para. 2-6.2h clearly evidence an intent to provide reimbursement for costs of lease termination expenses occurring only at an employee's old duty station. B-173973, October 1, 1971; B-163153, February 6, 1968; and B-178761, July 13, 1973.

#### Qualifying residence

An employee signed a lease for a residence at his old official station on April 1 for a term of 1 year beginning on September 1, 1967. The lease required the payment of rent in monthly installments beginning July 1, 1967, and payment of a security deposit of \$135 before July 10. The employee moved his household goods into the leased premises in June 1967, although he was occupying Government quarters while on temporary duty. The employee was transferred to a new official station on August 16, 1967. He may be reimbursed for the forfeited security deposit under the provisions of 5 U.S.C. § 5724a and FTR para. 2-6.2h, since during July and August, prior to the date he was notified of the transfer, the employee-lessee had a legal interest in the premises equal to that of a tenant, including the right to place his household goods therein. B-163546, March 8, 1968.

An employee made a \$150 deposit on a different apartment in Chicago, Illinois, but before a lease was signed or the apartment occupied, he was transferred to Washington, D.C. The landlord refused to return his deposit. The employee may not be reimbursed the lease deposit under FTR para. 2-6.2h since the apartment was not the employee's actual residence at the time of his transfer and no termination of

## RELOCATION

the lease was involved. However, the amount paid may be reimbursed as a miscellaneous expense. B-170632, September 10, 1970.

A transferred employee is entitled to reimbursement for the forfeited first months rental payment under FTR para. 2-6.2h for a newly leased residence where the employee received less than 30 days' notice of his transfer to a new permanent duty station and where the transfer prevented the employee from occupying the residence. B-184901, July 23, 1976.

Expenses incurred incident to the breaking of a lease on a garage may not be reimbursed since FTR para. 2-6.2h applies only to the breaking of a lease on residence quarters occupied by an employee and his family at the time of his transfer. B-184164, December 8, 1975.

### Duty to minimize termination costs

A transferred employee executed a contract for his release from the unexpired term of 13 months remaining on his lease of an apartment at his old duty station. The lessor retained the sole authority to relet the premises, but since the employee reduced his liability from a total possible rent of \$2,574 to \$594, the release constitutes a reasonable effort to settle the rental obligation. The employee, therefore, may be reimbursed for the full cost of the lease settlement. B-186035, November 2, 1976.

Where an employee was transferred with 11 months remaining on his lease, and made reasonable efforts to sublease his apartment, he may be reimbursed for the full cost of the lease settlement (\$1,340 out of total possible rent of \$2,250) since, under New York law, the landlord had no duty to mitigate damages. B-182276, April 10, 1975; B-172947, July 13, 1971; and B-173753, September 23, 1971.

Upon his transfer an employee paid the lessor of his rented apartment the entire balance of the rent due for the unexpired term of 7 months. Five months later, the employee removed his household goods from the apartment and relet the premises. The rent paid for the 5 months between the date of transfer and the date of the sublease may not be reimbursed because the employee failed to make reasonable efforts to compromise his outstanding obligation. 56 Comp. Gen. 20 (1976), and B-183018, January 8, 1976.

## RELOCATION

### Short notice of transfer

Where an employee was prevented from giving the required 30-day notice for termination of his occupancy of an apartment at his old duty station because the agency notice to transfer required him to leave in less than 30 days, he may be reimbursed for the amount paid to the landlord in lieu of the required notice. B-189808, April 28, 1979, and B-162503, October 13, 1967.

### Joint tenants

An employee signed a 23-month lease as one of two co-tenants. Subsequently, the other co-tenant was released from his obligation under the lease and when the employee was transferred he was the sole occupant of the apartment. He paid all the termination expenses. For the purposes of reimbursement of the expense of settling the unexpired lease, the employee may be considered to be the sole tenant, since he was legally responsible for the remaining rent. B-182276, April 10, 1975.

Three women signed an apartment lease for a year beginning May 1, 1972, with no provision setting forth the liability of each, although they agreed among themselves that each would pay one-third of the rent. One woman was transferred on July 9, 1972. The voucher for \$98.75 (her share of the rent from July 9 through August 31, 1972), may be paid, notwithstanding that the move did not terminate the lease, since the regulation provides for reimbursement where lease obligations are shared with others. However, she may not be reimbursed for additional payment of rent unless she can demonstrate that she took steps to obtain a substitute tenant, or otherwise mitigate her damages. B-177413, January 22, 1973.

### Cooperative ownership interest

Although a transferred employee had an equity interest in a housing corporation the arrangement is treated as a lease since the occupancy agreement had the features of a lease. Reimbursable expenses are therefore governed by FTR para. 2-6.2h. B-179979, March 7, 1974; B-178013, May 24, 1973; and 52 Comp. Gen. 275 (1972).

## RELOCATION

### Clean-up, fix-up expenses

A transferred employee is entitled to reimbursement for the expenses incurred for repairs to leased property under FTR para. 2-6.2h, where the lease provided for the addition of the value of such repairs to the prepaid rent since such expenses were incurred in the settlement of a lease incident to a change of station. B-181435, February 12, 1975, and B-186507, December 22, 1976.

An employee who, in connection with his transfer of official duty station, terminates his apartment lease at his old duty station at the expiration of the lease and is required to pay for painting, cleaning, repair of blinds and stock transfer is not entitled to reimbursement for these expenses. Under 5 U.S.C. § 5724a only reimbursement of those expenses that result from termination of an unexpired lease are reimbursable. Expenses chargeable at expiration of a lease are not reimbursable. 48 Comp. Gen. 409 (1969); B-166222, April 21, 1969; and B-182198, January 13, 1975.

### Security deposit

An employee transferred to a new duty station who forfeits a \$100 security deposit solely as an expense for lease cancellation under a separate Security Deposit Agreement, can be reimbursed for this amount as an expense incurred for settling an unexpired lease under FTR para. 2-6.2h, even though the employee failed to give prompt lease termination notice. Because of the discretion afforded the landlord by the Security Deposit Agreement and because the lease was terminated prematurely, such failure would not contribute to the expense. B-175916, July 3, 1972, and B-175967, July 11, 1972.

A transferred employee claims \$235 for the loss of his security deposit on an apartment incident to his change of duty station. He complied with the 30-day notice requirement for refund of the deposit but the landlord's funds were attached pending a resolution of unrelated litigation. The voucher may not be certified for payment since the employee may still receive a refund once the litigation is completed. B-178407, June 6, 1973, and B-188604, February 14, 1978.

## RELOCATION

### Partial months occupancy

In terminating an unexpired apartment lease at his old station, a transferred employee notified the rental agency in writing in June 1970 that he would be vacating the premises during July. Pursuant to the lease agreement and a "Transfer Endorsement," the employee was liable for the rent for the full month of July. Under FTR para. 2-6.2h reimbursement may be made for two-thirds of the July rental since the employee timely notified the landlord of his transfer and vacated the apartment July 10. B-174353, November 23, 1971, and B-163835, October 9, 1968.

### Documentation required

Reimbursement may not be made for lease-breaking expenses if the employee does not submit a copy of the lease. Where an employee failed to obtain a copy of his lease during his tenancy in the apartment and after leaving the apartment is offered a signed copy of a lease for the equivalent of 1 month's rent, the Government will not reimburse him for the expense of obtaining a signed copy since this is not a normal lease-breaking expense. B-184164, December 8, 1975, and B-181737, August 19, 1974.

### Lease-purchase agreement

An employee entered into a lease-purchase contract on May 24, 1970, paid a deposit of \$1,500 on a dwelling, and agreed to lease the property at a rate of \$295 monthly until the settlement date. The employee was transferred effective April 18, 1971. Unable to sell his rights in the dwelling, the employee forfeited his deposit. The employee's claim for rental payments from April 19 to May 23, 1971, may not be reimbursed since the rental payments were not in the nature of a penalty for early lease termination. However, the employee may be reimbursed for the forfeited deposit as a part of the miscellaneous expenses allowance. B-177595, March 2, 1973.

CHAPTER 8

TRANSPORTATION OF MOBILE HOMES

A. AUTHORITY

Statutory authority

Under 5 U.S.C. § 5724(b) an employee who is entitled to transportation of household goods under section 5724(a), may instead be paid for the commercial transportation of his house trailer or mobile dwelling or may receive a mileage allowance if he transports the trailer or mobile dwelling himself for use as his residence. Transportation of a trailer and mobile home is authorized only inside the continental United States, inside Alaska, or between the continental United States and Alaska. The amount that an employee may be reimbursed is limited to the maximum payment to which he otherwise would be entitled for transportation and temporary storage of his household goods.

Regulations

The regulations implementing 5 U.S.C. § 5724(b) are contained at FTR Part 2-7 and, as further implemented and applicable specifically to employees of the DOD, are found at 2 JTR para. C10000, et seq.

B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a general discussion of the conditions of eligibility for reimbursement of relocation expenses, including expenses for transportation of mobile homes.

Transportation of household goods

A transferred employee who has been reimbursed for moving his household goods from his old station to his new station may not later claim expenses for transportation of a mobile home under FTR para. 2-7.1(a). 55 Comp. Gen. 228 (1975).

A Navy employee separated by reduction in force from his position in San Diego sold his San Diego residence, placed his household goods in storage, and drove to Washington, D.C., with his house trailer in tow. There he was reemployed by the National Park Service. He had his household goods shipped to Washington and submitted a claim for

## RELOCATION

relocation expenses including \$1,335.72 for shipment of his household goods and \$209.04 for mileage for moving his house trailer. Under 5 U.S.C. § 5724a(c) a former employee separated by reduction in force or transfer of function who is reemployed in a different geographic location within 1 year is entitled to relocation expenses under 5 U.S.C. § 5724 the same manner as if he had been transferred without a break in service. He may not, however, be paid both for transporting his house trailer and his household goods between San Diego and Washington, D.C., since payment for the transportation of a house trailer for use as a residence is in lieu of any payment for storing and transporting household goods. 51 Comp. Gen. 27 (1971).

Where an employee was required by the mobile home mover to remove 2,950 pounds of household goods from the mobile home, and where he was reimbursed for transporting those household goods to his new station, he may not also be paid an allowance for shipment of the mobile home. Payment of the cost of transporting a mobile home is in lieu of payment for shipment of household goods. Both allowances cannot be paid for the same transfer, even if they would not, in the aggregate, exceed the maximum allowance for shipment of household goods. The employee may be reimbursed whichever of the two allowances is most advantageous to him. B-189566, December 29, 1977, and B-177237, March 2, 1973. Compare B-173257, December 9, 1971.

### Transportation of mobile home

#### Household goods moved in mobile home

An employee who transports household goods in his trailer for use incident to its occupancy as his residence is not given the option to choose between reimbursement at the commuted rate for transporting the household goods and mileage for transporting the trailer. Reimbursement may be authorized only upon a mileage basis for transportation of the house trailer. 41 Comp. Gen. 811 (1962), 39 Comp. Gen. 401 (1959), and B-170183, August 14, 1970.

#### Household goods moved separately

Because the carrier would not move a mobile home weighing more than the manufactured weight, including original furnishings, an employee had 4,280 pounds of household goods transported separately to his new

## RELOCATION

station. The employee may not be reimbursed for the cost incurred in shipping household goods separately from his trailer, since he has been reimbursed for the expense of transporting the house trailer to his new station. B-184908, May 26, 1976, and B-180943, October 2, 1974. The same is true where household goods are shipped separately to prevent structural damage to the mobile home while in transit. B-184091, November 26, 1971.

### C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a general discussion of the procedural requirements for reimbursement of relocation expenses, including expenses for transportation of mobile homes.

#### Authorization

An employee was originally authorized transportation of household effects in connection with his transfer from Mobile to Sylacauga, Alabama. After receiving his orders, he decided not to sell his house in Mobile and to buy a trailer to use while stationed in Sylacauga. He claimed reimbursement for the cost of moving the trailer from Mobile to Sylacauga. The employee may be reimbursed for transportation of the trailer under his original travel order authorizing shipment of household goods. Having been originally authorized payment of expenses for the shipment of his household goods, the employee need only certify that the trailer is to be used as his residence at the new duty station in order to be entitled instead to expenses for moving the trailer. B-172536, August 17, 1972.

#### Certification of residential intent

An employee transferred from Illinois to California signed a certificate indicating that he intended to occupy his trailer as his residence at his new duty station and that movement of the trailer was for that purpose. The trailer was transported to California but arrived in damaged condition, requiring expensive repairs over a projected period of several weeks. At that point, the employee traded in the trailer and purchased a house. Under the circumstances the employee may be reimbursed for the cost of transporting the trailer, notwithstanding that he ultimately traded it in and purchased a house, since there is no evidence of any negligence or intentional wrongdoing on the employee's part

## RELOCATION

to subvert his certification of use of the trailer as a residence. B-168123, December 9, 1969.

### D. MOBILE HOMES SUBJECT TO SHIPMENT

#### New mobile home

##### Ownership requirement

An employee who arranged to purchase a house trailer from a manufacturer in Ohio, prior to his transfer from Maine to Arizona, may be reimbursed for transportation of the house trailer from Ohio since it was the property of the employee when transported. B-144868, May 1, 1961. To the same effect see B-146033, July 18, 1962, permitting reimbursement for the cost of moving a mobile home purchased after the employee arrived at his new duty station.

##### Separate shipment of household goods

At the time of his transfer from Arizona to Montana, an employee who had been residing in a mobile home at his old station was in the process of purchasing a new mobile home. Since delivery could not be made in Arizona prior to the employee's transfer, the trailer was delivered from the factory in Texas direct to the employee's new station in Montana at a cost of \$761.29. His household goods were shipped to Montana by common carrier and the employee claimed reimbursement for shipment of 1,300 pounds at the commuted rate. Although the regulations prohibit payment for both transportation of a mobile home and transportation of household goods, Congress contemplated that the mobile home transported at Government expense would contain the employee's household goods which are ordinarily used incident to residential occupancy of a mobile home. Under the circumstances, the employee may be reimbursed for the cost of transporting his household goods to the extent that that cost plus the cost of transporting the new trailer from the place of its manufacture does not exceed the cost that would have been incurred in transportation of the old trailer from the old to the new station. B-160380, December 20, 1966.

## RELOCATION

### Replacement mobile home

An employee transferred from Fort Hood to Fort Polk, Louisiana, turned his house trailer over to a commercial mover. The house trailer was destroyed by fire while in the possession of the mover. The employee purchased another trailer in Dallas, Texas, which he transported himself and for which he claimed reimbursement on a mileage basis. The employee may be reimbursed on a mileage basis for movement of the replacement trailer from the place of purchase to the new duty station not to exceed the distance from the old to the new duty station. B-168622, April 23, 1970.

### Moving two mobile homes

Upon change of permanent station from Portland, Oregon, to Washington, an employee moved two trailers, his own and that of his dependent mother-in-law. An employee may be reimbursed for the movement of more than one house trailer where the size and composition of his immediate family necessitate the use of more than one trailer as a residence. Therefore, the employee may be reimbursed for the cost of moving his and his mother-in-law's trailers to the extent that the total cost for transporting both does not exceed the maximum amount allowable for transportation and temporary storage of 11,000 pounds of household goods. 54 Comp. Gen. 335 (1974), B-152429, November 8, 1963, and B-167758, September 17, 1969.

## E. DETERMINING REIMBURSEMENT

### Mileage

#### Standard highway mileage

An employee transferred from Texas to South Dakota was authorized to move his mobile home. Because of the size of the mobile home, the mover was required to use routes designated by the states through which it transported the trailer which involved a distance 188 miles in excess of the distance listed in the Household Goods Carrier's Bureau Mileage Guide. The amount reimbursable for moving a mobile home is limited to the total amount payable for moving and storing 11,000 pounds of household goods. The employee may compute the allowance for movement of a trailer based on a distance greater than shown in the mileage guide if

## RELOCATION

the distance does not involve a substantial deviation or cost which may be reimbursed is limited to the amount that would have been paid to move and store 11,000 pounds that would have been paid to move and store 11,000 pounds of household goods over the distance indicated in the guide. B-190044, November 21, 1977, and B-154949, January 5, 1965.

### Partial movement over water

An employee transferred from Juneau to Fairbanks, Alaska, had his house trailer shipped by steamer from Juneau to Haines since there was no roadway from Juneau and because the trailer's size precluded its transportation by ferry. Since reimbursement for moving a house trailer is required to be made on a mileage basis, there is no authority to reimburse the employee for the commercial cost of steamer transportation of the trailer from Juneau to Haines. However, mileage reimbursement may be made covering the distance between Juneau and Haines. While the regulations provide for use of standard highway mileage in computing the distance for which trailer reimbursement is authorized, even though part of actual transportation is by rail or water, there are no roads covering portions of the distance between Juneau and Fairbanks and no distance is shown in the mileage guide. Under these circumstances, reimbursement may be made for the entire distance from the old to the new station--not just for those portions for which distances are shown in standard mileage tables or guides. 40 Comp. Gen. 594 (1961).

### Shipment from other than old station

An employee who purchases a new or replacement trailer for shipment to his new duty station from a location other than his old duty station, may be reimbursed mileage for movement of the trailer from the place of purchase to the new duty station not to exceed the distance from old to new station. B-144868, May 1, 1961, and B-146033, July 18, 1962.

### Reimbursement limitation

The amount that an employee may be reimbursed for movement of a house trailer may not exceed the allowance to which he would be entitled for moving the maximum allowable

## RELOCATION

weight of household goods between the old and new duty stations plus 60 days storage. 51 Comp. Gen. 27 (1971), and 54 Comp. Gen. 335 (1974).

### Single method of reimbursement

Because of repeated breakdowns while en route from California to Minnesota, with his trailer in tow, an employee was forced to turn his household goods over to a trucking company to complete his move from Arizona to Minnesota. The employee may be reimbursed for towing the trailer from California to Arizona and for transportation of his household goods for the remaining distance, since the necessity to engage a common carrier to complete the transportation arose from circumstances beyond the employee's control and since the trailer was ultimately towed to the new duty station. The regulations contemplate that a single authority (either allowing expenses for transportation of a trailer or of household goods) will be used for the entire distance, rather than in combination for different portions of the trip. Under circumstances beyond the employee's control, as here where it is appropriate to use both authorities, the total payment shall not exceed the cost which would have been incurred had either of the authorities been used for the entire distance. 39 Comp. Gen. 40 (1959)

Upon transfer from West Virginia to Alaska, an employee transported his trailer as far as Seattle, Washington, before he discovered that the trailer did not meet Alaskan specifications. He sold the trailer and shipped his household effects from Seattle to Fairbanks on a Government Bill of Lading. Even though the trailer was not used as his residence in Fairbanks, the necessity to abandon shipment in Seattle was through no fault of the employee's. Therefore, the employee may be reimbursed an amount limited to the cost of transporting his trailer from West Virginia to Seattle and his household goods are viewed as properly transported by Government Bill of Lading from there to Fairbanks. However, the total payment for both portions of the transportation may not exceed the cost that would have been incurred had either of the methods been used for the entire distance. 55 Comp. Gen. 526 (1975).

## RELOCATION

### Unlicensed commercial mover

Payment for transportation of a newly purchased mobile home may be made on a commercial rate basis, not to exceed the constructive cost of transporting the employee's household goods, where the mobile home was transported by the dealer. Even though not listed by the Interstate Commerce Commission as a commercial transporter, the dealer was operating under color of state license or other state sanction permitting towing and transportation of the trailer. 54 Comp. Gen. 658 (1975).

## F. REIMBURSABLE EXPENSES

### Pilot car services

Under state laws, an employee was required to pay for pilot cars and flagging in connection with transportation of his house trailer from Arizona to Washington. The regulatory language prohibiting payment for "special services" is directed at those services which are necessary or desirable for use of the mobile dwelling, unlike pilot cars required by state law and necessary to transportation of the trailer from point to point. The employee may, therefore, be reimbursed charges for pilot car service. 47 Comp. Gen. 107 (1967). See also B-169322, April 30, 1970, permitting reimbursement where the employee and his wife performed pilot services for which they were paid by the carrier and for which cost they were also billed by the carrier.

### Extra equipment charges

In order to move his trailer onto the lot an employee was required to pay \$40 for use of a tractor to move the trailer from the road, \$21 for a wrecker to move it onto solid pavement, and \$100 for a loader to move it to the country road. The expenses claimed are reimbursable as essential to the trailer's transportation. They are costs associated with pickup or delivery of the trailer rather than expenses of preparing the trailer for movement. 54 Comp. Gen. 335 (1974), and B-169322, April 30, 1970.

## RELOCATION

### G. NONREIMBURSABLE EXPENSES

#### Preparation for shipment

To move his double-width trailer, an employee was required to pay for taking the two halves of the trailer apart, for sealing each of the two sections for movement down the highway, for removing a section of the roof, for renting of axles and wheels and for reassembling the two halves of the trailer at the new duty station. The costs of disassembling and reassembling the trailer, as well as for renting axles, wheels, and hitches are charges for preparing the home for movement or special service charges, reimbursement of which is prohibited. B-172094, July 20, 1971; B-156315, July 21, 1966; B-186714, January 31, 1978; and B-160630, January 23, 1967.

#### Repairs

In moving his trailer from Colorado to Washington, an employee paid \$2.50 for the cost of repairing a flat tire. The cost of repair to a mobile home is specifically excluded as an item of reimbursable expense. B-186711, January 23, 1978.

#### New equipment

Under Nebraska law all house trailers over 55 feet in length were required to be equipped with three axles before a permit to travel over Nebraska highways could be issued. An employee may not be reimbursed for the cost of equipping his trailer with a third axle to comply with Nebraska law since the reimbursement claimed represents the cost of a structural change constituting a capital improvement to the trailer. Reimbursement is excluded as a cost of preparing the trailer for movement. 48 Comp. Gen. 226 (1968), and B-186711, January 31, 1978.

#### Storage

An employee who moved his trailer to his new duty station paid to store it while locating a permanent trailer space. The cost of storing the trailer may not be reimbursed since the applicable regulations specifically preclude any allowance for storage. B-169402, May 14, 1970, and B-184908, May 26, 1976.

## RELOCATION

### Secondary move

The first commercial mover was unable to transport the trailer from the roadway onto the employee's lot because of the narrowness of the entrance and the risk of possible damage to neighboring property. The employee hired a second commercial mover to move the trailer onto the lot at a cost of \$52.25 in addition to the \$481.30 amount paid to the first mover. The \$52.25 paid to the second carrier is a transportation charge and not a toll or other type of fee. Since the allowance of \$481.30 represents the applicable ICC tariff to move the trailer in question over the distance involved, no further allowance for transportation is payable. B-161585, January 8, 1968, and B-164057, January 5, 1968.

### Transportation of accessories

An employee reimbursed the commercial mover's charge for transportation of a trailer may not, in addition, be paid mileage for two round trips by privately owned vehicle for the purpose of transporting accessory equipment that would not fit in the trailer, including trailer skirting, framing limbs, concrete blocks, support jacks, steps, anchors, and air conditioners. B-181103, August 23, 1974. Reimbursement for transportation of a storage shed may not be certified as part of the allowance for transportation of a mobile home since a shed is not a part of the mobile home itself. B-184372, September 13, 1975; B-184744, May 14, 1976; and B-160630, January 13, 1967.

## H. RELATIONSHIP TO OTHER ALLOWANCES

### Miscellaneous expenses allowance

Although particular expenses may not be reimbursable as a part of the cost of transporting a mobile home under FTR para. 2-7, certain of those expenses may be recovered by the employee as part of the miscellaneous expenses allowance to which he is otherwise entitled incident to transfer. See 55 Comp. Gen. 228 (1975) and the discussion of the miscellaneous expenses allowance contained at chapter 4 of this title of the Civilian Personnel Law Manual.

### Transportation of household goods

Payment for the transportation of a mobile home for use as a residence is in lieu of any payment for storing and

## RELOCATION

transporting household goods. 55 Comp. Gen. 228 (1975) and 51 Comp. Gen. 27 (1971). See part B of this chapter, supra.

### I. DAMAGES

With respect to the liability of a mobile home carrier for damages to a mobile home see 55 Comp. Gen. 1209 (1976) and the discussion of loss and damage claims contained at chapter 11 of the Transportation Law Manual, Office of the General Counsel, GAO.

CHAPTER 9

TRANSPORTATION OF HOUSEHOLD GOODS

A. AUTHORITY

Statutory authority

The authority for transportation of household goods at Government expense is contained at sections 5722-5729 of title 5 of the United States Code. The broadest of those authorities applicable to transfers is contained at 5 U.S.C. § 5724(a)(2). Under 5 U.S.C. § 5724(c) an employee transferred within the continental United States may be reimbursed for transportation of household goods on a commuted-rate basis in lieu of being paid for his actual expenses. Subsection 5723(a) authorizes payment for the transportation of household goods to the first duty station of a new appointee or student trainee in a manpower-shortage category to the extent authorized by section 5724, and subsection 5724a(c) authorizes payment for transportation of household goods in the case of a former employee reemployed within 1 year after separation by reduction in force.

New appointees to posts of duty outside the continental United States are authorized transportation of household goods to the post of duty and upon return for separation under 5 U.S.C. § 5722, and 5 U.S.C. § 5724(d) provides that the expenses of transportation of an employee transferred to a post of duty outside the continental United States shall be allowed the same extent prescribed for new appointees under 5 U.S.C. § 5722. Specific authorities for transportation of the household goods of employees assigned to danger areas and for return of household goods before the employee has become eligible are contained at 5 U.S.C. §§ 5725 and 5729.

Regulations

The regulations governing transportation of household goods are contained at FTR, Part 2-8. As further implemented and applicable specifically to civilian employees of the DOD, additional regulations are set forth at 2 JTR chapter 8.

## RELOCATION

### B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a more general discussion of the conditions of eligibility for various relocation allowances, including reimbursement for transportation of household goods and personal effects.

#### Interest of the Government

##### Government's interest

Where an employee actually reported to his new duty station pursuant to change-of-station orders which specifically included an authorization for transportation of household effects based upon an administrative determination that the transfer was in the Government's interest, the fact that the employee transferred to another agency prior to shipment of his household effects need not be regarded as defeating his right under the authorization to shipment of household goods. 25 Comp. Gen. 597 (1946).

##### Convenience of the employee

An employee is not entitled to reimbursement for the shipment of his household effects upon a change of station which was made at his request and for his convenience even though the Government may have benefited from the transfer. B-131570, May 16, 1957. Thus, a Navy employee stationed in Hawaii who applied and was selected for a Navy position in South Carolina may not be reimbursed for the transportation of his household goods and personal effects where Navy instructions provided that transfers effected at the request of and primarily for the convenience or benefit of an employee cannot be made at Government expense and where the personnel official determined that the move was not in the interest of the Government. B-144304, March 30, 1976, and October 4, 1977.

An employee ordered from one official station to another, before beginning shipment of his household effects to such new station as authorized by his transfer order, was transferred to a third station at his own request. The employee is not entitled to reimbursement for shipment of his household effects from his first official station to the third station, since, upon retransfer for his own convenience, the

## RELOCATION

employee relinquished all rights to transportation expenses under the first transfer order. 27 Comp. Gen. 748; B-154389, July 10, 1964.

### Incident to relocation

An employee transferred from New York to Boston, Massachusetts, effective August 7, 1967, who resigned on September 30, 1968, after having his household goods moved within Uniondale, New York, on September 6, 1968, may not be reimbursed for transportation of household goods since the transportation of household goods was not incident to his transfer, but in contemplation of his resignation. B-169215, March 30, 1970.

An employee who retired from a position at Fort Hood, Texas, prior to actual eligibility and moved his household goods to Bryan, Texas, may not be reimbursed for the cost of shipping his household goods to Bryan, Texas, upon restoration to duty since the relocation was by personal choice and not a consequence of the erroneous personnel action. B-187261, March 4, 1977.

### Short-distance transfer

An employee transferred from Silver Spring, Maryland, to Washington, D.C., who moved his residence to a location only 7.1 miles closer to his new duty station may not be reimbursed for travel and transportation expenses claimed since the agency determined that relocation of the employee's residence was not incident to the change of station. Agency directives required, as a condition to payment of moving expenses incident to short-distance transfers, that travel from the old residence to the new duty station must involve at least 10 miles more distance than travel from the old residence to the old duty station and at least 10 miles more than the distance from the new residence to the new duty station. B-168126, February 10, 1970.

## Relocation actions

### Assignments for training

Under 5 U.S.C. § 4109 employees assigned to training may be reimbursed certain expenses of travel and transportation to and from the place of training, but not the entire range of relocation expenses payable

## RELOCATION

upon transfer. Expenses of transporting household goods and personal effects, packing, crating, temporarily storing, draying and unpacking as authorized by 5 U.S.C. § 5724 may be paid where the estimated cost of transportation, including the cost of transportation of the employee's immediate family, is less than the estimated aggregate per diem payments for the period of training. See 56 Comp. Gen. 68 (1976).

### Intergovernmental Personnel Act assignments

An employee of a college assigned to the Navy under the Intergovernmental Personnel Act may be paid for expenses of transporting his household goods under the authority of 5 U.S.C. § 3375(a)(2). However, the employee may not be reimbursed for transportation costs in excess of the applicable commuted rate since statutes and regulations require use of the commuted-rate system for interstate household goods shipment absent an administrative determination that savings to the Government would result from shipment by Government Bill of Lading. B-185810, November 16, 1976.

### Relocation upon death of employee

When an employee is permanently assigned to duty at a post of duty outside the conterminous United States, 5 U.S.C. § 5742 authorizes transportation of the decedent's immediate family to his former home or an alternate location. See Title III Travel Expenses, Civilian Personnel Law Manual.

### Assignments with international organizations

Transportation of household goods is not an allowance or benefit as those words are used in the Federal Employees International Organization Service Act. Thus, reimbursement for transportation of household goods by an employee transferring to an international organization or being reemployed by the Federal Government under section 4 of that Act is not authorized. B-181853, August 23, 1976.

### Renewal agreement travel

An employee performing renewal agreement travel upon completion of his agreed-to period of duty at a post abroad and upon his agreement to a further period of

## RELOCATION

duty abroad may not be authorized shipment of household goods. Incident to renewal agreement travel, transportation expenses may be paid for baggage. Under that authority, an employee may not be reimbursed for the cost of transporting a hi-fi system upon return to his overseas post following home leave since a hi-fi is in the nature of a household effect and not "baggage" carried on the journey for the employee's comfort or convenience during travel or upon arrival at his destination. 47 Comp. Gen. 572 (1968).

### Temporary duty assignments

Transportation of household goods is not authorized incident to assignments to temporary duty. B-176457, March 12, 1973.

### Moves to Government quarters

Where two newly appointed employees of the Merchant Marine Academy would have had no necessity to move but, due to the nature of their work, were required to occupy Government quarters on the Academy grounds, the cost of moving their household goods may be paid as an administrative transportation expense of the Academy. Where the employees' occupancy of Government quarters was solely for the convenience of the Government expenses of moving household goods between quarters locally, when directed by the official responsible for administration of installation, may be reimbursed as an administrative expense of the installation. B-165713, January 27, 1969. See part K of this chapter, infra.

### Cancelled transfers

#### Retransfer concept

An employee stationed in San Diego was interviewed, and selected for a position in Los Angeles. He signed a service agreement and was authorized relocation expenses. It was later determined that the employee was not eligible for the position and the transfer was cancelled after he had shipped his household goods from San Diego to Los Angeles. The employee was reimbursed for transportation of household goods under decisions holding that where a

## RELOCATION

transfer has been cancelled and certain relocation expenses would have been reimbursable if the transfer had been effected, the employee may be reimbursed expenses incurred in anticipation of the transfer and prior to its cancellation. If the employee's duty station has not been changed as a result of the cancelled transfer, the employee is treated for reimbursement purposes as if the transfer had been completed and the employee had been retransferred to his former duty station. B-189953, November 23, 1977, and B-187405, March 22, 1977.

### Cancellation prior to shipment

An employee was given transfer orders with an intended reporting date of November 22, 1965. The orders were cancelled and the employee was told that orders would be reissued at a later date when the facility at the new duty station was complete. After notification that the orders were cancelled, the employee shipped his household goods. Since the order was cancelled prior to the beginning of shipment there is no legal basis upon which to reimburse the employee for transportation of his household goods. B-159315, July 21, 1966.

### Successive transfers

An employee transferred from Denver, Colorado, to Los Angeles, California, and subsequently retransferred to Sacramento, California, before most of his household goods were shipped to Los Angeles, may be reimbursed for shipment of household goods at the commuted rate based on the greater distance between Denver and Sacramento. However, the total reimbursement for successive transfers may not exceed reimbursement to which the employee otherwise would have been entitled for each transfer individually. 55 Comp. Gen. 634 (1976).

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement of relocation expenses, including reimbursement for transportation of household goods and personal effects.

## RELOCATION

### Authorization

#### Shipment prior to orders

An employee shipped his household goods to Washington, D.C., while stationed on Johnston Island prior to having been advised that his official station would be changed to Richmond, Virginia, and 6 months before the agency in fact determined to transfer him. The employee may not be reimbursed for transportation of household goods prior to issuance of orders. B-187107, October 7, 1976.

#### Shortage-category appointees

Appointees to manpower-shortage category positions are eligible under 5 U.S.C. § 5723 for travel and transportation to their first official station at Government expense and may be reimbursed such expenses, including the cost for transportation of household goods, only if payment of such expenses has been properly authorized or approved. Thus, an employee newly appointed to a position with the Department of the Army in Texas is not entitled to reimbursement for transportation of his household goods to Texas, notwithstanding that the position to which he was appointed was a manpower-shortage category position, where the employee agreed to bear the costs of travel and transportation at the time of his appointment. B-186260, July 12, 1976. Generally, with respect to entitlement to reimbursement for transportation of household goods upon appointment to manpower-shortage category positions, see B-187173, October 4, 1976; B-186975, March 16, 1977; and B-183053, March 12, 1975.

Temporary appointment--An employee given a temporary appointment to a manpower-shortage category position may be reimbursed for transportation of his household goods to his first duty station since the authority to pay travel and transportation expenses under 5 U.S.C. § 5723 is not limited to cases where an otherwise eligible employee receives a permanent appointment. Expenses may be reimbursed based on approval after the expenses were incurred. B-177276, December 26, 1972.

Shortage-category determination--Several employees were appointed to positions in Washington, D.C., in

## RELOCATION

the summer or early fall of 1966. Thereafter the CSC was asked to place those positions in a shortage category. The request was not approved by the CSC until April of 1977. Travel and transportation expenses, including expenses for movement of household goods, may be paid since the CSC has advised that the same conditions existed at the time the employees were appointed as existed when their positions were placed in a shortage category. The positions would have been placed in a shortage category earlier had an earlier request been made by the agency. B-161599, June 29, 1977.

Erroneous appointment--An applicant who resided in Chicago and who was hired to fill a position in Michigan may not be reimbursed for transportation of household goods because he did not have a bachelor's degree and, hence, did not qualify for a position carrying a manpower-shortage category designation. Reimbursement may not be authorized on the basis of erroneous advice by agency officials that relocation expenses would be reimbursed. B-188095, September 28, 1977.

Other than initial appointment--An employee appointed on a when-actually-employed basis commuted 120 miles to his duty station. He moved his residence to the duty station and claimed expenses for transportation of household effects upon his conversion to full-time employment. He may not be authorized expenses under 5 U.S.C. § 5723 even though the position he held was in a shortage category since the employee's conversion to full-time does not constitute a new appointment. B-166146, May 15, 1969.

### Service agreement

#### Requirement to execute agreement

Effect of actual service--Employees who incurred expenses for transportation of household goods subsequent to a preliminary offer of transfer evidencing the agency's intent to effect their transfer may be reimbursed notwithstanding their failure to execute service agreements where the employees have remained in continuous Government service for a minimum period of 12 months after transfer. 57 Comp. Gen. 447 (1979), and B-188048, November 30, 1977.

## RELOCATION

### Failure to fulfill agreement

Cancelled transfer--An employee given a transfer to Washington, D.C., whose household goods were transported to the D.C. area before the transfer was cancelled is obligated to refund transportation and other relocation expenses advanced to him when he separated from Government service within 12 months from the date of cancellation. Since cancelled transfer expenses are payable as though the originally contemplated transfer had occurred and as if the employee was retransferred to his original duty station, entitlement to relocation expenses is contingent upon the employee's satisfaction of the service agreement requirement to remain in Government service for 12 months after notification of cancellation. 54 Comp. Gen. 71 (1974).

### D. DEFINITION OF HOUSEHOLD GOODS

The term "household goods" is defined at FTR para. 2-1.4h as personal property which may be transported legally in interstate commerce and which belongs to an employee and his immediate family at the time shipment or storage begins. The term includes household furnishings, equipment and appliances, furniture, clothing, books, and similar property. It does not include property which is for resale or disposal rather than for use by the employee or members of his immediate family; nor does it include such items as automobiles, station wagons, motorcycles, and similar motor vehicles, airplanes, mobile homes, camper trailers, boats, birds, pets, livestock, cordwood, building materials, property belonging to any persons other than the employee or his immediate family, nor any property intended for use in conducting a business or other commercial enterprise. Property which is to be used ultimately as furniture or as part of the equipment of a residence is to be regarded as part of household effects. 47 Comp. Gen. 572 (1968).

### Items excluded

#### Pets

A transferred employee may not be reimbursed for the cost of shipping two pets to his new duty station since FTR para. 2-1.4h excludes pets as household goods and there is no authority to ship them at Government expense. B-190330, February 23, 1978.

## RELOCATION

### Automobiles

An employee who shipped his automobile to his new duty station as part of his household goods is entitled only to reimbursement for shipment of his household goods on a commuted rate basis but not for shipment of his automobile. Under FTR para. 2-1.4h shipment of an automobile as an item of household goods is specifically precluded. 54 Comp. Gen. 301 (1974), and B-187233, January 28, 1977.

Automobile accessories--Since an employee may be reimbursed for shipment of any item that may be transported in interstate commerce that is not otherwise excluded, an employee may be reimbursed for the expense of shipping three automobile tires and a luggage rack. B-154294, June 26, 1964.

### After-acquired household goods

The responsibility of the Government for shipment of household goods is limited to those goods owned by the employee at the time shipment or storage begins. Therefore, an employee may not be reimbursed for the cost of shipping household goods acquired at Kalamazoo, Michigan, where he took leave en route from Okinawa to his new duty station in Texas. Newly acquired goods may not be shipped at Government expense. B-185638, February 28, 1977.

### Acquired after travel authorization

An employee reported to his new duty station on June 25, 1964, under travel orders issued May 21, 1964. Having sold his prior residence with its furnishings, the employee purchased 7,000 pounds of new furniture which he shipped to his new duty station on June 1, 1964. The Government's responsibility for shipment of household effects is limited to those effects owned by the employee on the effective date of his change-of-station orders. Since the furniture was purchased prior to the reporting date set in the travel order and prior to commencement of travel to the new duty station the employee is entitled to reimbursement for the transportation of his household goods. B-159832, August 26, 1966.

Six days before traveling to his new duty station at Fort Meade, Maryland, the employee paid for certain

## RELOCATION

new furniture purchased in Baltimore, Maryland. Since the employee purchased and paid in full for the new furniture prior to the date he traveled to his new station, the furniture was not "acquired en route" and the expense of transporting those items of household goods may be paid. B-166913, August 7, 1969.

Vesting of title--An employee who traveled to his new duty station in Washington, D.C., on October 3, 1966, and reported for duty October 10, 1966, may not be reimbursed for shipment of new household goods ordered from a furniture company in Texas and delivered to his new residence after his arrival at the new duty station, even though the furniture was ordered before issuance of travel orders. The items were purchased for consignment to the employee on dates subsequent to the effective date of his change of station, and absent evidence showing that title to the household goods vested in the employee prior to the effective date of his change of station, there is no authority to reimburse him for the cost of their transportation. B-161742, July 7, 1967.

Under Massachusetts law, title to goods purchased under contract requiring delivery at destination does not vest in the buyer until the goods are tendered. Therefore, an employee transferred effective July 1, 1968, may not be reimbursed for the cost of transportation of household goods shipped July 18, 1968, when the household goods were ordered in May 1968 with a quarter of the purchase price paid and under a contract requiring the balance of payment upon delivery. B-166028, April 22, 1969.

### E. WEIGHT LIMITATION

#### Applicable weight limitation

##### Employee without immediate family

Under FTR 2-8.2 the maximum weight of household goods that may be transported or stored in the case of an employee without immediate family is 7,500 pounds. However, if an employee without immediate family possesses household goods exceeding 7,500 pounds, the limit may be extended up to 11,000 pounds provided it is determined that the employee acquired all or a

## RELOCATION

substantial portion of the property because he had been the head of or a member of a larger household and provided it is determined that hardship would result from application of the 7,500-pound limit. The limitation was raised from 5,000 pounds effective June 1, 1977.

Without-family determination--Notwithstanding that the employee provided a home for her mother, the mother was not dependent on the employee for her immediate support and, hence, the employee was "without immediate family" and subject to the then applicable 5,000-pound limitation on transportation of household goods. B-176809, October 5, 1972, and November 27, 1972.

Exception to limitation--An employee transferred in October of 1972 who shipped household goods weighing 580 pounds in excess of the 5,000-pound limit then applicable to employees without immediate family did not qualify for shipment based on the 11,000-pound limitation applicable to employees with immediate family, notwithstanding that she had been the sole support of four elderly brothers and sisters since 1967. However, since the majority of household goods were acquired during the period prior to 1967 that she was the sole support of her mother, the household goods may be regarded as having been acquired while she was the head of a household and, since it was administratively determined that hardship would result from application of the 5,000-pound limit, she may be allowed shipment of household goods subject to the higher weight limitation of 11,000 pounds. B-177709, March 13, 1973.

### Employee with immediate family

Under FTR para. 2-8.2, an employee with immediate family is entitled to shipment and storage of household goods not to exceed 11,000 pounds.

With family determination--The term "immediate family" as applied to an employee's parent assumes both that the parent is dependent and a member of the employee's household at the date of transfer. Even though the employee maintained a two-bedroom apartment in order that her mother could live with her during the winter months, the employee may not be reimbursed for

## RELOCATION

transportation of household goods in excess of 5,000 pounds which consisted of furnishings for the second bedroom. The employee's mother received Social Security payments and owned a trailer in which she resided apart from the employee from the end of March through the end of October of each year. While it may have been reasonable for the employee to provide a home for her mother during the winter months, her mother had established her own household in Pennsylvania and was not a member of the employee's household when she reported to her new duty station. B-189818, February 14, 1978.

### Exception for professional books

Where the weight of professional books, papers, and equipment would cause the employee's household goods shipment to exceed the maximum weight allowance, they may be transported to the new duty station as an administrative expense of the agency in accordance with FTR para. 2-8.2a-1. An employee exceeded the 11,000-pound weight limitation by 5,760 pounds, 4,000 pounds of which excess weight was for professional literature and material. The cost of shipping professional books, papers, and equipment may be regarded as an administrative expense and, hence, the employee is liable only for the excess weight of 1,760 pounds of household goods shipped. B-185982, November 15, 1976; and B-171677, May 13, 1971, and October 22, 1974. Professional books and equipment should be separately packed, marked or weighed when required by agency regulations. B-182648, December 8, 1975.

### Application regardless of mode of shipment

An employee transferred from Washington to California shipped 13,520 pounds of household goods by Government Bill of Lading and was assessed charges of \$433.44 for shipment of those household goods weighing in excess of 11,000 pounds. The employee is liable for the cost of shipping the excess weight even though he might have made other arrangements for shipping his household goods if he had known he would be liable for the excess. The 11,000-pound weight limitation applies regardless of whether household goods are shipped under the commuted-rate system or under the actual-expense method by Government Bill of Lading. B-174755, January 18, 1972.

## RELOCATION

### Liability for excess weight

#### Collection from employee

An employee authorized to ship household goods weighing 7,000 pounds was given a weight estimate of 8,000 pounds by the carrier when in fact the goods shipped weighed 11,840 pounds. The carrier's low estimate does not relieve the employee of his obligation to repay excess costs if he shipped more than 7,000 pounds. The agency should not attempt to obtain a voluntary adjustment from the carrier since adjustment would not inure to the benefit of the United States but to the employee who is under a legal obligation to repay any excess cost occasioned by his shipment of property in excess of the weight allowance prescribed by law. B-161523, August 23, 1967.

#### Not subject to waiver

Carrier's erroneous estimate--Prior to shipment under Government Bill of Lading the carrier estimated the weight of an employee's household goods as 8,400 pounds. In fact, the household goods transported weighed 14,760 pounds. The employee is liable for the cost of shipping the excess of 3,760 pounds of household goods. The authority of 5 U.S.C. § 5584 to waive certain claims arising out of erroneous payments of pay does not extend to an indebtedness resulting from payment of travel and transportation expenses. B-181631, October 9, 1974. The 11,000-pound limitation is statutory and no Government agency or employee has authority to permit transportation in excess of that weight limitation. B-189358, February 8, 1978.

Agency failure to notify employee--An employee whose household goods shipped by Government Bill of Lading weighed 1,012 pounds in excess of 11,000-pound limitation, claimed that he could have reduced the size of the shipment and avoided liability if he had been informed by the Government transportation officer that his household goods exceeded the weight limitation. The employee is liable for the cost of transporting the excess weight of household goods notwithstanding that 2 JTR para. C7052-2a provides that a transportation officer with knowledge of excess weight prior to shipment should notify the employee. There is no authority for waiver of the weight limitation of

## RELOCATION

5 U.S.C. § 5724(a)(2), and an employee's liability to pay for shipment of excess weight is not contingent upon notice. B-186753, September 24, 1976, and B-180180, February 1, 1974.

### Determining weight

#### Weight of packing materials

Generally, with respect to exclusion of the weight of packing material in determining the weight of shipment see FTR para. 2-8.2b(1). An employee whose household goods weighed 11,980 pounds claimed reimbursement for the sum of \$68.50 paid for 980 pounds of excess weight based on his statement that the excess weight represented unused boxes and packing materials. Documentation from the packing and storage company indicated that the truck containing all packing materials was weighed before departing for the employee's residence and was again weighed after loading the employee's household goods and that the weight of 11,980 represents the difference between those weights. Since the tare and gross weights both included packing materials, the net weight of 11,980 is correct and the employee is responsible for transportation charges attributable to the 980-pound overage. B-189783, November 30, 1977.

A 52 percent factor for determining net weight, based on the agency's determination that unusually heavy packing materials were used, should not have been applied to 11,470 pounds of household goods shipped uncrated in a van. B-187924, June 30, 1977.

#### Evidence of weight

Under the actual-expense method the carrier transporting the household goods is responsible for furnishing weight documentation in support of its claim for payment under the Government Bill of Lading. Under the commuted-rate system, claims for reimbursement are to be supported by a copy of the bill of lading and attached weight certificate, or, if none was issued, by other evidence showing the points of origin and destination and the weight of household goods. FTR para. 2-8.3a(3).

## RELOCATION

Bill of Lading--Under the requirement that a claim for reimbursement be supported by a "receipted copy" of the bill of lading, "receipted copy" means a copy with the original signature of the individual authorized to sign for the carrier. A reproduced copy of the bill of lading will serve to document a claim. B-175691, June 16, 1972.

### Weight certificates--

#### Discrepancies

Under the commuted-rate system, although there were certain discrepancies in the weight certificates relating to the name of the company providing transportation services and the dates on which tare and gross weights were recorded, the freight bill indicating a net weight of 19,880 pounds corresponds with the net weight from the weight tickets furnished and is sufficient to establish the actual weight of the shipment for the purpose of applying the applicable commuted rate for 11,000 pounds. B-181156, November 19, 1974.

#### Certification

In support of his claim for shipment of household goods under the commuted-rate system, an employee submitted five weight slips. Although only one of the weight slips was certified by the weight master as "household goods," the employee may be paid on the basis of the five weight slips indicating a total of 8,700 pounds transported. The FTR does not require such certification and since the meaning of the term "household goods" is limited by FTR para. 2-1.4h, certification by weighing station personnel unfamiliar with that definition would be of little value. B-183829, January 2, 1976.

#### Certificate from subsequent move

An employee transferred to San Francisco in July of 1970 transported his own personal effects by private automobile but failed to get weight certificates although scales were available. Four months later, upon retransfer to Atlanta,

## RELOCATION

he again transported his household goods by automobile, but did obtain weight certificates. In view of the short period of time between moves and the employee's statement that the same goods were transported incident to both, the employee may be reimbursed under the commuted-rate system for the July move based on weight certificates obtained from the second move. B-172979, July 9, 1971. Compare B-180897, April 21, 1975, disallowing a claim for transportation of household goods incident to a transfer in 1972 based on evidence of weight obtained in connection with a transfer in 1974.

### Certificate obtained subsequently

On May 30, 1969, an employee rented a truck and moved his household goods to his new duty station but failed to obtain evidence of weight. On February 14, 1970, he rented a second truck, removed his household goods from his home, had them weighed and returned the goods to his home. Inasmuch as the employee has stated that no additional household goods were acquired between May 30, 1969, and February 14, 1970, the employee may be reimbursed for transportation of his household goods under the commuted-rate system based on weight certificates obtained in February. B-169117, March 16, 1970.

### Scale weight of items

An employee who transported his household goods by U-Haul trailer was unable to weigh the trailer because the one public scale that had been available in the vicinity of his old duty station was condemned. Therefore, he weighed the individual items by using a small platform scale with a 250-pound capacity. Under the circumstances, the itemized list showing the weight of the household goods transported satisfies the requirement for documentation in support of the employee's claim for reimbursement under the commuted-rate system. B-172872, June 15, 1971.

Estimate of weight--Estimate by second carrier

Because the carrier who moved the employee's household goods went out of business the employee was unable to obtain evidence of the actual weight or volume of the goods transported. In lieu of such documentation, the employee submitted an estimated cost of service indicating an estimated weight of 4,900 pounds prepared by a different mover 2 months prior to the date the household goods were transported. The record does not contain sufficient evidence either of actual weight or volume to establish entitlement to reimbursement under the commuted-rate system. However, the documentation does indicate that the personal effects approximated at least the estimate of 4,900 pounds and, therefore, the employee may be reimbursed his actual expenses not in excess of the commuted rate for shipment of 4,900 pounds. B-178008, April 18, 1973, and B-163560, April 5, 1968.

Estimate by employee

An employee who submitted an affidavit stating that he moved 38 items of furniture weighing an estimated 3,000 pounds and supplied the dimensions of the rented truck may not be paid under the commuted-rate system. B-185626, July 1, 1976, and B-169672, May 26, 1970. To the same effect see B-165846, January 8, 1969, denying commuted-rate reimbursement based on an employee's submission of an itemized list of the household goods transported together with estimated weights of the individual items.

Constructive weight

When adequate scales are not available, a constructive weight based on 7 pounds per cubic foot of properly loaded van space may be used in support of the employee's claim for reimbursement under the commuted-rate system. Where an employee failed to obtain the actual weight of his household goods, he may be paid at the commuted rate only if he is able to show the amount of space occupied by his goods and that the

4 of 4



## RELOCATION

goods were properly loaded in the space available. In establishing the amount of space which would have been occupied if his effects were properly loaded, the employee may submit a list of the items transported together with the volume occupied by each based on actual measurement or a uniform table, preferably prepared by a commercial mover. 48 Comp. Gen. 115 (1968).

The carrier's bill indicated that 8,700 pounds of household goods were transported, but a statement from the movers 2 months later indicated that the effects occupied 1,512 cubic feet of space, giving a weight of 10,584 pounds computed at 7 pounds per cubic foot. The evidence submitted does not establish that the household goods occupied 1,512 cubic feet of properly loaded van space, or 10,584 pounds. However, since it does appear that the weight of those effects was at least 8,700 pounds, the employee may be reimbursed at the commuted rate for 8,700 pounds. 48 Comp. Gen. 574 (1969).

Nonavailability of scales--An employee who transported his household goods by privately owned vehicle failed to obtain a weight certificate and submitted a claim for transportation of household goods under the commuted-rate system based on his statement that 200 cubic feet of his automobile's capacity was occupied by his household goods. The employee did not furnish evidence of the lack of scales. Even if he were to show the nonavailability of scales, he may not be reimbursed under the commuted-rate system on the basis of his voucher estimating the weight and describing the articles transported. It would be necessary for him to explain how he measured the cubic capacity occupied by the articles transported and he would have to show the volume occupied by each article based on actual measurement or a uniform table. B-182198, January 13, 1975.

An employee who transported his household goods by borrowed van and submitted weight evidence consisting of an estimate prepared by a commercial mover listing each item moved and its measurement in terms of cubic feet converted at 7 pounds per cubic foot may be reimbursed at the commuted rate for 2,050 pounds as described in the estimate based on his explanation that the weighing station he intended to use at

## RELOCATION

Grants Pass was closed when he was able to use it and that no scales were available en route or at destination. B-166051, February 28, 1969.

### Local transportation

In cases involving local transportation of household goods in which there is no legal requirement that charges be based on weight and mileage, and charges are based on an hourly or job rate, nonavailability of scales need not be further demonstrated. 48 Comp. Gen. 574 (1969); B-150433, December 17, 1962; and B-174098, December 8, 1971.

Determined by carrier--As evidence of the weight of household goods transported by use of a car trailer, an employee submitted a statement prepared by a commercial mover showing the items transported and their measurements in terms of cubic feet converted to pounds at 7 pounds per cubic foot. The evidence submitted was held to be sufficient to permit reimbursement under the commuted-rate system. B-171722, March 18, 1971, and B-166051, February 28, 1969.

Employee's assignment of volume--Where scales were unavailable, an employee who transported his household goods by U-Haul trailer may be reimbursed at the commuted rate for the maximum weight of 5,000 pounds authorized on the basis of documentation consisting of an itemization of and assignment of volume to the household goods transported and a statement that the household goods were properly loaded in the space available. The volume of household goods, determined on the basis of standardized tables of volume, was multiplied by 7 pounds per cubic foot to arrive at a constructive weight of 7,056 pounds. B-183557, November 18, 1975.

### Proper evidence lacking

If the employee is unable to establish entitlement to payment under the commuted-rate system by submitting evidence of actual or constructive weight, he may be reimbursed for actual expenses incurred, such as for gas, oil, tolls, etc., in transporting his household goods. Reimbursement for actual expenses may not exceed the amount that would have been payable to him

## RELOCATION

based on the reasonably approximated estimated weight at the applicable commuted rate. 48 Comp. Gen. 115 (1968).

### Estimated proximates actual weight--

#### Documentation sufficient

Because the moving company went out of business the employee was unable to provide evidence of either actual weight or volume. He submitted a cost estimate prepared by another mover 2 months prior to his move showing an estimated weight of 4,900 pounds and a bill showing that "expedited 5,000-pound minimum 1-day service" was provided. Since the documentation submitted affords a reasonable basis to conclude that the actual weight of household goods transported approximated 4,900 pounds, the employee may be reimbursed actual expenses not in excess of the commuted rate payable for 4,900 pounds. B-178008, April 18, 1973.

An employee may be reimbursed actual expenses based on an itemized list of the household goods transported together with their weights determined by a bathroom scale. In view of the small size of shipment (902 pounds) the method of weighing affords a basis for concluding that the weight obtained approximates the actual weight of the household goods transported. B-186452, December 22, 1976.

#### Document insufficient

Where an employee submitted dimensions of a truck which provided 220 cubic feet of space and carried a constructive weight of 1,540 pounds, together with an affidavit stating that he moved 38 items of furniture weighing an estimated 3,000 pounds, the evidence presented does not substantiate the accuracy of the estimated weight and the employee may not be reimbursed his actual expenses. B-185626, July 1, 1976. A tersely itemized list and an employee's estimated weight for each item or class of items is itself insufficient to support payment of actual expenses. B-181334, March 28, 1975.

## RELOCATION

### F. TIME LIMITATION

With the exceptions of periods of military service and shipping restrictions, the maximum time for beginning transportation or temporary storage shall not exceed 2 years from the effective date of the employee's transfer or appointment. FTR para. 2-2.5.

#### Two-year limit not waivable

An employee advised not to move his residence to the area of his new duty station in anticipation of a rearrangement of territories may not be reimbursed for transportation of his household effects to that duty station nearly 3 years later. The time limitation for transportation of an employee's household effects is contained in statutory regulations and, having the force and effect of law, may not be waived. 49 Comp. 147 (1969).

An employee separated from a position in Alaska in 1971, with return transportation entitlement to his place of actual residence in Oregon, who chose to continue his residence in Alaska until 1975 may not be authorized transportation of household goods in connection with his return to the continental United States 4 years after his separation from the service. The 2-year limitation may not be waived or modified. B-184676, November 17, 1975, and B-182993, August 13, 1975.

#### Erroneous grant of extension

An employee transferred to Washington on May 1, 1974, transported only his personal belongings at that time as his ex-wife had custody of their three children. The employee, who was awarded custody of the three children on March 15, 1976, shipped the remainder of his household goods to Washington on June 7, 1976, in reliance on the purported grant of an extension of the 2-year time limitation. The 2-year time limitation has the force and effect of law and may not be waived or modified. Hence, the purported approval of an extension of the 2-year limitation was void. It is a well-settled rule that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or regulation. B-188292, July 8, 1977, and B-179908, June 24, 1976.

## RELOCATION

### Computing the 2-year period

An employee transferred effective September 9, 1963, who shipped his household goods on September 9, 1965, is entitled to reimbursement for expenses of their transportation and storage since transportation was timely begun within the requisite 2-year period. B-140266, September 29, 1967. In computing the 2-year period, the day of transfer is excluded and the last day of the 2-year period is included. B-185726, August 12, 1976.

### Beginning of shipment

It is proper to consider the beginning of the transportation of household goods as the time the common carrier's liability attaches to the shipment, namely the time the common carrier receives the goods with an order to forward them to a particular destination. 29 Comp. Gen. 100 (1949). An employee who reported for duty at his new station on September 16, 1973, turned his household goods over to a common carrier on September 16, 1975. The household goods were placed in storage at the old duty station and were delivered to the employee at his new duty station on October 8, 1975. Although the mere movement of household goods from the former residence to local storage may not be regarded as the beginning of shipment, the employee directed the shipment of his household goods to his new duty station at the time he turned the goods over to the common carrier. This action constitutes the beginning of shipment within the 2-year period of limitation. B-185726, August 12, 1976.

### Effect of storage within 2 years

Storage at new duty station--An employee transferred to Milwaukee effective April 28, 1974, consigned his household goods to a carrier for shipment to Milwaukee for temporary storage on April 27, 1976. The household goods remained in temporary storage from April 27, 1976, until they were shipped to his new residence on January 4, 1977. Under the circumstances, the employee may not be reimbursed transportation and handling costs incident to shipment from temporary storage on January 4, 1977. Where the final destination of the shipment is not designated, transportation within the 2-year time limitation of household goods to storage in the locality of the new duty station will not operate to satisfy the requirements

## RELOCATION

of FTR para. 2-1.5a(a) with respect to shipment from the storage point to the new residence after the expiration of the 2-year period. B-189406, February 8, 1978, and B-181360, January 22, 1975.

Storage at old duty station--An employee who retired from a position in Hawaii in 1973, placed his household goods in storage in 1974 but did not ship them to California until 1976. He is not entitled to reimbursement for transportation of household goods since transportation did not begin within the 2-year time limitation. B-188534, October 13, 1977. The mere movement of household goods from an employee's old residence to a point of local storage in the same city may not be regarded as the beginning of shipment. B-171567, February 2, 1971, and B-171221, January 11, 1971.

### Effect of partial shipment

An employee who moved only a few personal effects to his new duty station at the date of transfer and moved the remainder of his household furnishings more than 2 years later, may not be reimbursed for transportation of those household goods shipped more than 2 years from the effective date of transfer. The movement of a portion of the employee's household goods within the limitation period does not satisfy the requirement of FTR para. 2-1.5a(2) with regard to transportation of those household goods which is not begun until after the 2-year time period has expired. B-188292, July 8, 1977, and B-156472, June 1, 1965.

### Date on bill of lading

The dates on the bill of lading and freight bill were within the 2-year limitation period but the household goods were not actually picked up and shipment did not begin until after the 2-year period. The employee is not entitled to reimbursement for transportation of household goods since transportation began when the carrier received the goods more than 2 years after the effective date of transfer. B-188292, July 8, 1977.

## G. ORIGIN AND DESTINATION OF SHIPMENT

Transportation costs may be paid whether the shipment originates at the employee's last official duty station or

## RELOCATION

elsewhere, or if part of the shipment originates at the last official station and the remainder at one or more points. These expenses are allowable whether the point of destination is the new official station or some other point or if the destination for part of the property is the new official station and the remainder is shipped to one or more points. However, the total amount that may be reimbursed by the Government shall not exceed the cost of transporting the property in one lot by the most economical route from the last official station (or place of actual residence of the new appointee) to the new official station (or place of actual residence of an employee separated with entitlement to return transportation of household goods). FTR para. 2-8.2d.

### To other than new duty station

An employee transferred from Ohio to Alaska was unable to find suitable family housing in Alaska and instead moved his wife and children to the state of Washington. His travel order authorized partial shipment of household goods to Washington under the commuted-rate system and the balance to Alaska under Government Bill of Lading. Shipment of the portion of household goods to Washington should have been authorized on an actual-expense basis rather than under the commuted-rate system since the employee's new duty station was outside the continental United States. Accordingly, the employee should be reimbursed for the shipment of his household goods to Washington, to the extent the total cost does not exceed the amount that would have been incurred if the goods had been shipped in one lot by Government Bill of Lading to Alaska. B-185514, September 2, 1976.

Where the dependents of an employee transferred to San Francisco established their residence in San Diego, the employee may be reimbursed for transportation of household goods from his old official station to San Diego in an amount not to exceed the constructive cost of their transportation from the old station to San Francisco. B-190330, February 23, 1978; B-170353, September 3, 1970; and 52 Comp. Gen. 834 (1973).

### To other than place of residence

The regulations implementing 5 U.S.C. § 5721(3) provide that return transportation upon an employee's separation from a position outside the continental United States may

## RELOCATION

be furnished at Government expense to an alternate location, provided the cost to the Government shall not exceed the cost of transportation to the employee's residence at the time he was assigned overseas. Therefore, an employee separated from a position in Anchorage, Alaska, with return transportation entitlement to Edmonds, Washington, is entitled to transportation of his household goods from Anchorage to Nome, Alaska, in an amount not to exceed the constructive cost of shipment between Anchorage and Edmonds. B-182723, April 2, 1975.

### From other than old duty station

An employee's mother-in-law became his dependent and came to live with him in Tucson, Arizona, in June 1966, at which time household effects owned by his wife and mother-in-law were placed in storage in Redwood City, California. Incident to the employee's transfer from Tucson to San Francisco in November 1966, he is entitled to reimbursement at the commuted rate for shipment of his household goods from Tucson to San Francisco as well as for shipment of the 1,358 pounds from storage in Redwood City to San Francisco. B-163107, January 30, 1968.

In November 1971, at the time of his transfer from Pittsburgh, to Washington, the employee's family resided in Florida. In September 1973 their household goods were shipped to their new Washington area residence. Under FTR para. 2-8.2d the employee may be reimbursed at the commuted rate for transportation between Florida and Washington in an amount not to exceed the constructive cost for the line-haul movement of 11,000 pounds of household effects from Pittsburgh to Washington. B-180748, October 3, 1974.

### From point of storage

#### From temporary storage

In general, where household goods are placed in temporary storage en route to the employee's new duty station the cost of transporting household goods from the point of storage to the new residence is a cost of drayage incident to temporary storage and not a cost of transportation. See B-189577, November 2, 1977, and B-186351, May 20, 1977.

## RELOCATION

### From nontemporary storage

An employee recruited in Vermont shipped some items of household effects to Guam and placed 3,320 pounds of household goods in storage at Government expense in Boston. Upon completion of his 2-year contract of employment he was entitled to return travel and transportation to Vermont, his place of actual residence at the time of recruitment. Four months after his separation he was reemployed with the Federal Government in Reno, Nevada, and shipped the 3,320 pounds of goods from their point of storage in Boston to Reno. Since the employee's household goods did not exceed 11,000 pounds, he may be reimbursed for shipment of his stored goods from Boston to Reno in an amount not to exceed the cost of shipping them from Guam to Vermont. B-183970, January 21, 1976.

### Successive transfers

An employee transferred from Denver to Los Angeles in the spring of 1973 was transferred from Los Angeles to Sacramento, in the fall of 1973. Because his follow-on transfer was directed before most of his household goods could be shipped from Denver, he transported only 740 pounds incident to his initial transfer to Los Angeles. Incident to the second transfer he shipped 1,520 pounds of household goods from Los Angeles to Sacramento and 12,400 pounds from Denver to Sacramento. In cases of successive transfers the employee is entitled to reimbursement for transportation of his household goods from the first to the third duty stations if such transportation is commenced within 2 years from the effective date of the initial transfer, provided that the total reimbursement for the successive transfers may not exceed the reimbursement to which the employee would have been entitled for each transfer individually. Thus, reimbursement may be based on the commuted rate for the distance from Denver to Sacramento rather than the rate for the distance from Los Angeles to Sacramento. 55 Comp. Gen. 634 (1976); B-171110, January 28, 1971; and B-161597, July 12, 1967.

### H. SHIPMENT IN TWO LOTS

An employee transferred from San Francisco to Los Angeles moved 1,340 pounds of household goods from San Francisco and moved an additional lot of goods from New York. Notwithstanding the shipment of his household goods in two

## RELOCATION

lots, the employee may be reimbursed in an amount not to exceed the cost for a one-lot shipment from San Francisco to Los Angeles. B-166962, June 27, 1969.

### Determining commuted rate

An employee moved 2,950 pounds of household goods on August 10, 1965, when a commuted rate of \$5.40 per cubic foot was in effect. He moved 1,170 pounds on May 20, 1967, when the commuted rate had been raised to \$5.65 per cubic foot. Where more than one shipment is involved the maximum allowance would be the cost of transporting the property in one lot under the most favorable rate--\$5.65--for the entire 4,120 pounds shipped (\$232.78). The May 1967 shipment would, therefore, be computed at the \$5.65 rate and would be reimbursable provided that that amount plus the amount reimbursed for the earlier move does not exceed \$232.78. B-162065, August 10, 1967.

### Determining excess weight

When household goods are transported in two lots and the aggregate net weight exceeds the maximum net weight allowable, that portion of the later lot which causes the excessive net weight is to be excluded from the computation of allowances under the commuted rate system. Part of an earlier, larger lot may not be excluded regardless of whether it might be advantageous to the Government or the employee because of an increase or decrease in the commuted rate becoming effective in the meantime. B-165986, May 13, 1969.

### Mode of transportation

Although his travel orders allowed air shipment of unaccompanied baggage up to 250 pounds and surface transportation of household goods up to 5,000 pounds from Seattle to Bangkok incident to transfer of official station, the employee airshipped 1,010 pounds of personal effects from Virginia and 80 pounds from Seattle. The employee is entitled to actual transportation costs not to exceed the cost for 250 pounds airshipped from Seattle and 840 pounds by surface transportation from Seattle. B-187020, January 24, 1977, and B-189968, March 31, 1978.

I. TRANSPORTATION WITHIN THE UNITED STATESCommuted-rate system

Under the commuted-rate system an employee makes his own arrangements for transporting his household goods between points within the conterminous United States. He selects and pays the carrier or transports his goods by noncommercial means and is reimbursed by the Government in accordance with schedules of commuted rates which are contained in the commuted-rate schedule for transportation of household goods. GSA Bulletin FPMR A-2.

Within the conterminous United States

An employee transferred from New Mexico to Alaska who transports his household goods by privately owned automobile may not be reimbursed therefor under the commuted-rate system since payment on a commuted-rate basis under 5 U.S.C. § 5724 is limited to employees transferred within the continental United States which is defined as the former 48 states and the District of Columbia. However, reimbursement for transportation of household goods outside the continental United States may be allowed on the basis of actual cost. 46 Comp. Gen. 439 (1966), and B-185514, September 2, 1976.

Responsibility for shipment

Under the commuted-rate system employees themselves arrange for the shipment of household goods and personal effects within the continental United States and payments for shipment and storage are reimbursed by the Government in accordance with schedules developed from tariffs filed by carriers with the Interstate Commerce Commission. B-176000, July 17, 1972.

Applies absent authorization of actual expenses

The general policy is that commuted rates shall be used for transportation of employee's household goods when individual transfers are involved, and that appropriate action, depending on the amount of goods to be transported, shall be taken to estimate and compare actual-expense-method costs with commuted-rate costs when groups of employees are transferred between the same official stations at approximately the same

## RELOCATION

time so that the method resulting in less cost to the Government may be used. See FTR para. 2-8.3c. Specific criteria for determining when actual expenses should be authorized in lieu of reimbursement under the commuted-rate system are contained at FTR para. 2-8.3c(4).

Where an employee transferred from California to Virginia, shipped his own goods under commercial bill of lading at a cost of \$1,556.64 and was reimbursed \$1,359.53, the employee may not be reimbursed the difference of \$197.11 attributable to his actual costs. In the absence of an administrative determination to use the actual-expense method, the commuted-rate schedule is to be applied to compute the employee's reimbursement. Nothing in the record indicates an administrative determination that shipment on an actual-expense basis would have been less costly than the commuted rate applied or suggests the existence of an unusual hardship or lack of availability of transportation service which might have caused an administrative determination to be made that the actual-expense method should have been used. B-181311, August 21, 1974; B-171078, January 13, 1971; B-185810, November 16, 1976; and B-168466, January 21, 1970. Once an administrative decision is made as to the method of reimbursement--on the actual-expense or commuted-rate method--it becomes mandatory that the employee be reimbursed by such method. B-174642, March 6, 1972.

### System of approximation

Commuted rate may exceed costs--An employee may be allowed payment for transportation of 8,700 pounds at the applicable commuted rate and payment may not be withheld because the employee's costs of moving were less than the commuted rate payment. 48 Comp. Gen. 574 (1969), and 32 Comp. Gen. 321 (1953).

No additional amount payable--The commuted-rate system is a system of approximation which, depending upon the variables in each shipment, will sometimes be favorable to an employee but in other circumstances may operate to his disadvantage. Where it does operate to the disadvantage of an employee there is no basis upon which the difference may be reimbursed. B-168088, November 5, 1969. Therefore, an employee reimbursed

## RELOCATION

\$1,135.35 under the commuted-rate system may not be paid the \$279.76 amount by which his actual costs exceeded his commuted-rate reimbursement, even though he was not explicitly informed of the cost limitation implicit in the commuted-rate schedule. B-186975, March 16, 1977, and B-187211, February 9, 1977.

### Costs due to carrier strike

An employee transferred from California to Florida had to ship his household goods by a local express and transfer company because there was a teamster's strike and he was unable to secure the lower-cost services of an interstate moving company. The employee may not be reimbursed the actual expenses of \$472.87 he incurred in excess of the commuted-rate reimbursement authorized, notwithstanding the agency's willingness to amend his orders to provide for actual expenses. The determination to authorize commuted-rate reimbursement was properly made and no error or omission is alleged or demonstrated to permit retroactive modification or revocation of the travel orders. 54 Comp. Gen. 638 (1975).

### Cost for shuttle van service

An employee who was paid for transportation of household goods on the basis of the commuted-rate system, is not entitled to additional reimbursement for the expense of a shuttle van incurred because his home was located on a narrow street which would not accommodate the moving van. The commuted-rate system is intended to cover the cost of transportation of household goods as well as all accessorial charges and there can be no reimbursement beyond the commuted-rate schedule, except for storage charges. B-178234, January 18, 1974, and B-178505, June 27, 1973.

### Costs for cartons and tape

Charges for shipping cartons, packing tape, and the movement of a piano may not be paid where the employee has been reimbursed for the shipment of his household goods under the commuted-rate system. B-190815, March 27, 1978.

## RELOCATION

### Determining reimbursement

When the commuted-rate system is used, the amount to be paid to the employee is computed by multiplying the number of hundreds of pounds shipped by the applicable rate per hundred pounds for the distance shipped as shown in the commuted-rate schedule. FTR para. 2-8.3a(2).

Determining distance--The distance to be used in determining the employee's reimbursement under the commuted-rate system is determined in accordance with the household goods mileage guides filed with the Interstate Commerce Commission. 48 Comp. Gen. 276 (1968), and B-166069, March 13, 1969.

### Greater than shown in mileage guide

An employee who rented a U-Haul truck to transport his household goods to his new duty station and who traveled by indirect route because of icy road conditions on the direct route may not be reimbursed on the basis of the commuted rate for actual distance traveled, notwithstanding the justification offered. The distance to be used in determining entitlement under the commuted-rate system is that shown on household goods mileage guides filed with the Interstate Commerce Commission. B-185577, April 28, 1976.

### Less than shown in mileage guides

Notwithstanding the commercial carrier's bill showed a distance of 227 miles, the employee is entitled to the commuted rate applicable for shipment for the 252-mile distance between Huntington, New York, and Wheaton, Maryland, shown by Household Goods Carrier's Bureau Mileage Guide. B-166619, May 7, 1969.

Determining weight--In general, see Part E of this chapter.

### Reserved-space charges

In order to minimize the stay of his pregnant wife and four small children in a hotel, the

## RELOCATION

employee reserved space for shipment of 4,900 pounds of household goods in order to have them moved in 5 days rather than having them placed in storage for consolidation with other shipments. He was billed by the commercial carrier on the basis of space reserved for 4,900 pounds instead of the actual weight of 3,820 pounds shipped. In view of the justification offered, the employee may be reimbursed at the commuted rate for 4,900 pounds. B-159415, July 3, 1966. Compare B-178013, May 29, 1973, pointing out that commuted-rate reimbursement is to be based on the actual weight shipped in the absence of evidence showing that space reservation was justified.

### Expedited service charges

A transferred employee shipped 3,000 pounds of goods on which charges were made for expedited service on the basis of a constructive minimum weight of 5,000 pounds. The employee is entitled to reimbursement under the commuted-rate system only for the actual net weight of goods shipped under schedules promulgated by GSA since the higher costs incurred stemmed from the expedited service furnished rather than minimum weight charges under applicable tariffs for shipment in regular course. B-161866, August 2, 1967.

### Determining commuted rate--

#### Rate in effect at date of shipment

Where household goods were moved to storage on April 24, 1970, and were not moved to the employee's new residence until June, shipment is not regarded as having begun until June and the commuted rate in effect at that time is applicable rather than the rate in effect when the household goods were placed in storage. B-171567, February 2, 1971. The rate in effect when shipment of the goods began is to be used even though the commercial carrier used an increased rate not reflected in the commuted-rate tables. B-167173, July 23, 1969.

## RELOCATION

### Area rates and surcharge allowances

An employee who moved his household goods from Allegheny County, Pennsylvania, to Montgomery County, Maryland, in his privately owned vehicle and a rental truck may not have metropolitan area rates or surcharge allowances included in his commuted-rate reimbursement. An area rate is only provided on shipments by common carrier between two locations involved, and not included when an employee transports his own property. Payment of the surcharge allowance, which is no longer authorized, was intended to reimburse employees required to pay those charges to a common carrier and was not intended to grant increased benefits to employees moving their own household goods. 50 Comp. Gen. 827 (1971).

### Erroneous shipment by Government Bill of Lading

Where there had been no determination to authorize actual expenses for transportation of household goods and a Government Bill of Lading was inadvertently issued involving a cost to the Government of \$2,378.81, the employee is entitled only to \$2,202.26 under the commuted-rate system. The excess of \$176.55 is recoverable from the employee. B-183226, May 5, 1975.

### Actual-expense method

Under the actual-expense method, the property is shipped on a Government Bill of Lading, and the Government audits and pays transportation vouchers directly to carriers. The applicable procedures are contained at FTR para. 2-8.3b and the considerations and criteria for determining when the actual expense method is to be authorized are set forth at FTR para. 2-8.3c.

### Liability for excess costs

Where the agency authorized shipment on an actual-expense basis and shipped household goods weighing 2,820 pounds more than 11,000-pound limit by Government Bill of Lading, the employee is liable for \$271.57 representing the Government's cost of shipping the 2,820 excess poundage, notwithstanding the employee's contention that the cost to the Government of

## RELOCATION

shipping the 13,820 pounds did not exceed the commuted rate payable for shipping 11,000 pounds. B-169407, September 15, 1970.

### Cost-reimbursement limitation

Shipment under a commercial bill of lading--There is no lawful authority to reimburse an employee on an actual-expense basis unless the agency has both authorized and shipped his effects on a Government Bill of Lading. Thus, an employee authorized actual expenses who made his own arrangements with a commercial carrier is not entitled to reimbursement under the actual-expense method. Since the documentation shows that he transported at least 11,000 pounds of household goods, the employee may be reimbursed at the commuted rate for shipment of 11,000 pounds for a distance of 187 miles. B-181156, November 19, 1974.

Partial shipment under Government Bill of Lading--Where an employee who is authorized actual expenses ships only part of the authorized weight by Government Bill of Lading and transports the remainder of his household goods by U-Haul trailer, the employee cannot be paid or reimbursed more than the cost to ship the total weight in one lot by Government Bill of Lading. B-187904, November 29, 1977; B-187736, May 31, 1977; and B-173557, August 30, 1971.

### Packing services

Where an employee, whose household goods were shipped under Government Bill of Lading, purchased packing materials and himself packed 41 cartons of household goods, the employee may not be paid an allowance for his packing services. The employee voluntarily rendered the packing services without authority to obligate the Government. 55 Comp. Gen. 779 (1976), and B-169407, October 19, 1970.

## J. TRANSPORTATION OUTSIDE THE UNITED STATES

Transportation of household goods to, from, and between points outside the conterminous United States is on an actual-expense basis. When commercial shipments cannot be made on Government Bill of Lading or purchase order the employee may be reimbursed for transportation expenses actually and necessarily incurred. The considerations and

## RELOCATION

procedures applicable to transportation of household goods outside the continental United States are set forth at FTR para. 2-8.4.

### Actual-expense method

An employee who transports 1,800 pounds of household goods by privately owned automobile between New Mexico and Alaska may not be reimbursed under the commuted-rate system, since the commuted-rate system is restricted in application to transfers between points in the continental United States. For this purpose "continental United States" is defined as the former 48 states plus the District of Columbia and, hence, excludes Alaska. Transportation of goods outside the continental United States is allowed at Government expense on the basis of actual costs. 46 Comp. Gen. 439 (1966).

### Points of shipment within the continental United States

An employee transferred from Ohio to Alaska was unable to find suitable family housing in Anchorage and relocated his family to Washington. Although he was erroneously authorized to ship his household goods between Ohio and Washington on a commuted-rate basis, the employee may not be reimbursed for moving his household goods under the commuted-rate system. When a transfer is to a point outside the continental United States all shipments of household goods are to be on an actual-expense basis even though some goods are shipped between points within the continental United States. The employee may be reimbursed for shipment of his household goods to Washington only to the extent that the total cost to the Government does not exceed the amount that would have been incurred if the goods had been shipped to Alaska in one lot by Government Bill of Lading. B-185514, September 2, 1976, and B-154224, July 10, 1964.

### Mode of shipment

#### Parcel post

Anticipating employment in Alaska, a shortage-category employee had his effects shipped from South Dakota to Alaska by parcel post. Some were shipped prior to the date of the employment agreement and some were shipped thereafter. Because of the small amount of personal

## RELOCATION

effects involved, it was advantageous to ship by parcel post and the employee may be reimbursed his cost of \$78.04 for shipments after December 20, 1970. Should evidence be submitted that the employee had been informed of his intended employment, the cost of shipments prior to December 20 may be reimbursed. B-175984, February 12, 1973.

### Employee told to arrange shipping

Upon recruitment in Hawaii for manpower-shortage category positions in Washington, D.C., and in accordance with agency advice, two employees shipped their household goods by commercial bill of lading rather than by Government Bill of Lading. Since shipment was from Hawaii, the cost of transportation is allowable only on an actual-expense basis. Under FTR para. 2-8.4d(2) shipments on an actual-expense basis are to be made on Government Bills of Lading "whenever possible." If the employee selects and retains a commercial carrier himself reimbursement is made for transportation expenses actually and necessarily incurred not in excess of the charges that would have been incurred if the employee used the means of transportation selected by the Government. Since the employees were advised by agency personnel to arrange for a commercial carrier, shipment by Government Bill of Lading apparently was not considered possible and the Government, in effect, selected the means used by the two employees. Therefore, the amounts they actually paid for transportation of their household goods are reimbursable. B-183053, March 12, 1975.

### Advance shipment of household goods

Under 5 U.S.C. § 5729(a) expenses of transporting an employee's family and shipping his household goods are authorized when he has acquired eligibility or when the public interest requires the return of his family for compelling reasons of a humanitarian or compassionate nature. Under 5 U.S.C. § 5729(b) an employee may return his immediate family and his household goods or any part thereof at his own expense in advance of entitlement and receive reimbursement upon subsequently becoming eligible for payment of transportation expenses. Under the latter authority an employee of the Canal Zone Government who is not eligible for return transportation of his household

## RELOCATION

goods incident to renewal agreement travel may return his household goods to the United States at his own expense and be reimbursed upon subsequently attaining transportation entitlement regardless of whether he also arranged for the prior return of his immediate family. B-188345, April 13, 1977.

### Reimbursable expenses

#### Insurance

The claim of an employee for reimbursement of an excess insurance charge incurred incident to movement of household goods from Zaire to Nevada, is denied since the employee's purchase of insurance was in addition to the actual expense of shipment and arose as the result of a separate contract between the employee and insurer, and not as the result of Zairese law or the FTR. B-181991, April 8, 1975, and B-178683, June 11, 1973.

#### Packing by family members

Upon transfer within Alaska, an employee hired a woman at a cost of \$124 to pack his household goods at his old station and paid his two daughters \$360 to pack and unpack household goods at the old and new stations. Although the \$124 paid to the native woman for packing is allowable as an actual expense of transportation, the \$360 paid to the employee's family members is not reimbursable. To be entitled to reimbursement under the actual-expense method, an employee must incur an actual out-of-pocket expense. An employee may not be reimbursed for his own labor in moving his household goods from his residence to a place of temporary storage when no expenses were incurred. See B-174804, February 14, 1972. Similarly, an employee may not be reimbursed for services rendered by members of his immediate family since such services are for the benefit of the family and any payment therefor is considered gratuitous. B-183951, February 9, 1976.

#### Trailer hitch

Incident to transfer between Montreal, Canada, and Virginia, an employee transported his household goods by U-Haul trailer. Because of the particular

## RELOCATION

configuration of his car's bumper, the employee could not use a rental hitch and was required to purchase a special trailer hitch at a cost of \$19.42. The employee's claim for reimbursement for the cost of the hitch was disallowed. B-169107, April 21, 1970.

### Furniture replacement cost

Relying on erroneous advice that he could not move his household effects to his duty station at Government expense, an appointee to a position outside the continental United States purchased replacement furnishings at the duty station. His claim for costs of new furnishings was disallowed. There is no legal authority for payment of this type of expense. B-179635, March 20, 1974.

### Use of United States flag vessels

Section 902 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a) (1970), requires the use of American-flag ships, when available, for the transportation of the household effects of Government employees. For a detailed discussion of the statute's requirements, see chapter 4 of the Transportation Law Manual, Office of the General Counsel, United States General Accounting Office. Government officials wrongly advised an employee that he could not be reimbursed for the cost of transporting certain items of furniture. The employee proceeded to ship the furnishings aboard a ship of foreign registry. The employee may not be reimbursed since the Merchant Marine Act places the financial burden for improper use of a foreign flag vessel upon the employee. B-181635, November 17, 1975, and B-106864, April 4, 1977.

## K. LOCAL MOVES

Although a change of station is not involved and transportation expenses are not payable under the authorities discussed above, an employee whose move between quarters locally is directed by the official responsible for administration of an installation may be reimbursed the actual cost of transporting his household goods between local residences as an administrative cost of operating the installation. B-163088, February 28, 1968, and B-165713, January 27, 1969.

## RELOCATION

### Between Government quarters

Drayage expenses for moving an employee's household goods between local Government quarters may be paid from Government funds where the move was directed for the convenience of the Government. B-138678, April 22, 1959.

### Between overseas commercial quarters

Overseas, where there are no Government quarters and employees obtain rental housing on the local economy, an employee who is required to leave private quarters and move to other private quarters in the same locality, as the result of an official determination that his previously approved housing no longer meets health and sanitation standards, may be reimbursed drayage as an administrative expense. However, where the local move is attributable to the landlord's refusal to renew the lease the move is not for the convenience of the Government and costs of transporting the employee's household goods are not payable. 52 Comp. Gen. 293 (1972).

### From private to Government quarters

Where two newly appointed employees of the Merchant Marine Academy would have had no necessity to move, but due to nature of their work, were required to occupy Government quarters on Academy grounds, the cost of moving their household goods may be paid as an administrative expense of the Academy, since the employees' occupancy of Government quarters was solely for convenience of the Government. B-165713, January 27, 1969; B-172276, July 13, 1971; and B-163088, February 28, 1968.

## L. LOSS AND DAMAGE CLAIMS

The subject of loss and damage claims is covered at chapter 11 of the Transportation Law Manual, Office of General Counsel, United States General Accounting Office.

CHAPTER 10

STORAGE OF HOUSEHOLD GOODS

SUBCHAPTER I--TEMPORARY STORAGE

A. AUTHORITY

Statutory authority

Under 5 U.S.C. § 5724(a)(2) a transferred employee is entitled to the expense of temporarily storing his household goods incident to their transportation. Under 5 U.S.C. § 5723(a)(2) a new appointee or a student trainee when assigned upon completion of college work to a manpower-shortage category position in the United States may be reimbursed expenses of transporting his household goods to the extent authorized under 5 U.S.C. § 5724 and, hence, for temporary storage.

Regulations

Regulations implementing the authority of 5 U.S.C. § 5724(a)(2) for payment of the costs of temporary storage are contained at FTR para. 2-8.5. As further implemented and applicable specifically to civilian employees of the DOD, additional regulations are set forth at 2 JTR paras. C800-2, C8002-1e and 3b, and C8003-4.

B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a more general discussion of the conditions of eligibility for relocation expenses, including reimbursement for temporary storage.

Eligible employees

New appointees

There is no authority to reimburse a new appointee for temporary storage costs incurred in reporting to his first duty station in the United States unless the appointment is to a shortage-category position. B-178778, July 23, 1973.

## RELOCATION

### Reemployment after reduction in force

Within 1 year following separation by reduction in force, an employee was reinstated to a permanent position at an isolated duty station in the continental United States. Approximately 6 months after reporting for duty the employee's family placed their household goods in storage and joined him. The household goods remained in storage for nearly 1-1/2 years. Although the employee may not be reimbursed the costs of nontemporary storage, he may be reimbursed 60 days temporary storage. 52 Comp. Gen. 881 (1973).

### Incident to relocation

#### Storage for personal reasons

An employee who places his household effects in temporary storage prior to his change of station in order that he can redecorate his home before sale, is not entitled to reimbursement because storage was for purely personal reasons. B-126407, January 10, 1956.

#### Storage in anticipation of transfer

Charges for the temporary storage of an employee's household effects incurred prior to the issuance of orders authorizing the transfer of his official station are reimbursable provided there is a factual showing that such expenses were incurred as a necessary incident to the change-of-station orders. 29 Comp. Gen. 232 (1949), and B-160371, November 21, 1966.

#### Storage incident to training

An agency may pay the necessary costs of travel and per diem incident to training under 5 U.S.C. § 4109, or in lieu thereof, the costs of transportation of immediate family, household goods, packing, crating, and temporary storage when the estimated costs are less than the estimated aggregate per diem payments for such period of training. When per diem is paid incident to training, the statute contemplates that the cost of storing his household goods will be paid by the employee. Therefore, an employee assigned to training for 3 months and paid a per diem allowance may not be reimbursed temporary storage expenses

## RELOCATION

incident to the training assignment. B-169893, July 29, 1970. Compare B-161795, June 29, 1967, and B-183597, September 3, 1975, allowing reimbursement for temporary storage expenses incurred during a period of training as an incidence of the follow-on transfer.

### Storage incident to temporary duty

A Navy employee assigned to temporary duty in Turkey may not be reimbursed temporary storage expenses, notwithstanding that his travel order erroneously purported to authorize reimbursement of temporary storage expenses. B-180083, January 7, 1974.

### Nature of household goods stored

Expenses of temporary storage may be paid in connection with the storage of all effects of the employee that were in use at his prior place of residence and are not restricted to effects actually used in the employee's new place of residence. 28 Comp. Gen. 113 (1948).

## C. PROCEDURAL REQUIREMENTS

Refer to chapters 2 and 9, supra, for a general discussion of the procedural requirements for reimbursement of relocation expenses, including costs of temporary storage.

## D. TIME LIMITATIONS

### Time to begin storage

In determining whether temporary storage was begun within 2 years from the effective date of transfer, the day of the transfer is excluded and the last day of the 2-year period is included. Thus, an employee transferred effective September 16, 1973, who delivered his household goods to a common carrier for storage on September 16, 1975, may be reimbursed for temporary storage of household goods from September 16 until October 8, 1975, since storage commenced within the applicable 2-year period. B-185726, August 12, 1976, and B-140266, September 29, 1967.

### Relation to shipment

An employee transferred on April 28, 1974, who consigned his household goods to a common carrier for

temporary storage on April 27, 1976, may not be reimbursed for shipment of his household goods to his new residence on January 4, 1977, since transportation of household goods to temporary storage within the 2-year period without designation of final destination does not satisfy the requirement that shipment begin within 2 years. However, since the household goods were placed in temporary storage within 2 years the employee may be reimbursed temporary storage expenses for a period not to exceed 60 days. B-189406, February 8, 1978, and B-171221, January 11, 1971.

### Sixty-day period of storage

#### Sixty-day maximum

Incident to travel from Turkey to Buffalo, New York, for separation for disability retirement, an employee had his household goods shipped to and placed in storage in Niagara Falls on September 15, 1971. Because of medical treatment and forced inactivity the employee was unable to have his household goods removed from storage until February 1973. Notwithstanding that medical reasons precluded the employee's earlier acceptance of delivery, he may not be reimbursed expenses for temporary storage for more than 60 days. The 60-day limitation upon payment of temporary storage expenses is a maximum which may not be waived, modified, or extended, regardless of extenuating circumstances. B-179901, August 10, 1977; B-182089, March 18, 1975; and B-182648, December 8, 1975.

The 60-day limitation is a limitation upon reimbursement only. Thus, an employee may be reimbursed for storage at the commuted rate for 60 days even though his household goods were in storage for a total of 5 months. B-115878, August 17, 1953.

Effect of dock strike--Payment of charges for the entire period of storage of the household effects of an employee transferred to an overseas duty station may be made to a warehouseman who rendered the service in good faith without knowledge of the 60-day limitation. However, there is no authority to waive the employee's liability to the United States for storage charges in excess of 60 days, even though the intended earlier shipment of the effects stored was prevented by a shipping strike. 29 Comp. Gen. 317 (1950), and

## RELOCATION

B-144398, November 23, 1960. Compare B-175505, June 19, 1972, disallowing temporary storage expenses in excess of 60 days where the extended period of storage was attributable to a longshoremen's strike, but holding that the additional expenses of storage could be reimbursed under authority to pay for nontemporary storage.

### Computing the 60 days

Actual days in storage--An employee's household goods were placed in storage for 42 days from September 15 until October 27, 1975, when they were shipped to his new duty station and placed in storage for an additional 10-day period from November 7 to November 17, 1975. In accordance with the applicable tariff providing that storage charges apply for each 30 days or fraction thereof each time storage in transit service is rendered, the carrier billed the employing agency for storage provided during three storage periods, or an equivalent of 90 days and the agency collected \$255.45 from the employee for the third storage period. The language of FTR para. 2-8.2c providing that time for temporary storage shall not exceed 60 days refers to calendar days in storage rather than to storage periods set by tariff for billing purposes. Since the employee's household goods were in storage for only 52 calendar days, the employee is not required to reimburse the Government for the third storage period billed by the carrier. B-190709, December 30, 1977.

Days may be noncontinuous--An employee whose household effects were stored for 30 days at his old official station and 30 days at his new station may be reimbursed the expenses incurred not to exceed the aggregate amount allowable for the entire 60-day period even though the two periods were not continuous. 29 Comp. Gen. 343 (1950).

### Sixty days for each relocation action

Successive transfers--A transferred employee placed his household effects in storage at his old station in anticipation of shipment to his new permanent station but did not ship them because of lack of housing and anticipation of a further transfer. Two months later he was transferred back to his old station. The

## RELOCATION

employee is entitled to reimbursement for a period not to exceed 60 days temporary storage for each transfer. 32 Comp. Gen. 471, and B-149582, August 23, 1962.

Second transfer cancelled--An employee reimbursed 60 days temporary storage expenses incident to transfer from Frederick, Maryland, to Washington, D.C., may be reimbursed an additional 60 days temporary storage incurred incident to a subsequent directed transfer from Washington, D.C., to Montgomery, Alabama, even though the second transfer was cancelled. B-189457, August 23, 1977.

### E. WEIGHT LIMITATION

An overseas school teacher authorized to transport and store 2,000 pounds of household goods incident to separation shipped and stored 3,527 pounds. She may only be reimbursed for storage of 2,000 pounds, notwithstanding that the weight of her household goods was inaccurately estimated at less than 2,000 pounds and notwithstanding her efforts to limit shipment to the authorized maximum weight. B-182648, December 8, 1975, and B-154289, June 18, 1964.

#### Determining weight

Temporary storage expenses may be allowed for actual payments for storage of household goods based on a constructive weight of 9,500 pounds of household goods, determined at 7 pounds per cubic foot of space occupied by a fully and properly loaded van having a capacity of 1,392 cubic feet. B-173299, August 10, 1971, and B-163856, April 30, 1968.

#### Liability for excess weight

In determining the maximum sum payable by the Government for temporary storage of a transferred employee's household effects weighing in excess of the allowable weight limitation, deduct an amount equal to the charge for excess storage computed from the total charge according to the ratio of excess weight to the total weight of the effects stored. 28 Comp. Gen. 180 (1948).

### F. STORAGE IN OTHER THAN A WAREHOUSE

Where there is no commercial warehouse regularly engaged in the business of receiving and storing property in the immediate locality to which an employee is transferred, a

## RELOCATION

handwritten receipt issued as evidence of payment for the temporary storage of household effects in an auto court building may be accepted as meeting the requirement that a "receipted warehouse bill" be submitted in support of the claim for reimbursement of temporary storage expenses. 28 Comp. Gen. 337 (1948).

### Storage in truck or van

An employee who stored his household goods in a van which he rented for that specific purpose may be reimbursed his actual costs upon submission of documentation showing storage dates, the storage location, and the actual weight of goods stored. 53 Comp. Gen. 513 (1974).

An employee who transported his household goods to his new duty station by rental truck was unable to move into permanent quarters for 6 days after arrival. He rented the truck for an interim 6-day period for the purpose of storing the household goods. The employee may be reimbursed his additional cost of renting the truck to the extent that the cost does not exceed the commuted rate for storing his household goods. Storage expenses may be reimbursed for use of a noncommercial storage facility, including a truck or van, in accordance with a reasonable agreement between the employee and the owner of the property where the goods were stored. B-176473, September 8, 1972; 29 Comp. Gen. 399 (1950); and B-166801, May 27, 1969.

### Storage at home of relative

An employee transferred from Virginia to Massachusetts placed 11,000 pounds of household goods in storage at his mother-in-law's summer residence in Massachusetts and paid his mother-in-law \$725. The \$725 charge was reimbursed since the amount claimed was less than the applicable commuted rate and was paid in accordance with a reasonable agreement between the employee and his mother-in-law. B-173668, October 18, 1971, and B-162684, December 18, 1967.

### Storage in former residence

An employee left his household goods in the residence he had leased at his old duty station which was not re-let for the unexpired period of his lease. The employee may not be reimbursed the rent he paid for 2 months of the unexpired term of the lease as an expense of temporary storage. The

## RELOCATION

placement or retention of an employee's goods at his residence may not serve as the basis for reimbursement under regulations relating to temporary storage. 56 Comp. Gen. 20 (1976); B-185696, May 28, 1976; B-173557, August 30, 1971; and B-166801, May 27, 1969.

### Storage in residence at new station

#### Storage in temporary quarters

An employee may not be reimbursed costs of temporary storage for keeping his household goods in an uninhabitable portion of the residence he rented at the new duty station pending his move to a permanent residence. B-187366, July 6, 1977.

#### Storage in permanent quarters

As a cost of temporary storage, an employee claimed the \$250 amount by which the purchase price of his new residence was increased in consideration for the seller's permission to use the basement for storage purposes prior to the employee's occupancy. In view of evidence submitted demonstrating that the purchase price was in fact raised by \$250 for the purpose claimed and that it was paid pursuant to a reasonable agreement between the employee and the seller, the employee may be reimbursed \$136.50, the applicable commuted rate for storage. B-169151, June 12, 1970, and B-166277, March 19, 1969.

## G. DETERMINING AMOUNT OF REIMBURSEMENT

### Reimbursable expenses

#### Drayage

Drayage or cartage is defined, generally, as the movement of items within a recognized metropolitan area in which both the point of pickup and delivery are located, whereas transportation charges generally refer to line-haul or inter-city charges for transportation services paid directly to the common carrier providing such service. 40 Comp. Gen. 199 (1970), and B-150154, January 28, 1963. Drayage charges incurred in connection with the temporary storage of household goods, as distinguished from drayage charges in connection with their transportation, are allowable as

## RELOCATION

necessary incidental charges provided that the drayage charges, together with the actual storage charges, do not exceed the specified maximum commuted rate.

28 Comp. Gen. 41 (1948), 28 Comp. Gen. 84 (1948), 27 Comp. Gen. 91 (1947), and 27 Comp. Gen. 753 (1948).

The charge of \$140.25 for transportation of household goods to an employee's residence in Staten Island, New York, may be reimbursed as a drayage charge incidental to the temporary storage of his household goods.

Under the tariff the rate of \$2.55 applied is a pick-up or delivery charge applicable to storage-in-transit shipments rather than a line-haul transportation rate. B-153463, March 3, 1964, and B-153454, August 1, 1969.

### Wrapping for storage

Where household effects were shipped by van and placed in temporary storage at destination, charges incurred for wrapping and preparing the effects for storage may be considered necessary expenses incidental to storage. 28 Comp. Gen. 84 (1948).

### Warehouse handling

Warehouse handling charges are reimbursable incidental to temporary storage. B-154289, June 18, 1974, and B-150153, February 21, 1963.

### Insurance

The cost of storage insurance may not be regarded as a necessary expense incidental to the temporary storage of household effects in the absence of a showing that such insurance was required by the storage company or by law. 28 Comp. Gen. 679 (1949).

### Amount reimbursable

When transportation of household goods is accomplished under the actual-expense method the Government will normally arrange for necessary temporary storage and pay the cost thereof direct. When transportation of household goods is under the commuted-rate system, temporary storage costs actually incurred by the employee will be reimbursed in an amount not to exceed the commuted rates for storage in GSA Bulletin FPMR A-2. See FTR para. 2-8.5b.

Actual-expense method

An employee may be reimbursed temporary storage, handling, and drayage expenses incurred when his household goods were shipped under the actual-expense method and the storage expenses were caused by the agency's improper preparation of the Government Bill of Lading. B-182011, February 13, 1975. Also see B-151235, September 11, 1963, authorizing reimbursement for actual storage expenses in excess of the commuted rate, where the excess costs were incurred as a result of the agency's failure to timely notify the employee that his household goods would be moved under Government contract.

Commuted-rate system

An employee placed his household goods in storage with a commercial mover who charged a rate of \$5.45 per cubic foot for storage. The agency reimbursed the employee at a rate of \$4.30 per cubic foot plus a 6 percent surcharge. The employee may not be reimbursed any additional amount since the amount reimbursed by the agency is based on the applicable commuted rate. There is no basis for allowing reimbursement for storage expenses in excess of the amount an employee is entitled to on the commuted-rate basis. B-168857, May 14, 1976; B-163449, March 4, 1969; and B-160098, October 3, 1966.

Under the commuted-rate system the employee is responsible for making arrangements for storage and shipment of household goods at his personal expense and he is reimbursed on the commuted-rate basis. Having been reimbursed on the commuted-rate basis, there is no authority to pay any additional amount. B-176000, July 17, 1972.

Although the actual-expense method may be used in intrastate transfers where unusual hardship to the employee may result, where no administrative determination was made to authorize the actual-expense method, there is no authority to pay storage expenses in excess of those allowable under the commuted-rate system authorized. B-187508, March 22, 1977.

## RELOCATION

Commuted-rate storage reimbursement includes transportation from storage to final destination. Thus, an employee transferred from Idaho to Custer, South Dakota, who placed his goods in storage in Rapid City, South Dakota, and was reimbursed the commuted rate for storage, may not be reimbursed transportation expenses based on two line-hauls, one from Idaho to Rapid City and the second from Rapid City to the employee's residence in Custer. B-189577, November 2, 1977. An employee reimbursed the commuted rate for storage may not be reimbursed transportation charges for movement of his household goods from storage to the new duty station, even though the household goods were stored at other than his new duty station, since the commuted rate for storage includes pick-up or delivery charge. B-186351, May 10, 1977; B-165253, October 9, 1968; and B-167488, August 13, 1969. Compare 41 Comp. Gen. 559 (1962).

Applicable commuted rate--An employee transferred from Austin to Dallas, Texas, placed her household goods in storage at Austin, and directed their shipment to Dallas. Upon delivery of her household goods to Dallas, the employee was unable to move into leased quarters and placed her household goods in storage in Dallas. If the employee was unaware that her apartment in Dallas would not be ready when she directed shipment of her effects from storage in Austin, she may be reimbursed on the basis of the higher commuted rate applicable to Dallas. B-174794, February 8, 1972.

### Documentation requirements

The requirement of FTR para. 2-8.5b(1) that a "receipted copy of the warehouse or other bill for storage costs" be submitted in support of the employee's claim for reimbursement is met so long as the bill shows storage dates, the storage location, and the actual weight of the household goods stored. A receipted warehouse bill is not mandatory if the claim is otherwise properly supported. 53 Comp. Gen. 513 (1974); B-173668, October 18, 1971; and 28 Comp. Gen. 237 (1948).

## RELOCATION

### SUBCHAPTER II--NONTEMPORARY STORAGE

#### A. AUTHORITY

##### Statutory authority

Nontemporary storage of household goods for employees assigned to installations within the continental United States is governed by 5 U.S.C. § 5726(c). Thereunder, expenses of nontemporary storage or storage at Government expense in Government-owned facilities, whichever is more economical, may be authorized when an employee, including a new appointee or a student trainee, is assigned to permanent duty at an isolated location. Under 5 U.S.C. § 5726(b) an employee, including a new appointee or student trainee, assigned to a permanent duty station outside the continental United States may be allowed nontemporary storage if the duty station is one to which he cannot take or at which he is unable to use his household goods or if the agency head authorizes nontemporary storage as in the public interest for reasons of economy.

##### Regulations

The regulations governing nontemporary storage are contained at Part 2-9 of the FTR and, as further implemented and specifically applicable to civilian employees of the DOD, are found at 2 JTR chapter 8.

#### B. ELIGIBILITY

Refer to chapters 1 and 2, supra, for a more general discussion of the conditions of eligibility for various relocation expenses, including nontemporary storage of household goods.

##### Assignment within the United States

###### Isolated locations

Upon arrival at his new duty station in Jasper, Alabama, an employee was unable to find adequate housing for his family and all of their household goods. He placed 2,410 pounds of household goods in storage and, having been reimbursed expenses for 60 days temporary storage, claimed reimbursement for an additional month of nontemporary storage. After the date of his transfer, Jasper was designated an

## RELOCATION

isolated official station. The employee may be reimbursed expenses incurred for nontemporary storage prior to his agency's designation of Jasper as "isolated," provided that the qualifying conditions were met at the time of storage. B-166754, July 9, 1969.

New appointees--A new appointee assigned to duty at the Job Corps Conservation Center in Alder Springs, California, claimed reimbursement for nontemporary storage of household goods based on the remoteness of the center's location. Even if Alder Springs were designated as an isolated duty station, the employee could not be reimbursed costs of nontemporary storage since Alder Springs was his first duty assignment and the position to which he was appointed was not a manpower-shortage category position. B-178778, November 14, 1973.

Reemployment after reduction in force--An employee separated by reduction in force from a position in Bangkok on November 21, 1969, returned to his home of record and, on October 12, 1970, was reinstated to a position at Langdon, North Dakota, an isolated location. The employee's household goods were placed in nontemporary storage when his family joined him in Langdon. An employee separated by reduction in force and reemployed within 1 year at a different geographical area is entitled to expenses only as specifically authorized by 5 U.S.C. § 5724a(c). While that section references section 5726(b) pertaining to storage of household goods incident to assignments outside the continental United States, it does not authorize payment of nontemporary storage expenses under section 5726(c), applicable specifically to employees assigned to isolated locations in the continental United States. Therefore, there is no basis to reimburse the employee's costs of nontemporary storage. 52 Comp. Gen 881 (1973).

### Non-isolated locations

An employee transferred to Washington, D.C., incorrectly understood that his entitlement to transportation of household goods was limited to \$1,500. He sold half of his household goods and placed 8,000 pounds in storage to reduce the volume of household goods transported to his new duty station. Since the

## RELOCATION

employee's transfer was within the continental United States to other than an isolated location, he may not be reimbursed nontemporary storage costs based on the constructive cost of transporting the stored goods. B-180154, April 23, 1974.

### Assignments for training

Upon assignment to training under 5 U.S.C. §§ 4101-4108, an employee had 7,500 pounds of household goods placed in storage. Incident to the training assignment, the employee received a per diem allowance. Under 5 U.S.C. § 4109, it is contemplated that when per diem is paid incident to training, the shipment, storage, and maintenance of household goods is to be at the expense of the employee. Accordingly, the employee's storage expenses may not be reimbursed. B-169893, July 29, 1970.

### Overseas assignments

Employees occupying commercial quarters in Europe who were transferred elsewhere in Europe and required to occupy furnished quarters may have their household goods shipped to the United States and stored since neither commercial nor Government storage facilities were available in Europe. B-137605, April 4, 1967.

An employee's transfer to the United States from Japan was delayed. During the period of delay the employee was required to vacate unfurnished Government quarters and move to furnished Government quarters. Under the circumstances, the employee may be reimbursed expenses for 3 months nontemporary storage of household goods incurred for reasons beyond his control. B-174459, January 20, 1972.

## C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a more general discussion of the procedural requirements for reimbursement of relocation expenses, including nontemporary storage of household goods.

### Public interest determination

An employee who was not permitted to transport her household goods to her first overseas assignment in the Azores in 1957, placed them in storage in Colorado. Upon transfer

## RELOCATION

to Turkey in 1961, she occupied unfurnished quarters and acquired some household goods before being transferred in 1962 to Germany, where she was assigned to furnished Government quarters. The household goods she had acquired while in Turkey were placed in commercial storage in Germany. The agency may prospectively authorize nontemporary storage of household goods in Germany and in Colorado if it is determined to be in the public interest. Expenses of nontemporary storage may be authorized based on a determination of public interest irrespective of whether the employee can or cannot take his household goods to or use them at his permanent duty station outside the United States. The public interest condition is stated in the conjunctive. B-150851, July 13, 1964.

### Authorization

Upon transfer to Italy in 1957, an employee was authorized transportation of household goods not to exceed 8,750 pounds. On July 12, 1963, he was issued orders authorizing nontemporary storage of household goods. The employee may not be paid for nontemporary storage expenses incurred for the period prior to July 12, 1963. It is within the agency's discretion to authorize nontemporary storage of household goods, including goods in storage at personal expense at the time storage at Government expense is authorized. Since the agency did not authorize nontemporary storage for any period prior to July 12, 1963, expenses claimed before that date may not be reimbursed. B-175718, September 7, 1972. With respect to the agency's discretion to authorize nontemporary storage expenses, see also B-159719, August 25, 1966, and B-152432, October 31, 1963.

### Approval after the fact

In 1957, when initially assigned overseas, an employee placed her household goods in nontemporary storage in Seattle, where they remained until her separation in 1972. Nontemporary storage in connection with assignments to and between overseas installations was first authorized by Pub. L. No. 86-707, September 6, 1960. The regulations implementing that statute state that the authorization of nontemporary storage normally should be included in the employee's travel orders, but permit subsequent approval. Since it was the Army's policy to routinely authorize nontemporary storage on a retroactive basis where the employee placed his household goods in storage at personal

## RELOCATION

expense prior to the time storage was authorized at Government expense and kept them in storage thereafter, the employee may be reimbursed on the basis of subsequent approval for costs of nontemporary storage not otherwise barred by the statute of limitations. B-159261, October 17, 1971, and B-175505, June 19, 1975.

### Service agreement

Employees assigned to duty in Europe occupying non-Government quarters, who were transferred to other official stations in Europe where they were required to occupy furnished Government quarters, may have their household goods shipped to and stored in the United States since there were no commercial or Government facilities in Europe for nontemporary storage. Their household goods may be transported to and stored in the United States at Government expense and later transported back overseas, if so warranted, without regard to execution of a new transportation agreement. B-137605, April 4, 1967.

### D. WEIGHT LIMITATION

The weight of the household goods stored and the weight of the household goods shipped may not exceed the maximum weight limitation for which the employee is eligible. B-152432, October 31, 1963. The weight limitation applicable is the limitation in effect at the time transfer is effected and must be applied until the employee has completed his agreed-to period of overseas service. Thus, an employee who placed household goods weighing 4,455 pounds in storage in May 1965, when the maximum weight limitation of 2,500 pounds was in effect for individuals in her category of employment, may not be reimbursed for storing the excess of 2,455 pounds of household goods even though the maximum weight allowance was increased to 5,000 pounds in October 1966 while the goods were still stored. B-160901, April 6, 1967.

### E. RELATIONSHIP TO OTHER ALLOWANCES

#### Transportation of household goods

An employee assigned to duty in London since 1959 placed his household goods in nontemporary storage in 1963 when he moved from a partially furnished house to a fully furnished house and submitted a claim for the nontemporary storage

## RELOCATION

costs incurred. The employee's household goods were shipped to London at Government expense upon his assignment there in 1959. Nontemporary storage is authorized "in lieu of"--not in addition to--overseas transportation and, therefore, the employee may not be reimbursed nontemporary storage costs covering the weight of effects shipped incident to the same overseas assignment. B-152432, October 31, 1963.

### Temporary storage of household goods

An employee authorized 60 days temporary storage upon transfer to Hawaii turned her household goods over to a carrier who placed them in storage for 110 days at the port of embarkation due to a longshoremen's strike. Since there was no other means by which the employee could have had her household goods shipped to Hawaii, the storage expenses she incurred may be regarded as coming within the definition of nontemporary storage and her costs may be reimbursed, since FTR para. 2-9.1c provides for conversion of household goods from temporary to nontemporary storage. B-175505, June 19, 1975.

CHAPTER 11

TRANSPORTATION AND STORAGE OF

PRIVATELY OWNED VEHICLE

A. AUTHORITY

Statutory authority

Under 5 U.S.C. § 5727 the privately owned vehicle (POV) of an employee, including a new appointee or a student trainee may be transported at Government expense to, from, and between the continental United States and a post of duty outside the continental United States when the employee is assigned to the post for other than temporary duty, provided the head of the agency determines that it is in the interest of the Government for the employee to have the use of a motor vehicle. The authority to transport an employee's POV is limited to one POV per 4-year period except when the agency head determines that shipment of a replacement vehicle is necessary for reasons beyond the employee's control and is in the interest of the Government.

Regulations

The regulations implementing 5 U.S.C. § 5727 and governing transportation and emergency storage of POVs are contained at FTR Part 10. As further implemented and applicable specifically to civilian employees of the DOD, additional regulations are set forth at 2 JTR chapter 11.

B. ELIGIBILITY

Transportation of a POV may be authorized in connection with a transfer or assignment outside the continental United States. A POV thus transferred may be transported back to the United States when its use is no longer required as upon separation, transfer to the continental United States, or transfer to a location to which the employee is not authorized to ship his POV. Refer to chapters 1 and 2, supra, for a more general discussion of eligibility for relocation expenses, including transportation of POVs.

## RELOCATION

### Assignment overseas

#### Completion of tour of duty

An employee assigned to duty in Mexico City died while stationed in Mexico after completing his agreed-to tour of duty overseas and becoming entitled to return transportation of the family car initially transported to Mexico City at Government expense. Since the employee became eligible for return transportation of his POV before his death, his wife may be reimbursed 6 cents per mile for driving the POV from Mexico City to the family's residence in Alexandria, Virginia, and her airfare of \$121 to Mexico City to retrieve the motor vehicle. However, the total of the two amounts may not exceed what it would have cost to ship the automobile by common carrier back to the United States. B-169032, May 19, 1970.

#### Home Leave

Incident to home leave in the United States during 1956, an employee shipped an automobile from Cannes, France, to the United States. The employee may not be reimbursed those shipping costs on the basis of orders dated June 2, 1960, which authorized shipment of an automobile from Beirut to Maryland, incident to his separation since there is no authority to pay the cost of transporting an automobile from overseas to the United States for use during home leave. B-148529, May 18, 1962. Charges for transportation of a POV may not be reimbursed where the employee shipped his POV to the United States incident to home leave, even though the employee obtained another position in the United States while on home leave and might have been authorized return shipment of his POV incident to transfer to permanent duty in the United States. B-151955, July 31, 1963.

#### Employees hired locally

An employee hired locally while residing in Hawaii and transferred to Washington, D.C., may not be reimbursed for the cost of transporting a POV to his new duty station in the continental United States. The regulations implementing 5 U.S.C. § 5727 provide for the return transportation of a POV to the United States upon transfer from an official station outside the

## RELOCATION

continental United States if it was in the Government's interest for the employee to have the POV at the official station from which he is transferred. However, where the employee was residing in Hawaii at the time of his appointment, the regulations do not authorize the transportation to the continental United States at Government expense of his POV upon a transfer of station. B-167735, September 9, 1969.

### Transfer within the United States

An employee authorized use of two POVs for permanent change of station travel, traveled together with his family members in one car and shipped the family's second car by common carrier. The employee's claim for reimbursement for the cost of shipping the second motor vehicle may not be paid since no authority exists to transport the POV of an employee at Government expense between duty stations in the continental United States. B-176224, July 27, 1972, and B-186115, February 4, 1977,

### New appointees

An employee appointed to a shortage-category position who shipped his POV to his first duty station upon the erroneous advice of agency personnel may not be reimbursed the cost of shipping his POV. No authority exists to ship a POV at Government expense between duty stations within the continental United States or between the residence and duty station of a new appointee to a shortage-category position. B-163936, May 3, 1968.

### POV purchased while overseas

An employee who purchased a motor vehicle while in Japan, through an overseas payment plan, and had the motor vehicle shipped from the factory in Wisconsin to El Paso, Texas, where he picked it up while transferring from Japan to Fort Bliss, Texas, may not be reimbursed for the cost of shipping the vehicle to El Paso since he was not returning his POV to the United States but was shipping it within the continental United States. B-185638, February 28, 1977.

POV not a household good

Upon permanent change of station from California to Washington, D.C., an employee claimed reimbursement for shipment of 5,800 pounds of household goods consisting of 2,750 pounds of furniture and his automobile weighing 3,050 pounds. The regulations governing transportation of household goods specifically preclude shipment of an automobile as an item of household goods. In addition, there is no authority to transport the POV of an employee at Government expense between duty stations in the continental United States. 54 Comp. Gen. 301 (1974); B-187233, January 28, 1977; and B-183974, November 14, 1975.

Death or illness of employee

While in a travel status--An employee traveling under orders transferring him from Wisconsin to California drove only as far as Chicago and, upon the advice of a physician, traveled by air for the remaining distance from Chicago to Los Angeles. He turned his car over to a commercial carrier for delivery to Los Angeles. The employee may not be paid any amount for the transportation of his vehicle from Chicago to Los Angeles. 44 Comp. Gen. 783 (1965).

While on temporary duty--An employee permanently stationed in Newark, New Jersey, died while assigned to temporary duty in Chicago, Illinois. His survivors submitted a claim for the cost of shipping his vehicle back to Newark. Executive Order 8557 issued under 5 U.S.C. § 5742, which provides authority for payment by the Government of certain expenses when an employee dies while on temporary duty, does not authorize reimbursement of the cost of returning the deceased employee's POV to his home at his official station. 52 Comp. Gen. 493 (1973).

Shipment in lieu of driving

An employee authorized to use his POV incident to transfer from Anchorage, Alaska, to Fort Meade, Maryland, transported his POV by rail from Whitehorse to Skagway, Alaska, and claimed reimbursement for the cost of its shipment between those two points. The cost of transporting the vehicle is not reimbursable. B-188391, December 16, 1977.

## RELOCATION

### Foreign-made vehicles

The authority for transportation of POVs at Government expense is limited to vehicles of United States manufacture unless (i) the head of the agency or his designee determines that only vehicles of foreign manufacture may be used effectively at the official station concerned, (ii) the privately owned vehicle to be transported was purchased by the employee before he was aware that he would be assigned to duty at an official station to which the transportation of a privately owned vehicle would be authorized, or (iii) for other reasons and taking into consideration the current United States balance of payments situation it is determined that the employee should be allowed to ship a vehicle of foreign manufacture. FTR para. 2-10.2c(6).

An employee transferred from Alabama to Germany in December 1970 purchased a foreign-made vehicle in January 1971. Incident to his transfer back to Alabama in 1973 he was authorized to ship the vehicle, as an ineligible foreign-made POV, on a space-available reimbursable basis at a cost of \$184. The employee submitted a claim for the \$184 cost of shipment on the basis that there was no restriction on transporting foreign-made vehicles at Government expense at the time he was transported overseas. The limitation on shipment of foreign-made vehicles was included in regulations dating back to April 1961. While DOD regulations at 2 JTR provided generally that the transportation of a POV would not be authorized if it was of foreign manufacture and purchased overseas or for delivery overseas after March 6, 1961, that restriction was suspended only briefly from July 1, 1972, to January 1, 1973. Therefore, there is no authority to reimburse the employee for the cost of transporting a foreign-made vehicle purchased overseas. B-184608, May 4, 1976, and B-180461, August 15, 1974.

### Exception

Under FTR para. 2-10.3b a vehicle originally shipped to the overseas duty station at Government expense may be returned at Government expense regardless of whether it is of foreign or domestic manufacture. However, the fact that the employee transported a foreign-made vehicle overseas initially does not entitle him to return shipment of a different foreign-made vehicle purchased while assigned to duty in

## RELOCATION

Germany, absent a determination concerning replacement of the original vehicle by a foreign-made vehicle. B-183408, September 4, 1975.

### C. PROCEDURAL REQUIREMENTS

Refer to chapter 2, supra, for a general discussion of the procedural requirements for reimbursement of relocation expenses, including expenses for shipment of POVs.

#### Determination and authorization

Upon transfer from California to Hawaii, the designated agency official determined that the employee did not meet the requirements for shipment of his automobile to Hawaii and declined to authorize shipment at Government expense. The employee may not be reimbursed for shipping his POV to Hawaii at his own expense since 5 U.S.C. § 5727(b)(2) specifically requires, as a prerequisite to shipment of POVs at Government expense, a determination that it is in the interest of the Government for the employee to have the use of a motor vehicle at the post of duty. The designated official initially declined to make the required determination and the record provides no evidence of a subsequent determination of Government interest. B-187426, February 23, 1977, and B-173056, June 28, 1971.

#### Agency discretion

In September 1970 when the employee was transferred to St. Thomas, Virgin Islands, the Department of the Interior determined that conditions of employment in St. Thomas did not meet the requirements for shipment of POVs at Government expense. In the following year Interior changed its policy in favor of reimbursing employees for the cost of transporting their POVs. The employee may not be reimbursed his cost of \$283.70 incurred for shipment of his POV to St. Thomas in September 1970, based on the subsequent change in policy or because other Federal agencies allowed reimbursement. In the case of Department of the Interior employees assigned to the office of the U.S. Government Comptroller for the Virgin Islands, authority to make the necessary determinations and to authorize shipment of automobiles at Government expense, is delegated to the Comptroller for the Virgin Islands. Since the Comptroller declined to make that determination the cost of shipping the employee's automobile

## RELOCATION

to the Virgin Islands is not an allowable expense. The determination is a factual matter to be decided on a case-by-case basis and, therefore, it is not discriminatory for one agency to permit reimbursement and another to prohibit reimbursement if the differing determinations are made in accordance with appropriate regulatory standards. B-186578, January 3, 1977.

### Convenience of employee

An employee who transported his POV at personal expense from Hilo to Honolulu, Hawaii, 7 months before his transfer from Hilo to Honolulu was directed and before he was given any definite assurance that his official station would be changed, may not be reimbursed the cost of shipping his POV since it was transported purely as a matter of personal convenience. B-168291, November 14, 1969, and B-180461, August 15, 1974.

### D. SHIPMENT OF ONE VEHICLE

An employee authorized to travel by automobile from Alaska to Maryland incident to a permanent change of station is not entitled to reimbursement for travel expenses for two automobiles since 5 U.S.C. § 5727 provides for the transportation of only one automobile between the continental United States and a post of duty outside the continental United States. B-188391, December 16, 1977, and B-159765, October 19, 1966. The fact that the employee was unable to drive his second vehicle because of mechanical difficulties while performing permanent change of station travel does not give him authority to ship the second vehicle. B-172235, January 24, 1972.

### Spouse's separate entitlement

Under Army regulations then in effect an employee could ship a foreign-made vehicle back to the United States at a reduced cost if the employee was otherwise eligible to ship a vehicle and unused space was available on a chartered Military Sealift Command vessel. A female employee transferred to Germany in 1970 was allowed to transport a Ford automobile at Government expense. She married a fellow employee while in Germany. She thereafter replaced the Ford with a Pinto. Her husband sold his Fiat and bought a Peugeot. Upon retransfer of both husband and wife to the United States they were authorized to ship only one

## RELOCATION

vehicle. Paragraph 2-1.5c of the FTR provides that when the husband and wife are both Government employees, their permanent change of station entitlement will be limited to either that of the husband or the wife. However, that limitation does not apply to overseas employees with separate transportation agreements who are later married. Under the circumstances, each should have been authorized to ship a POV upon return to the United States. Since one POV was foreign-made, the transportation entitlement for that vehicle was limited to reimbursable space-available shipment. Since shipment of a POV on a space-available basis is a privilege and not an entitlement, the employee may not be reimbursed the difference between the cost of shipping the Peugeot on a space-available basis and the amount paid for its commercial shipment. B-183408, May 3, 1976.

### E. RETURN SHIPMENT OF POV

#### Prior return of POV

Where an employee is assigned to duty outside the continental United States at a post where it is determined that it is in the Government's interest for him to have the use of his car, and where he is thereafter transferred or reassigned to another official station outside the continental United States where it is determined not to be in the Government's interest for him to have his car, the employee's POV may be shipped to his place of actual residence in the United States provided that the cost to the Government is limited to the cost from the place where it was previously determined to be in the Government's interest for him to have a vehicle. B-163780, April 4, 1968.

#### Delayed return of POV

An employee, whose automobile was shipped at Government expense to the Canal Zone incident to his appointment in October 1970, resigned in August 1971 to accept other Federal employment without a break in service in Puerto Rico. He shipped his car to Puerto Rico at personal expense. The employee may have that car transported to the United States at Government expense upon subsequent transfer under the delayed return provisions of FTR para. 2-10.3c(1). B-184216, January 2, 1976.

F. SHIPMENT BY UNITED STATES FLAG VESSELS

Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a), provides that any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a foreign flag ship. The language of that Act applies to shipment of POVs of officers and employees. B-188186, April 21, 1977.

Upon return to the United States from Germany for separation, an employee was authorized transportation of his POV but the Government transportation officer wrongly refused to authorize its shipment by Government vessel. The employee engaged a local freight forwarder in Bremerhaven to arrange for the shipment of his automobile to Baltimore. The automobile was shipped on a foreign vessel notwithstanding that three American flag vessels were available. Although an error was committed by a representative of the Government, the financial liability for use of a foreign flag vessel in contravention of 46 U.S.C. § 1241(a) is placed by law upon the employee. Therefore, the employee may not be reimbursed for the cost of shipping his POV by foreign flag vessel. B-160229, July 1, 1968, and November 7, 1966.

G. TRAVEL TO PORT TO SHIP POV

Under FTR para. 2-10.4c an employee who makes a separate trip to a port to deliver or pick up his POV may be allowed one-way travel costs and mileage costs for operating the POV not to exceed the cost of shipping the POV to or from the port involved. Such costs are now authorized for civilian employees of the DOD by 2 JTR para. C1104-3 and 4. Decisions B-158706, July 7, 1971, and B-170258, September 22, 1970, involve the now-superseded language of the JTR prohibiting payment of such costs.

Although the employee was authorized to transport a POV incident to his transfer from Germany to Maryland, he owned a foreign-made vehicle and shipped it to the United States at his own expense. He traveled from Frankfurt to Belgium to deliver the vehicle for shipment and made another trip from his residence in Langley Park, Maryland, to Baltimore, Maryland, to pick up the vehicle upon its arrival in the

## RELOCATION

United States. The employee submitted a claim for mileage and transportation costs incurred in connection with the two trips. Under FTR para. 2-10.4c separate trips to deliver or pick up a vehicle are made necessary only by reason of the employee having shipped the vehicle. Since the separate trips are not independent entitlements, but are incident to the transportation of the vehicle, reimbursement of the expenses of such trips depends on whether the employee was eligible to transport the vehicle at Government expense. Thus, where the employee is not eligible to ship his privately owned vehicle at Government expense but does so at his own expense, the separate trips to deliver and recover the vehicle are made for his own personal convenience and may not be paid by the Government. B-191180, April 7, 1978.

### H. STORAGE

#### Emergency storage

When an employee was authorized transportation of a POV at Government expense and the post is thereafter designated as within the zone from which the employee's immediate family and household goods should be evacuated, emergency storage of the employee's POV may be authorized under FTR para. 2-10.5.

#### Non-emergency storage

Where an employee died while driving to a training assignment the cost of towing and storing the decedent's vehicle may not be paid. An automobile is not baggage within the meaning of FTR para. 3-2.7. B-189826, April 7, 1978.

CHAPTER 12OVERSEAS ALLOWANCES

Subchapter III of chapter 59, title 5, United States Code, authorizes payment of overseas differentials and allowances, including three short-term allowances which are specifically designed to compensate employees for costs associated with relocations to or from overseas posts of duty. The three allowances are the temporary lodgings allowance (TLA), 5 U.S.C. § 5923(1); the foreign transfer allowance (FTA), 5 U.S.C. § 5924(2)(A); and the home service transfer allowance (HSTA), 5 U.S.C. § 5924(2)(B). The relevant statutory provisions are implemented by the Standardized Regulations (Government Civilians/Foreign Areas) (S.R.) at chapters 120, 240, and 250, respectively. In general these allowances are available to all civilian employees, including Foreign Service personnel, who are transferred to, from, or between overseas locations. Other differentials and allowances payable under 5 U.S.C. §§ 5921-5925 are discussed in Title I - Compensation, Civilian Personnel Law Manual.

A. TEMPORARY LODGING ALLOWANCE

The temporary lodging allowance payable under 5 U.S.C. § 5923(1), and the Standardized Regulations, chapter 120, is an allowance for quarters granted to an employee for the reasonable cost of temporary quarters for himself and his family for a period not in excess of 3 months after first arrival at a new post in a foreign area, or 1 month preceding final departure from a foreign area. It covers lodging, heat, light, fuel, and water; and excludes food, tips, and beverages.

EligibilityIncident to permanent assignment

A TLA is payable only in connection with a permanent transfer to or from a post in a foreign area. An employee whose permanent duty station was in New Mexico, was assigned to Munich, Germany, for 30 days. Since there was no record that his permanent duty station was changed to Munich, his claim for 30 days TLA was denied. Ordinarily, an employee on temporary

## RELOCATION

duty is authorized per diem in lieu of subsistence to reimburse him for the cost of meals and quarters. B-166668, June 3, 1969.

### Not payable prior to overseas departure

The TLA is payable only after the employee's arrival at his new station in a foreign area. An employee transferred from Washington, D.C., to Tokyo, Japan, may not be paid a TLA in connection with his and his family's 1-week stay in a Washington hotel awaiting delivery of passports before departure. B-177131, February 12, 1973, and B-162620, October 31, 1967. Note, however, that since 1975 lodging expenses for up to 10 days incurred in the United States prior to departure to a post in a foreign area are payable as part of the foreign transfer allowance, discussed infra.

### Determination of necessity

Before a TLA may be allowed preceding final departure from a foreign area, the head of the agency must determine that it is necessary for the employee to occupy temporary quarters. B-166379, April 10, 1969, and S.R. 124.1.

## Reimbursable expenses

### Rates

The maximum rates for TLA are prescribed in the Standardized Regulations and the effective date of an authorized change fixes the entitlement of an employee. S.R. 125 and 126. Although an employee was advised that the regulations were being revised to increase the rate of TLA payable at his particular post of assignment, and that he would be entitled to the higher rate, the amendment to the regulations was not effective until approximately 2-1/2 months after his arrival at the foreign post. Accordingly, his claim for the higher rate for that period was not payable. B-179901, August 2, 1974.

## RELOCATION

### Relationship to other allowances

#### Quarters allowance

The TLA and a living quarters allowance may not be paid to an employee for the same period of time. S.R. 112.

#### Government-furnished quarters

A TLA is not payable for any period during which Government-owned or Government-rented quarters are provided at the employee's post without charge. An employee arrived in Santo Domingo on August 24 and received a TLA until September 24. During this time she occupied a room on the sixth floor of a hotel. On September 24, she was advised to move to a Government-leased room on the fourth floor of the same hotel or lose her TLA. She did not move but indicated that she expected to move into permanent quarters shortly and that it would inconvenience her to move at that time. Her claim for a TLA for the period from September 24 to December 10 was denied. B-160195, October 27, 1966.

#### Temporary quarters subsistence expenses

Where the TLA and the temporary quarters subsistence expenses allowance payable under 5 U.S.C. § 5724a(a)(3) are for different purposes and would not be duplicative, an employee may receive both. Thus, when an employee is transferring from a foreign area to the United States, he may receive up to 30 days TLA prior to his departure from the foreign area, and then receive up to 30 days temporary quarters subsistence expenses under 5 U.S.C. § 5724a(a)(3) upon arrival in the United States. B-165392, November 1, 1968.

Where payment of a TLA and for temporary quarters subsistence expenses under 5 U.S.C. § 5724a(a)(3) would be duplicative, the employee may not be paid both. Where the employee's new post of duty is in the United States, he may be eligible for both a TLA and temporary quarters subsistence expenses under 5 U.S.C. § 5724a(a)(3) in connection with his and his family's occupancy of temporary lodgings in the foreign area prior to departure from the foreign post. In this situation, the temporary quarters subsistence expenses allowance otherwise payable must be reduced by the

## RELOCATION

amount of any payments received by the employee as a TLA. B-180286(1) and (2), July 2, 1975. The subject of temporary quarters subsistence expenses is discussed at chapter 6 of this title of the Civilian Personnel Law Manual.

### Per diem allowance

An employee was permanently transferred to Paris, France, and authorized 90 days TLA. During this 90-day period, while still occupying temporary lodgings, he performed temporary duty away from his station in Paris on several occasions, and received per diem for those days. The Standardized Regulations do not preclude payment of a TLA for those days for which he received per diem and his claim was, therefore, payable. B-186055, October 1, 1976.

## B. FOREIGN TRANSFER ALLOWANCE

The foreign transfer allowance, payable under 5 U.S.C. § 5924(2)(A) and the Standardized Regulations, chapter 240, is intended to partially reimburse an employee for expenses incurred in establishing himself and his family at a post in a foreign area. It is composed of three elements:

- a lump-sum miscellaneous expense portion which is intended to cover extraordinary expenses associated with the transfer, such as converting household appliances for operation on available utilities, etc.;
- a lump-sum wardrobe portion payable when transfers require relocation between different climates; and
- a subsistence expense portion to cover the cost of occupying temporary quarters in the United States prior to departure to a post in a foreign area. The subsistence expense portion is payable for up to 10 days before final departure, and includes the cost of meals and tips.

### Eligibility

#### Payable prior to overseas departure

Before 1975, the FTA did not provide for payment of temporary lodging expenses incurred in the United

## RELOCATION

States prior to departure for overseas assignments. 53 Comp. Gen. 861 (1964). Those expenses were not reimbursable under the authority of 5 U.S.C. § 5924(2) for payment of transfer allowances, or under the authority of 5 U.S.C. § 5923(1) for payment of a TLA. B-177631, February 12, 1973. In 1975, 5 U.S.C. § 5924(2)(A) was amended to extend the FTA to cover expenses, including costs for temporary lodgings, incurred in the United States prior to departure to a post of assignment in a foreign area.

### C. HOME SERVICE TRANSFER ALLOWANCE

The home service transfer allowance, payable under 5 U.S.C. § 5924(2)(B) and the Standardized Regulations, chapter 250, is similar to the FTA except that it is payable upon assignment to the United States, between assignments to foreign areas. To employees engaged in carrying out overseas programs, a transfer back to the United States is just another in a series of transfers. The unusual expenses incident thereto may be as great or greater than similar costs incurred in transferring between posts abroad. The HSTA is intended to partially compensate employees for these costs. Like the FTA, it is composed of three elements:

- a miscellaneous expense portion similar to that provided for by the FTA;
- a wardrobe expense portion similar to that provided for by the FTA; and
- a temporary lodging portion for lodging upon arrival in the United States for up to 30 calendar days.

### Eligibility

#### Between overseas assignments

A Department of Commerce employee was assigned overseas as a Foreign Service Reserve Officer under 22 U.S.C. § 922. At the end of that assignment he was returned to the United States and reinstated as a General Schedule employee of the Department of Commerce. The employee did not qualify for the HSTA because it was not anticipated that he would again be assigned overseas. B-188437, September 15, 1977.

## RELOCATION

Certification--A Department of Commerce employee was assigned as a Foreign Service Reserve officer to the position of Director of the United States Trade Center in Buenos Aires, Argentina. Upon completion of that assignment he returned to the United States and was reinstated as an employee of the Department of Commerce. It was expected that he would return overseas as Director or Deputy Director of another trade center after his United States assignment. Although the Department of State actually appoints the individual to the position of Director of a trade center, Commerce determines which individuals will be considered for Director positions. If a nominee is rejected, Commerce has the authority to appoint him to a Deputy Director position. Under the circumstances, the Department of Commerce may make the certification required for payment of the HSTA that it is anticipated that the employee will again be assigned to a post in a foreign area. B-180852, October 23, 1974.

### Home service transfer agreement

If an employee who has been paid an HSTA voluntarily separates within 6 months from the date of his entrance on duty at his post in the United States, he is required to refund the total amount of the HSTA received in accordance with Standardized Regulations, para. 254.2. Similarly, an employee's claim for HSTA was not payable where, 2-1/2 months after arrival in the United States, he terminated his employment in order to accept a position with another agency. B-184045, March 31, 1976.

### What constitutes temporary lodgings

#### House or apartment

Under the Standardized Regulations, para. 251.2c, a house or apartment may not be designated as "temporary lodging" unless the head of the agency determines that it was occupied on a temporary basis. 42 Comp. Gen. 637 (1963).

An employee moved into permanent quarters, but his household goods did not arrive from overseas until approximately 2 weeks later. He, therefore, rented furniture and claimed that cost as part of the lodging portion of his HSTA. The claim was denied since the

## RELOCATION

agency had determined that a house or apartment may not be designated as temporary if it later becomes permanent. B-158317, January 25, 1966.

### Long-term occupancy

Where an employee occupied student quarters for an entire academic year, those lodgings were not temporary, and he was not entitled to the lodging portion of the HSTA. B-146122, July 21, 1961.

## Reimbursable expenses

### Meals and transportation

Upon completion of an overseas assignment, an employee was transferred to the United States where he and his family resided with friends for approximately 4 months. In return for the accommodations provided by his friends, the employee agreed to buy food, liquor, and meals out for everyone. He also rented a car for local transportation. His claim for reimbursement was denied since meal costs and car rental are not reimbursable under the HSTA, and no amount was directly paid for lodgings. B-181891, July 16, 1975.

### Reasonableness of amounts claimed

The HSTA permits reimbursement only of reasonable expenses. S.R. 251.1a. When an employee resides with friends or relatives, the standard used to determine the reasonableness of amounts paid for lodgings under the HSTA is the same as that applied to temporary quarters subsistence expenses, discussed at chapter 6 of this title of the Civilian Personnel Law Manual and in 52 Comp. Gen. 78 (1972). That is, the amount that an employee may be reimbursed is not based on the cost for commercial lodging or the maximum amount allowable by regulation. Rather, the amount depends on the circumstances of each particular case, such as the number of individuals involved, the extra work performed by the relatives or friends, and the need to hire extra help. The burden is on the employee to provide sufficient information to permit a determination to be made. 57 Comp. Gen. 256 (1978).

## RELOCATION

### Relationship to other allowances

#### Temporary quarters subsistence expenses

There are some situations in which employees may not be entitled to either an HSTA or temporary quarters subsistence expenses under 5 U.S.C. § 5724a(a)(3). For example, by virtue of 7 U.S.C. § 1763 Department of Agriculture employees assigned to overseas positions are paid relocation and travel expenses under Volume 6 of the Foreign Affairs Manual. Upon return to the United States following an overseas assignment, since it is not generally anticipated that they will return overseas, those employees are not ordinarily entitled to an HSTA. Nevertheless, since their expenses of transfer are payable under title 22 of the United States Code, they are not entitled to temporary quarters subsistence expenses and miscellaneous expenses under 5 U.S.C. § 5724a. B-186548, February 28, 1977, and B-188437, September 15, 1977.

CHAPTER 13

RELOCATION OF FOREIGN SERVICE OFFICERS

AND OTHERS

A. AUTHORITY

Statutory authority

While the relocation expenses of most civilian employees are governed by 5 U.S.C. chapter 57 and the FTR, the Foreign Service Act of 1946, 22 U.S.C. §§ 1136 and 1138, gives the Secretary of State authority to prescribe regulations for payment of specified relocation expenses for Foreign Service Officers.

Regulations

The regulations implementing 22 U.S.C. §§ 1136 and 1138 are the Foreign Service Travel Regulations published in Volume 6 of the Foreign Affairs Manual (FAM). The FAM covers travel and relocation expenses for all Foreign Service Officers and employees and Foreign Service Reserve Officers of the Department of State, the Agency for International Development (AID), and the United States Information Agency (USIA). Its provisions extend to certain employees authorized allowances and benefits similar to those authorized by the Foreign Service Act of 1946.

Relationship to other allowances

FTR allowances

Generally, employees entitled to payment of relocation expenses under the FAM are not entitled to payment under the FTR. 6 FAM 112 and FTR para. 2-1.2b.

Three months after his position was converted from the civil service to the Foreign Service, a Foreign Service Reserve Officer was transferred from Washington, D.C., to Seattle, Washington. His travel orders authorized relocation expenses under the FTR on the erroneous assumption that he was still a civil service employee. Nevertheless, the Foreign Service Reserve Officer may only be reimbursed under the FAM for his and his family's travel and transportation and temporary storage of effects. His claim for expenses under

## RELOCATION

the FTR, including real estate transaction expenses, travel to seek residence quarters, miscellaneous expenses and temporary quarters subsistence expenses, may not be paid. B-188467, November 21, 1977.

### Standardized Regulations

Employees entitled to payments under the FAM may be eligible for the allowances payable under chapter 59 of title 5, and the Standardized Regulations, including the temporary lodging allowance, the foreign transfer allowance, and the home service transfer allowance. These three allowances are discussed at chapter 12 of this title of the Civilian Personnel Law Manual.

## B. ELIGIBILITY

### Generally

Certain individuals other than Foreign Service Officers and Foreign Service Reserve Officers of the Department of State, AID, and USIA are authorized allowances under the FAM.

### FAA employees

Under 49 U.S.C. § 1344(a) the Administrator of the FAA is authorized to pay allowances and benefits to FAA employees stationed in foreign countries to the same extent payment is authorized for Foreign Service Officers. Thus, an FAA employee transferred from Germany to New Jersey is entitled to relocation expenses under the FAM and may not be reimbursed expenses under the FTR, including expenses incurred in purchasing a new residence and temporary quarters subsistence expenses. B-177277, February 12, 1973, and May 3, 1973; and B-163639, March 27, 1968.

### Department of Agriculture employees

Under 7 U.S.C. § 1763, the Secretary of Agriculture may authorize payment to agricultural attaches and others of allowances and benefits similar to those paid under the Foreign Service Act. An employee of the Forest Service stationed in the United States and transferred to the International Forestry Division in Laos may not be reimbursed costs incurred in selling

## RELOCATION

his residence in the United States, or miscellaneous expenses, since costs incident to his transfer to Laos were payable under 22 U.S.C. § 1136, not chapter 57 of title 5. B-166181, April 1, 1969, and B-163658, April 4, 1968.

### VA employees

Veteran's Administration employees who are United States citizens assigned to the Philippines or Europe may be covered by the FAM. Under 38 U.S.C. § 235 they may be authorized payment of specific Foreign Service allowances and benefits, including expenses of travel and transportation of effects allowable under 22 U.S.C. § 1136 and transportation of automobiles allowable under 22 U.S.C. § 1138. B-140337, October 4, 1961. Section 235 provides, however, that its authority supplements allowances provided by titles 5 and 22.

### Appointments under 22 U.S.C. § 922

Under 22 U.S.C. § 922 the Secretary of State may assign employees from any Government agency as Foreign Service Reserve Officers for nonconsecutive periods of not more than 5 years. As a Foreign Service Reserve Officer appointed under this authority an employee's travel is governed by the FAM and he is not entitled to allowances and benefits authorized under 5 U.S.C. §§ 5724 and 5724(a) as implemented by the FTR. B-188437, September 15, 1977.

## Exceptions

### Intergovernmental Personnel Act assignments

Foreign Service personnel detailed under the Intergovernmental Personnel Act are entitled to the travel and transportation expenses payable under 5 U.S.C. § 3375(a) and pertinent portions of the FTR. B-190182, September 5, 1978.

### Family members

Volume 6 of the FAM defines the term "family" and establishes the requirements to be met for travel of relatives at Government expense. Generally, the term includes the spouse of the employee, minor or dependent children of the

## RELOCATION

employee or spouse, dependent parents of the employee or spouse, and minor or dependent sisters or brothers of the employee or spouse. It includes legal wards, stepchildren, stepsisters or stepbrothers, adopted children and adoptive sisters or brothers of either the employee or the spouse.

### Spouse

Divorced spouse--Under 6 FAM 126.2 an employee may be reimbursed for advance or return travel to the United States of a spouse who traveled to the employee's post as his dependent even though, because of divorce or annulment, the spouse ceased to be his dependent at the time he became eligible to travel. 52 Comp. Gen. 246 (1972).

Second spouse--Where an employee's first wife died while he was stationed in Australia and he remarried by long-distance telephone, there was no authority to pay the travel expenses of his second spouse for travel to his post in Australia, since travel of his first wife to Australia had already been paid for by the Government. B-153142, September 24, 1964.

### Parents

The travel expenses of an employee's dependent father may be paid. B-175019, March 6, 1972.

### Siblings

When a Foreign Service employee married in Vietnam, his wife's minor half brother and half sister became his dependents. Their travel expenses are payable in connection with the employee's transfer from Vietnam to the Somali Republic. However, additional expenses attributable to their indirect travel via Guam to become United States citizens by naturalization may not be paid. B-177594, February 7, 1973.

### Children

#### Children under 21--

##### Children of divorced employee

An employee may be reimbursed for return travel to the United States of minor children who

## RELOCATION

traveled to the employee's post as his dependents even if, because of divorce and grant of their custody to the former spouse, they have ceased to be his dependents as of the date the employee becomes eligible for travel. 52 Comp. Gen. 246 (1972), and 6 FAM 126.2.

Children over 21--Except for the special provisions at 6 FAM 126.3 for return travel to the United States, children must be under 21 years of age to be eligible for travel at Government expense. An employee was transferred from the United States to Brazil, and reported for duty there while his daughter was under the age of 21. Before his family could join him the employee was notified that he would be transferred to another country. Before the second transfer was accomplished his daughter reached the age of 21. Although the family had been ready and able to travel prior to the date the daughter reached the age of 21, she was over 21 at the time the travel was performed. Accordingly, she did not come within the definition of "family," and was not entitled to travel at Government expense. 33 Comp. Gen. 168 (1953).

Travel begun before a child's 21st birthday may be completed after such birthday if the delay for personal reasons is less than the 12 months authorized by 6 FAM 132.2-3. Thus, where an employee was transferred from Lima, Peru, to temporary duty in San Francisco, and then to New Dehli, India, his daughter could travel at Government expense even though she delayed her travel from San Francisco to New Dehli for over 6 months, and reached 21 years of age during that 6-month period. B-167274, November 2, 1970.

### C. TRAVEL OF EMPLOYEE AND FAMILY

Under 22 U.S.C. § 1136, Foreign Service Officers and employees and members of their families are entitled to actual and necessary expenses incurred in the performance of travel incident to appointment, transfer, and separation. As in the case of an employee covered by the FTR, an employee covered by the FAM may not be transferred to a place at which he is not expected to remain for an extended period of time for the purpose of increasing his entitlement to travel, transportation, or transfer allowances. B-166181, April 1, 1969.

## RELOCATION

### Incident to appointment, transfer, or separation

#### Travel for vacation purposes

An employee stationed in Libya was on vacation in Brussels when he was notified of transfer to Washington, D.C. His family did not return to Libya but traveled from Brussels directly to Washington, D.C. He may not be reimbursed the cost of his family's travel from Libya to Brussels since their travel to Brussels had been for purposes of vacationing and had no connection with the employee's transfer. B-157387, September 29, 1965, and B-175019, March 6, 1972.

#### Travel for personal reasons

Incident to transfer from Vietnam to the Somali Republic, a Foreign Service employee was authorized travel for his wife, whom he married in Vietnam, and his minor dependents, the step brother and step sister of his wife. Because the Somali Republic would not permit the children entry as nationals of the Republic of Vietnam, they traveled to the Somali Republic by way of Guam, where they became naturalized United States citizens. Their additional travel expenses for travel by way of Guam may not be paid since that portion of their trip was for personal reasons. B-177594, February 7, 1973.

### Constructive cost limitation

Employees and their families are entitled only to actual and necessary expenses incurred in the performance of official travel, and are expected to use the most direct and expeditious routes consistent with economy and reasonable comfort and safety. Any interruption or deviation in travel for personal convenience is not compensable. 6 FAM 114, 115, 131.2-132. The employee is entitled only to the constructive cost of direct travel by a usually traveled route. Constructive cost is defined at 6 FAM 117g as the total cost of per diem, travel or transportation, and incidental expenses which would have been incurred for travel by a usually traveled route. B-167525, December 27, 1968, and B-167933, November 13, 1969.

## RELOCATION

### Mode of travel

Constructive cost is based upon the mode of travel authorized, not the option of the traveler as to the mode of transportation actually used. B-183215, May 5, 1975. Where constructive cost is based upon travel by air, and lower family-plan air fares are available, the family-plan air fare should be used in the computation of constructive costs. B-171969, April 14, 1972.

### Rest stops

There is no entitlement to reimbursement for rest stops when travel is by an indirect or circuitous route. Accordingly, where reimbursement is computed on a constructive-cost basis, costs incident to rest stops may not be included even though a rest stop would have been authorized incident to direct travel by a usually traveled route. B-183998, January 26, 1976, and 57 Comp. Gen. 76 (1977).

### Travel for separation

Upon separation from the service, 22 U.S.C. § 1136 authorizes travel and transportation of effects to the place where the employee will reside. Under this authority, reimbursement may be made for travel and transportation costs on a constructive-cost basis to a place in the United States, its possessions or the Commonwealth of Puerto Rico, designated by the employee as his residence for service separation. B-175989, August 24, 1972, and B-181475, February 19, 1975.

### Time limitation

Under 6 FAM 132.2-2 other than domestic travel incident to separation is to be performed within 12 months or, if an extension is granted, within 18 months. Where an employee who retired in Iran remained in Iran for 7-1/2 years while privately employed, his expense for return travel may not be paid as incident to separation. The time for beginning travel may not be extended under the Department of State's authority to grant special relief. 57 Comp. Gen. 387 (1978).

## RELOCATION

### Employees on leave at separation

Where an employee is at his place of residence in the United States at the time of separation, having traveled there for leave or other personal reasons, the employee may not be reimbursed for the costs of his return travel, since they were personal at the time they were incurred and were not incurred incident to separation. B-71091, December 8, 1947, and B-167556, September 25, 1968.

In connection with educational leave granted in the interest of the Government but on a leave-without-pay basis, an employee stationed in Washington, D.C., traveled to California. A year and a half later, while in California at his residence for service separation, the employee resigned. Under the circumstances, he may be reimbursed for the cost of his travel to his place of residence in California. B-169735, June 26, 1970.

### Reemployment after separation

When travel incident to separation from an overseas location is followed by employment with another agency, the cost of returning the employee to his residence in the United States may be borne by the losing agency if the employee arrived in the United States prior to the date of his appointment with the gaining agency. An AID employee in Bangkok accepted a position with the Department of Agriculture in the Virgin Islands, but returned to his actual residence in Somerville, Massachusetts, while still an employee of AID. The employee may be reimbursed by AID for his travel to Somerville. Reimbursement by the Department of Agriculture for his travel from Somerville to the Virgin Islands may not exceed the cost of direct travel from Bangkok to the Virgin Islands, less the amount paid by AID for his travel from Bangkok to Somerville. B-163364, June 27, 1978.

A Department of State employee stationed in France separated to accept a position with the Army. Although he was authorized travel to Salt Lake City, his residence for service separation, he traveled directly to Washington, D.C., where he was separated by the Department of State and reemployed by the Army on April 3. His family stayed in Paris until June

## RELOCATION

when they traveled by way of Washington, D.C., and New York to Salt Lake City. Since the employee arrived in the United States prior to reappointment by the Army, costs incurred for his family's travel may be reimbursed not to exceed the cost of direct travel from France to Salt Lake City. B-148354, April 26, 1962.

### Erroneous separation

An employee of the Department of State stationed in Montreal, Canada, was erroneously separated and returned to California, his residence for service separation. Upon reinstatement, having returned to Montreal, he was transferred to Washington, D.C., with home leave and 5 days consultation authorized. The expenses of separation travel to California were properly paid and the employee may, in addition, be reimbursed for the home-leave travel authorized upon reinstatement as well as his travel to Washington, D.C., to appeal the proposed separation. B-187989, August 18, 1977.

### Transportation costs

#### Travel by POV

When the mode of travel authorized is a privately owned vehicle, mileage is determined by standard highway guides or speedometer readings. Any substantial deviation from distances in the standard mileage guides must be adequately explained, or that portion of the travel is not reimbursable. B-161662, November 8, 1967.

#### Travel by United States vessel

When travel is performed by vessel, 46 U.S.C. § 1241(a) requires the use of American flag ships in the absence of a showing of necessity for travel aboard a foreign vessel. This requirement is discussed more generally in the Transportation Law Manual at Chapter 4.

#### Travel by United States air carriers

Under 49 U.S.C. § 1517 and the guidelines set forth at B-138942, March 12, 1976, Government-financed commercial air transportation is required to be performed by

## RELOCATION

certificated United States air carriers to the extent such service is available. This requirement, further implemented at 6 FAM 134, is discussed in Title III, Travel Expenses, Civilian Personnel Law Manual.

Upon transfer to the United States from a post in Africa, an employee's family traveled by foreign air carrier from Accra, Ghana, to Frankfurt, Germany, and completed travel from Frankfurt to the United States aboard United States air carriers. The employee is liable for the 15 percent amount by which the fare via Frankfurt exceeds the fare by the usually traveled route. Since travel via Frankfurt involved United States air carrier service for 4,182 of 7,450 miles traveled and since proper routing via Dakar would have involved travel of 4,143 of 5,610 air miles by United States air carriers, the employee is liable for the loss of United States carrier revenues computed in accordance with the formula set forth at 56 Comp. Gen. 209 (1977). 57 Comp. Gen. 76 (1977).

### Per diem

#### No per diem at permanent station

A Department of the Interior employee detailed to AID was assigned to temporary duty in Brazil. While in Brazil, he was converted to Foreign Service Officer status and Brazil was designated his permanent duty station. The employee may not be paid per diem for the period after the effective date of his conversion to the Foreign Service, since at that date Brazil became his permanent station and per diem is not payable to an employee at his permanent duty station. B-162063, August 15, 1967, and B-173271, September 9, 1971.

#### Per diem for consultation

Consultation en route--Under 6 FAM 126.4 per diem may be paid for an employee's family accompanying him for a period of temporary duty en route to his new post. An employee authorized 5 days of consultation in Washington, D.C., en route to his new assignment in Santo Domingo may be paid per diem for his pregnant wife even though she did not accompany him to Washington, D.C., but stayed in Miami at the advice of Embassy medical personnel. Her per diem may be approved under

## RELOCATION

the authority of 6 FAM 113 for "emergency, unusual and additional payments." B-183000, June 3, 1975.

Consultation at new station--An employee authorized travel to Washington, D.C., for consultation and separation reported for duty there on June 15. On June 30 his orders were amended changing the purpose of his travel from separation to transfer to Washington, D.C. Under 6 FAM 156.6-2, he may be paid per diem from June 15 to June 30. B-183998, January 26, 1976.

Consultation incident to separation--A Foreign Service officer stationed in Naples, Italy, was authorized travel from Naples to Washington, D.C., for retirement purposes, with consultation in Washington through the period ending December 31. His claim for per diem for December 25 to December 31 for temporary duty in Washington was denied under 6 FAM 156.6-1 since he had designated the Washington, D.C., area as his place of residence for retirement purposes. 29 Comp. Gen. 453 (1950).

### Per diem for delay

An employee traveling with his family from France to Guatemala arrived in New York in the middle of the Christmas rush. Additional per diem for the period of their delayed travel for December 21 to 24 was allowed since air transportation out of New York was unavailable due to holiday travel. B-13739, February 12, 1959, and 6 FAM 156. An employee traveling from Reykjavik, Iceland, to Washington, D.C., was allowed 1 day per diem for a delay in New York necessary to reroute shipment of his household effects. B-144916, June 19, 1964.

## D. TRANSPORTATION AND STORAGE OF EFFECTS

Transportation of furniture and household and personal effects at Government expense is authorized incident to appointment, transfer, and separation under 22 U.S.C. § 1146. The maximum weight limits set forth at 6 FAM 162.2 do not include the weight of privately owned vehicles (section 165), excess and unaccompanied baggage (sections 147.1 and 147.2), shipment of layettes (section 147.3), allowance for additional consumables (section 162.5), and

## RELOCATION

allowances for additional effects due to representational responsibilities (section 162.4).

### Items included in effects

#### Boats and planes

Transportation of an airplane and a sailboat may not be paid under the authority for transportation of personal effects. 33 Comp. Gen. 61 (1953). Since an outboard motor is an accessory to a boat, and boats are excluded, outboard motors may not be transported at Government expense. B-142291, April 1, 1960.

#### Effects acquired en route

An employee who resigned effective August 17 could not be reimbursed for the cost of transporting new furniture received by the carrier in Denmark on October 20 in the absence of evidence establishing that the employee acquired title to the furniture while still in an active-duty status. B-164983, August 26, 1968, and 6 FAM 168.4

### Weight limitation

#### Applicable weight

Error in orders--An employee's travel orders authorized shipment of 12,000 pounds of household furnishings. After shipment to his new station was completed, he received a bill for \$920.95 in excess shipping costs, and was informed that the correct shipping weight allowed for his grade was only 10,000 pounds. Although his original authorization was erroneous, the employee was responsible for the costs related to the excess weight over that actually permitted by law and regulation. B-173014, October 1, 1971, and B-161119, March 4, 1968.

Successive transfers--An employee transferred from the Philippines to California was authorized to ship 4,972 pounds of effects. Two months later he was transferred to Washington, D.C. He shipped his household goods, weighing 9,335 pounds, directly from the Philippines to Washington. Successive transfers do not increase the weight of effects that an employee may ship, but where there has been no shipment of

## RELOCATION

household effects to the intermediate station, the shipment is treated as if there had been a direct transfer from the first to the last duty station. Accordingly, the authorized shipment to Washington was limited to 4,972 pounds. B-180519, October 7, 1974.

### Liability for excess weight

Where an employee ships effects in excess of the maximum weight authorized, the employee is responsible for the cost of shipping the excess. B-173014, October 1, 1971, and B-180519, October 7, 1974.

An employee arranged for shipment of unaccompanied baggage by air freight, and reported that he had been assured by the air carrier that they would not use a type of heavy wooden container which weighed approximately 400 pounds. The air carrier, which billed the Government, asserted that the heavy container had been authorized, and that type of container was in fact used. The employee is liable for the cost of the excess weight of the shipment. B-188911, June 12, 1978.

No offset for damages--Even where shipping arrangements are made by the Government, an employee's liability to the Government for the cost of shipping excess weight cannot be offset by his claim for damage to his effects occurring in transit. B-154953, August 28, 1964. The subject of loss and damage claims is discussed in the Transportation Law Manual.

### Origin and destination of shipment

#### Shipment upon transfer

There is no authority to ship goods beyond the employee's duty station, except where authorized for non-temporary storage. B-165950, February 18, 1969.

#### Shipment upon separation

A USIA employee stationed in Laos designated Florida as her service separation residence, and completed travel to Florida within the prescribed time limit. She requested that 400 pounds of household effects be shipped there and that the remaining 2,200 pounds be shipped to Spain on a constructive-cost basis. She

## RELOCATION

was entitled to payment of actual costs of shipment of the 400 pounds to Florida, to payment on a constructive-cost basis for shipment of 2,200 pounds to Spain, and to her travel expenses to Florida under 6 FAM 125.9. An AID policy providing that upon separation an employee is only entitled to travel to the place where the bulk of his effects are shipped does not defeat her entitlement to travel and transportation to her designated residence. B-181475, February 19, 1975.

Incident to separation from a position in Washington, D.C., an employee may not be reimbursed for transportation of effects from storage in Landover, Maryland, to his retirement residence in Arlington, Virginia. Movement of effects within the same metropolitan area, including movement from storage is not considered shipment as contemplated by law and regulation, but is a personal expense. B-181585, August 15, 1974.

### Transportation by United States vessels

Under 46 U.S.C. § 1241(a) vessels of United States registry are required to be used for transportation of effects in the absence of a showing of necessity for shipment by foreign vessel. This requirement is discussed generally in the Transportation Law Manual at chapter 4.

### Storage

#### Temporary storage

Under 6 FAM 175, temporary storage of effects may be authorized for not to exceed 3 months from the date the employee arrives at his new post or establishes residence quarters, whichever is sooner.

#### Time limitation--

##### Maximum of 3 months

Upon transfer to Washington, D.C., on October 9, an employee underwent medical treatment in Washington, D.C., until January 5. From then until February 12, she was on leave for medically indicated rest in Connecticut. She may not be paid for temporary storage for the period from

## RELOCATION

January 10 to February 21, since storage beyond 3 months provided for in 6 FAM 175.2a was not authorized. B-165950, February 18, 1969.

### Beginning of storage

An employee stationed in Brussels was scheduled for home leave and transfer to Leopoldville, Republic of the Congo. In order to give 3 months notice to her landlord and insure early departure from Brussels, she had her goods transferred to storage in September and moved into a hotel in Brussels. She remained there until her tour in Brussels ended in January. Her claim for storage of household effects from September through January was denied since there was no authority to pay for storage prior to the date the employee departs from her last post. B-158272, January 25, 1966.

### Continuing storage

An employee authorized continuing storage of effects weighing 6,610 pounds did not store them near her old duty station in Montana but shipped them to Minnesota where they were stored with relatives at no cost. The employee may be reimbursed the cost of shipping the effects to Minnesota in an amount not to exceed the cost of storage. B-161631, August 4, 1967.

## E. TRANSPORTATION AND STORAGE OF POVs

Authority to transport POVs is found at 22 U.S.C. § 1138 and 6 FAM 165.

### Ownership

After transfer from Panama to Port Louis, an employee authorized her car to be sold in Panama and ordered a new car to be shipped from Japan. Shipping charges from Tokyo to Port Louis may not be reimbursed since the employee did not own the car at the time it was shipped. B-176295, August 4, 1972. Generally, when ordering from a dealer, title to a vehicle passes to the purchaser when the car is delivered to him and not when the car leaves the factory. B-175176, March 31, 1972, and B-156583, May 5, 1965. Where an employee transferred to Tehran, Iran, ordered a new BMW from a dealer in Tehran, the cost of shipping the car from

## RELOCATION

Germany to Tehran was reimbursed on the basis of an Iranian entry permit showing the employee as owner and waiving customs duty on the basis that the vehicle was owned by an embassy employee. B-180509, June 11, 1974, and October 25, 1974.

### Replacement vehicles

An employee who shipped his POV at Government expense in October 1963, incident to transfer to Germany, ordered a new vehicle which arrived in April 1967. The employee could not be reimbursed his shipping costs based on approval of shipment in February 1968 since 4 years had not elapsed between shipment of the two vehicles and advance approval had not otherwise been granted under the authority of 6 FAM 165.3 for emergency replacement. B-163658, April 4, 1968.

### Transportation by United States vessel

Under 46 U.S.C. § 1241(a) vessels of United States registry are required to be used for transportation of vehicles in the absence of a showing of necessity for shipment by foreign vessel. This requirement is discussed more generally in the Transportation Law Manual at chapter 4. An employee may not be reimbursed the cost of shipping his POV from Chicago to Italy by foreign vessel when it could have been transported by rail to Baltimore and shipped from there to Italy by American flag vessel at an additional cost of \$200. B-140328, September 16, 1959, and October 26, 1960.

### Storage

Where an employee's POV was stored under arrangements made by the Government and the employee, for personal reasons, had the car removed to storage in another facility, costs of storage at the second facility may not be reimbursed. B-180142, May 17, 1974, and May 29, 1975.

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