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Title IV— Relocation

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Part	Order No.	Availability
Introduction	GPO GAO/OGC/89-7	Fall 1989
Title I—Compensation	GPO xxxxx GAO/OGC/xx-x	Fall 1990
Title II—Leave	GPO xxxxx GAO/OGC/xx-x	Fall 1990
Title III—Travel	GPO GAO/OGC/89-8	Fall 1989
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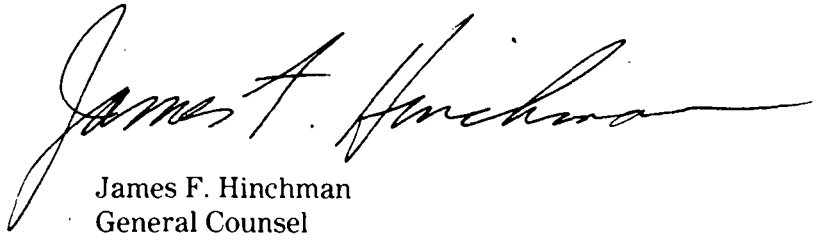
Foreword

This is Title IV of the Third Edition of the Civilian Personnel Law Manual. The Manual is prepared by the Office of General Counsel, U.S. General Accounting Office (GAO). The purpose of the Manual is to present the legal entitlements of federal employees, including an overview of the statutes and regulations which give rise to those entitlements, in the following areas: Title I—Compensation, Title II—Leave, Title III—Travel, and Title IV—Relocation. Revisions of Titles III and IV are being issued now. Revisions of Titles I and II will be issued at a later date.

This edition of the Civilian Personnel Law Manual is being published in loose leaf style with the introduction and four titles separately wrapped. The Manual generally reflects decisions of this Office issued through September 30, 1988. The material in the Manual is, of course, subject to revision by statute or through the decisionmaking process. Accordingly, this Manual should be considered as a general guide only and should not be cited as an independent source of legal authority. This Manual supersedes the Second Edition of the Civilian Personnel Law Manual which was published in June 1983 and the supplements published in 1984, 1985, and 1986.



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Abbreviations

AFB	Air Force Base
AID	Agency for International Development
AWOL	absent without leave
BAQ	basic allowance for quarters
BAS	basic allowance for subsistence
Canal Zone	former Panama Canal Zone
'certain areas in Panama'	the areas and installations in the Republic of Panama made available to the United States by various agreements
C.F.R.	Code of Federal Regulations
ch.	chapter
Comp. Gen.	Decisions of the Comptroller General of the United States (published volumes)
CPLM	Civilian Personnel Law Manual
CSC	former Civil Service Commission
DEA	Drug Enforcement Administration
DOD	Department of Defense
DOE	Department of Energy
DOT	Department of Transportation
FAA	Federal Aviation Administration
FAM	Foreign Affairs Manual (Volume 6 concerns General Services)
FBI	Federal Bureau of Investigation
FEC	Federal Elections Commission
Fed. Reg.	Federal Register
FHA	Federal Housing Administration
FPM	Federal Personnel Manual
FPMR	Federal Property Management Regulation

FSTR	Foreign Service Travel Regulations
FTA	foreign transfer allowance
FTR	Federal Travel Regulations
GAO	General Accounting Office
GAO	(in a citation) - General Accounting Office Policy and Procedures Manual for the Guidance of Federal Agencies
GBL	government bill of lading
GSA	General Services Administration
HEW	former Department of Health, Education, and Welfare
HHG	household goods
HHS	Department of Health and Human Services
HSTA	home service transfer allowance
HUD	Department of Housing and Urban Development
ICC	Interstate Commerce Commission
IPA	Intergovernmental Personnel Act
IRS	Internal Revenue Service
JTR	Joint Travel Regulations (Volume 2 concerns civilian employees of DOD)
LQA	living quarters allowance
LWOP	leave without pay
NCUA	National Credit Union Administration
NSA	National Security Agency
OEO	Office of Equal Opportunity
OMB	Office of Management and Budget
OPM	Office of Personnel Management
para.	paragraph
paras.	paragraphs
PCS	permanent change of station
PDY	permanent duty
PHS	Public Health Service
POV	privately-owned vehicle
Pub. L. No.	Public Law Number
RIF	reduction-in-force
RIT	Relocation Income Tax
RITA	Relocation Income Tax Allowance
R&R	rest and recuperation
SES	Senior Executive Service
SF	Standard Form
SGTR	Standardized Government Travel Regulations
S.R.	Standardized Regulations (Government Civilians/ Foreign Areas)
Stat.	Statutes at Large

State	Department of State
TDY	temporary duty
TLA	temporary lodgings allowance
TQSE	temporary quarters subsistence expenses
TVA	Tennessee Valley Authority
U.S.C.	United States Code
USIA	United States Information Agency
VA	Veterans Administration
YMCA	Young Men's Christian Association
§	section
§§	sections

Authority for Travel

A. Relocation Expenses Under 5 U.S.C. §§ 5721-5733

Statutory Authorities

The principal authority for reimbursement of expenses related to the relocation of civilian officers and employees is contained at Subchapter II, Chapter 57, of Title 5 of the U.S.C. Based upon the particular circumstances of the employee's assignment, that subchapter authorizes payment of specific items of expense for relocating an employee, or a new appointee:

- upon initial appointment to an overseas assignment (5 U.S.C. § 5722),
- upon initial appointment to a position in the United States for which a manpower shortage exists (5 U.S.C. § 5723),
- upon assignment of a student trainee to a manpower-shortage position within the United States following completion of college work,
- a new appointee to the Senior Executive Service (5 U.S.C. § 5723),
- upon transfer from one official station to another (5 U.S.C. §§ 5724, 5724a, 5724b, 5724c, 5725, 5726, and 5727); also see § 5734 (Postal Service),
- upon return to his place of actual residence for separation on completion of an overseas assignment (5 U.S.C. §§ 5722, 5724(d), 5727, and 5729),
- upon reemployment within 1 year of an employee separated by a RIF (5 U.S.C. §§ 5724, 5724a, 5724a(c), 5725, 5726(b), and 5727),
- a Presidential appointee whose rate of pay equals or exceeds the minimum pay of grade GS-16, (5 U.S.C. 5723(a)(1)).

Statutory Limitations on Claims

On October 26, 1973, a civilian technician employed by the Vermont Army National Guard filed a claim with his unit seeking reimbursement for real estate expenses incurred incident to his PCS on May 31, 1970. On December 20, 1973, the unit advised him that it denied the claim. The claimant took no further action until December 11, 1979, when he refiled the claim with the unit. On May 6, 1981, after administrative processing, the claim was received at GAO. The claim was not allowed, since the Act of October 9, 1940, as amended, 31 U.S.C. § 71a, barred consideration of claims received in GAO more than 6 years after the date the claim first accrues. Filing the claim with the administrative office concerned does not toll the running of the statute.

We reached a different result where an employee was mistakenly returned to California from Vietnam in 1973 for separation. About 1-1/2 months later he was reemployed in Washington state. After a timely appeal of the separation, the CSC, in 1978, found that he had been improperly separated. The separation action was cancelled and he was retroactively shown in a pay status during the 1/2 month interim period. His claim for relocation expenses from California to Washington did not accrue until the CSC determination was made; therefore, it was not barred by the 6-year time limit on filing claims when filed in GAO in 1980. 61 Comp. Gen. 57 (1981).

Special Notice: GAO's claims regulations in 4 C.F.R. Part 31 have been amended effective June 15, 1989, to provide that claims received by an agency within the 6-year period shall be treated as timely filed for purposes of the Barring Act, 31 U.S.C. § 3702(b). See 54 Fed. Reg. 25437, June 15, 1989.

Previously, claims filed with any other government agency did not satisfy the requirements of the act. B-203344, August 3, 1981, and B-195564, September 10, 1979. This is so even though the delay at the agency level was the fault of the agency and not that of the employee. B-200699, March 2, 1981.

Waiver Statute and Erroneous Overpayment

It is a fundamental and long-established rule of law that a person receiving money erroneously paid by a government agency or official acquires no right to that money and is liable to make restitution. However, by special statutory authorization of December 28, 1985, Pub. L. No. 99-224, the claim against a federal employee arising out of an erroneous payment of travel, transportation and relocation expenses may be waived, if collection of the erroneous payment "would be against equity and good conscience and not in the best interests of the United States." 5 U.S.C. § 5584. The waiver statute does not authorize waiver of relocation expenses in cases when no payment has been made. Rebecca T. Zagriniski, 66 Comp. Gen. 642 (1987); Rajindar N. Khanna, 67 Comp. Gen. 493 (1988).

1. Regulations

a. Executive order

Executive Order 11609, 3 C.F.R. 586 (1971-1975 Compilation) and the Travel Expense Amendments Act of 1975, Pub. L. No. 94-22, 89

Stat. 84, authorized the Administrator of GSA to prescribe the regulations necessary to administer the laws governing travel and relocation allowances and entitlements for federal employees. Under this authority, the GSA regulations implementing 5 U.S.C., Subchapter II of Chapter 57, are contained in Chapter 2 of the FTR.

b. GSA regulations

GSA has made numerous changes to the Federal Travel Regulations since the issuance of the basic FTR in May 1973 which was transmitted by GSA Bulletin FPMR A-40. The September 28, 1981, revised edition of the FTR consolidated all travel regulations then in effect by incorporating in one basic publication the provisions of the May 1973 edition and its supplements. Changes thereafter have continued to be published in GSA Bulletin FPMR A-40.

c. Agency regulations

Many departments and agencies have issued regulations further implementing the FTR. The most widely used of these is 2 JTR, applicable to travel by civilian officers and employees of DOD.

d. Effective dates

An agency questioned whether the effective date of increase in the rate for temporary quarters reimbursement occurred when a statute raised maximum per diem rates or when regulations raised per diem rates for TDY travel. Since rates for temporary quarters reimbursement are pegged on statutory maximum per diem rates, the increase is effective on the date the statute is amended. B-201321, June 10, 1981.

2. Employees covered

a. Generally

Employees who may be paid the relocation expenses provided for by Subchapter II, Chapter 57, of 5 U.S.C., are specified at 5 U.S.C. § 5721 and include employees of executive agencies, military departments, courts of the U.S., the Administration Office of the United States Courts, the Library of Congress, the Botanic Garden, the

Government Printing Office, and the government of the District of Columbia. The following are included:

b. 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 PDY station of an employee without a break in service and not to the tenure of his appointment. The fact that, before his 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.

c. 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).

d. New appointees to SES positions

Like new appointees to manpower-shortage positions new appointees to SES positions are entitled to travel expenses and transportation of their immediate families and their HHG and personal effects. 5 U.S.C. § 5723(a). An agency may pay the travel and transportation expenses authorized, even if the individual selected for a manpower-shortage or SES position has not been appointed at the time of travel. 5 U.S.C. § 5723(c). Although an individual selected to the SES may receive travel and transportation expenses even if not appointed at the time of travel, the individual's entitlement does not vest by virtue of his selection or authorization for travel. Since the statute authorizes travel and transportation expenses for "new appointees to the Senior Executive Service," entitlement vests only upon actual appointment. Indeed, the regulations implementing 5 U.S.C. § 5723 provide that travel and transportation expenses are available for new appointees to the SES, not selectees. FTR para. 2-1. 5f(1)(2-1). Thus, where an individual selected for an SES position incurred relocation expenses prior to his appointment, he may not be reimbursed these expenses when ultimately he was appointed to a grade 15, and not an SES, position. B-206048, June 28, 1982.

e. Consultant in manpower-shortage position

Where an individual consultant's services were established as an employer-employee relationship with the government rather than an independent contractor relationship, his entitlement to travel and relocation expenses is that of a government employee. Where the consultant was apparently employed in a manpower-shortage position, he may be allowed reimbursement under 5 U.S.C. § 5723 for his travel expenses and for the transportation of his household goods and dependents from his residence at the time of his initial employment to his duty station, but not for return to his residence upon completion of the contract. Lynn Francis Jones, 63 Comp. Gen. 507 (1984).

f. Employees assigned under President's Executive Exchange Program

Employees relocated under the President's Executive Interchange Program established pursuant to Executive Order 11451, 3 C.F.R. 101 (1969)—now the President's Executive Exchange Program under Executive Order 12136, 3 C.F.R. 387 (1980)—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).

g. Employees assigned to AID

An Interior employee completed an overseas assignment with AID and was transferred by Interior to Sandusky, Ohio. Since the employee did not receive a Foreign Service appointment while serving with AID, his entitlements should be computed under 5 U.S.C. §§ 5724 and 5724a, and the FTR. B-192199, January 31, 1979.

h. Civilian employees of DOD

A civilian employee of the Army is entitled to an allowance for the shipment of HHG incident to a change in her PDY station even though the husband, a member of a uniformed service, had shipped other HHG in connection with his PCS at an earlier date. B-200841, November 19, 1981. See also CPLM Title IV, Chapter 9.

i. Employees of the National Credit Union Administration

The National Credit Union Administration (NCUA) is an independent agency within the executive branch of the government. Hence, NCUA is an "Executive agency" within the meaning of 5 U.S.C. § 5721(1) (1976), and the entitlement of its employees to relocation expenses is governed by 5 U.S.C. Chapter 57, Subchapter II. Edgar T. Callahan, 63 Comp. Gen 31 (1983).

j. New appointee—manpower-shortage position

An employee appointed to a manpower-shortage position was not issued orders authorizing travel and transportation allowances to his first duty station but was advised that family travel and transportation of household goods had to be accomplished within 1 year. Since these entitlements are in accordance with the statute and regulations, original "after travel" travel orders may be issued within the 2-year period authorized by the FTR's unless there is a mandatory agency regulation limiting travel and transportation to 1 year after the appointment. Dr. Chih-Wu Su, B-217723, August 12, 1985.

k. Employees improperly appointed

An individual employed by the TVA applied for a position with Interior. He was appointed on the basis of Interior's incorrect determination that he had 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 an appointment, and he may retain reimbursement for his relocation expenses, since they were incurred pursuant to a travel authorization and in anticipation of his actual appointment which was subsequently approved. B-184041, March 2, 1976. See also CPLM Title I, Chapter 2.

l. Employee's citizenship

(1) Noncitizens outside U.S.—A non-U.S. 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 U.S. for duty at another location. 54 Comp. Gen. 814 (1975).

(2) Intent to relinquish citizenship—An employee appointed to a position with HEW in Ontario, Canada, applied for permanent Canadian citizenship shortly after arrival at his duty station. He may be reimbursed for the movement of his HHG in connection with his assignment to duty in Canada, notwithstanding his intent to relinquish his U.S. citizenship, since he was a citizen at the time of the move and an employee of the U.S. government. B-180967, November 14, 1974.

m. Reemployment following transfer to international organization

A civilian employee of the Navy was separated from his position in San Francisco for transfer to an international organization in Geneva, Switzerland, under 5 U.S.C. § 3581, et seq. Incident to his reemployment with the Navy pursuant to 5 U.S.C. § 3582(b), he was transferred from San Francisco to Kittery, Maine. The employee may be reimbursed for his relocation expenses under 5 U.S.C. §§ 5724 and 5724a, and specifically for the expense of his residence purchased in Maine. See B-205352, June 10, 1982 and B-196294, June 1, 1981.

3. Certain employees not covered

a. Generally

As stated at 5 U.S.C. § 5721(1) the provisions of 5 U.S.C. 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 VA 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).

b. Employees paid under Title 37, U.S.C.

See 51 Comp. Gen. 303 (1971), holding that military personnel detailed to DOT to serve as "Sky Marshals" are subject to military laws and regulations governing pay and allowances.

A commissioned officer in the Public Health Service (PHS) who was separated from the officer corps and recruited to fill a Veterans Administration manpower-shortage position in California, seeks reimbursement of real estate expenses for sale of his old residence

in Maryland on separation and purchase of a new residence in California. As a member of a uniformed service, his pay and allowances were prescribed by Title 37, U.S. Code, which does not provide for such reimbursement. Reimbursement provisions of 5 U.S.C. §§ 5721-5733 are applicable only to civilian employees. Since the purported transfer was a separation from a uniformed service followed by a subsequent new appointment, there is no authority to reimburse the individual's real estate expenses. Albert B. Deisseroth, 62 Comp. Gen. 462 (1983).

c. 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 section 18 of the Administrative Expenses Act of 1946, Chapter 744, 60 Stat. 806, 811. 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.

d. 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 the 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.

e. Deceased new appointee

A person newly appointed to the federal service who has not yet entered on duty does not have the status of a federal "employee." Consequently, relocation allowances credited to the account of a deceased Veterans Administration appointee are payable to his estate in the manner prescribed for deceased public creditors generally, and may not instead be paid directly to his survivors in the manner otherwise specifically prescribed by statute for settling the accounts of deceased employees. Michael Longo, M.D., 65 Comp. Gen. 237 (1986).

f. Employees transferred to international organizations

Under the Federal Employees International Organization Act, as amended, 5 U.S.C. § 3582, an employee of the OEO 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 U.S. 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 U.S. government and is not entitled to reimbursement of travel, transportation, and subsistence expenses under 5 U.S.C. §§ 5701-5751. Therefore, the employee's claim was disallowed. B-181853, August 23, 1976.

g. 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 CPLM Title IV, Chapter 9, the expenses of transporting the employee's HHG 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.

h. Employees of a Federal Reserve Bank

An employee of the Federal Reserve Bank of Boston transferred to a position with the FEC in Washington, D.C., and was authorized and reimbursed relocation expenses under 5 U.S.C. §§ 5724 and 5724a. The amount reimbursed represents an erroneous payment of relocation expenses. The employee is not entitled to relocation expenses under 5 U.S.C. §§ 5724 and 5724a, since those sections restrict reimbursement to an employee of an agency, and the Federal Reserve Bank of Boston is not an "agency" as defined in 5 U.S.C. § 5721(1) and 5 U.S.C. § 105. B-197495, March 18, 1980.

i. Break in service

A former employee of the IRS reemployed by his agency within one year at a different geographical location was erroneously authorized transportation expenses and the government paid the costs of transporting the employee's HHG to the new duty station. Since at the time of his reemployment he was not an employee of a federal agency; he was not separated from the IRS by reason of a RIF or transfer of function under 5 U.S.C. § 5724a; and he was not an appointee to a manpower-shortage position under 5 U.S.C. § 5723; the employee had to repay the amount that he had erroneously been paid. B-201453, September 29, 1981.

j. Presidential appointee

The Chairman of the National Credit Union Administration (NCUA) was reimbursed for relocation expenses he incurred following his appointment to that position in 1981. Prior decision that Chairman was not entitled to such expenses is affirmed because: (1) at the time of the Chairman's appointment, there was no authority in 5 U.S.C. Chapter 57, Subchapter II, for payment of relocation expenses to Presidential appointees; (2) the NCUA's operating fund constitutes an appropriated fund, subject to statutory restrictions on the use of such funds; (3) it is not material that the NCUA's Central Liquidity Facility (CLF) reimbursed NCUA for the Chairman's relocation expenses, since the Chairman is an employee of NCUA, not CLF; and (4) the government cannot be bound by erroneous advice provided to the Chairman by NCUA officials. Edgar T. Callahan, 63 Comp. Gen. 31 (1983), affirmed on reconsideration, B-210657, May 25, 1984.

k. Reemployment more than 1 year after RIF

Employee voluntarily resigned after being notified that he was to be separated in a reduction-in-force (RIF). Approximately 15 months later he was reemployed by a different agency in a different location. Since he did not meet statutory requirement of 5 U.S.C. § 5724a(c) (1982) that he be reemployed within 1 year of separation for eligibility purposes following a RIF, he may not be reimbursed his relocation expenses. Neither agency regulation nor agency official can waive or modify statutorily imposed 1-year limit. Jay L. Haas, B-215154, November 29, 1984.

1. Employee of a nonappropriated fund activity

Relocation expenses for changing duty stations are reimbursable only if both the receiving and losing agencies meet the definition of "agency" under 5 U.S.C. § 5721(1). Since a nonappropriated fund activity is not such an "agency," its employee is not entitled to relocation expenses upon transfer to a civilian position with the U.S. Army. John E. Seagriff, B-215398, October 30, 1984.

B. Relocation Expenses Under the Training Act

1. Statutory authority

The authority for paying the expenses of training is found in 5 U.S.C. § 4109, which provides that the head of an agency may authorize payment of all or a part of the necessary costs of travel and per diem to persons undergoing training. In the alternative, the cost of the transportation of the employee's immediate family, HHG and personal effects, packing, crating, temporarily storing, drying, and unpacking are authorized to be paid, but only when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training. It has been the position of this Office that the travel expenses payable in connection with training assignments are limited strictly to those expenses specifically stated in the training statute. 58 Comp. Gen. 253 (1979). Reconsideration was denied in B-193197, January 10, 1980, where we held that agencies may not authorize reimbursement to an employee sent overseas on a 2-year training assignment for nontemporary storage of HHG and the expenses of shipping a POV, since the legislative history of 5 U.S.C. § 4109 indicates the congressional intent not to include such authority. Payment of such items requires legislation.

2. Long-term training

Our decision 60 Comp. Gen. 478 (1981) in which the Army asked a series of entitlement questions concerning an Army employee stationed in Germany and assigned to long-term training in the U.S. we held that the employee:

- is not entitled to full PCS entitlements until the training is completed and he is transferred to a new PDY station.
- may have his orders retroactively amended to authorize per diem where the cost comparison required by statute was not made prior

to issuing orders authorizing the transportation of dependents and HHG.

- may have orders issued authorizing the advance return of dependents and HHG. Cost studies need not be made when it is the agency's interest not to allow dependent travel and the transportation of HHG incident to the training assignment.
- (if he is not expected to return to an overseas assignment after training in the U.S.) may be reimbursed the transportation costs for shipping a POV by American flag vessel on a GBL after the training is completed, the agreement is signed and the employee is assigned to a new PDY station.
- may be reimbursed the constructive cost of transportation from his old to his new duty station, less the cost of transportation from his old duty station to his place of residence.
- would lose his overseas post allowances when the employee's family no longer occupies the quarters and departs from the overseas post.
- may not be reimbursed for non-temporary storage expenses incident to training. However, an agency has broad discretion to authorize the period of time expenses can be allowed.

3. Employees covered

a. Generally

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 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.

b. Competent orders

Where an agency is sending employees on training assignments, the agency is required by 5 U.S.C. § 4109 to make cost comparisons on an individual basis to pay for the transportation of an employee's dependents and HHG. Since proper cost comparisons were not made prior to issuing orders authorizing payment for the transportation of the employee's dependents and HHG, such orders were not competent and may be retroactively modified to implement a Grievance

Examiner's recommendations to allow payment of per diem. 59 Comp. Gen. 619 (1980).

4. Employees not covered

a. Generally

As noted in 5 U.S.C. § 4102, the Government Employees Training Act, as codified at 5 U.S.C. Chapter 41, does not apply to (1) a corporation supervised by the Farm Credit Administration, (2) the TVA, or (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 National Oceanic and Atmospheric Administration); and does not apply (except for §§ 4110 and 4111) to (4) the Foreign Service of the U.S., and (5) an individual appointed by the President, unless specifically designated by the President for training under 5 U.S.C. Chapter 41.

b. 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 IPA

1. Statutory authority

Authority to appoint or detail employees of state and local governments to federal agencies, or to detail federal employees to state or local governments is contained in Chapter 33, Subchapter VI, of Title 5 of the U.S.C. Under 5 U.S.C. § 3375, appropriations of a federal 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, a federal agency may also pay or reimburse:

- expenses for the transportation of the employee's immediate family and HHG in accordance with 5 U.S.C. § 5724,
- 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),

- TQSE in accordance with 5 U.S.C. § 5724(a)(3),
- miscellaneous expenses related to a change of station where movement or storage of HHG is involved in accordance with 5 U.S.C. § 5724a(b),
- upon assignment at an isolated location, nontemporary storage of HHG in accordance with 5 U.S.C. § 5726(c).

Under this authority, an agency may pay the type of 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 CPLM. The entitlements of employees authorized per diem are discussed in Title III—Travel.

Under the provisions of 5 U.S.C. § 3375, employees who receive IPA assignments may be reimbursed for TQSE as provided under 5 U.S.C. § 5724a(a)(3). The implementing regulations for section 5724a are contained in the FTR and those regulations provide the policy statement in FTR para. 2-5.1 concerning the authorization of the allowance for TQSE. However, 5 U.S.C. § 3375 lists those relocation expenses which are reimbursable in connection with IPA assignments, and we have held that since a miscellaneous expense allowance is not listed in section 3375, it is not payable in connection with IPA assignments. B-198939, April 3, 1981. Section 603(c) of Pub. L. No. 95-454, 92 Stat. 1111, 1191 (1978), amended 5 U.S.C. § 3375(a) to include reimbursement for miscellaneous expenses. 5 U.S.C. § 3375(a)(5).

2. Regulations

Since 5 U.S.C. § 3375 authorizes the payment of the expenses of relocation in accordance with the specific authorities contained at Subchapter II of Chapter 57 of 5 U.S.C., the provisions of the FTR implementing those particular authorities are instructive. OPM's regulations implementing the IPA contain no detailed provisions relating to travel and transportation.

3. Change-of-station allowances vs. per diem

An employee may not elect to receive per diem for the duration of an Intergovernmental Personnel Act assignment where his agency's determination to authorize change-of-station allowances is reflected

in his travel orders and his Intergovernmental Personnel Act Agreement. Under 5 U.S.C. § 3375, an agency may authorize change-of-station allowances or per diem, but not both, and we have held that per diem would ordinarily be inappropriate for Intergovernmental Personnel Act assignments of 2 years. Ronald C. Briggs, 64 Comp. Gen. 665 (1985).

4. Return change-of-station allowances

The change-of-station allowances authorized by 5 U.S.C. § 3375 are payable upon relocation to, as well as return from, an Intergovernmental Personnel Act assignment. There is no statutory or regulatory requirement that the employee must be authorized to and incur specific expenses incident to reporting to the Intergovernmental Personnel Act assignment as a condition to paying those expenses upon its termination. Ronald C. Briggs, 64 Comp. Gen. 665 (1985).

D. Relocation Expenses Under the Foreign Service Act

1. Statutory authorities

Officers and employees of the Foreign Service were 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 were contained in 22 U.S.C. §§ 1136 and 1138. These allowances and benefits are discussed at Chapter 13 of Title IV of the CPLM. Effective February 15, 1981, the Foreign Service Act of 1980 repealed these provisions; Pub. L. No. 96-465, § 2205(1), 94 Stat. 2071, 2160 (1980); replacing them with essentially similar provisions, Pub. L. No. 96-465, § 901, 94 Stat. 2071, 2124, codified at 22 U.S.C. § 4081.

2. Regulations

Regulations implementing the relocation expense authority of the Foreign Service Act of 1980 are contained in the Uniform State/AID/USIA Foreign Service Travel Regulations, published at 6 FAM.

3. Employees covered

a. 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 1980, or appointed pursuant to other statutes deriving employment authority from the act, are entitled to relocation benefits provided by 22 U.S.C. § 4081.

b. 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, could assign as a Reserve Officer for not more than 5 years an employee of a government agency other than State. The relocation entitlements of an employee of Commerce assigned as a Foreign Reserve Officer under 22 U.S.C. § 922 incident to a transfer overseas, as well as upon return to the U.S. for reinstatement with Commerce, are payable under Chapter 14 of 22 U.S.C. Since 5 U.S.C. § 5724(g) provides that allowances authorized under section 5724 do not apply to employees transferred under Chapter 14 of 22 U.S.C., an employee so assigned may not be paid a miscellaneous expenses allowance under 5 U.S.C. § 5724a. B-188437, September 15, 1977 and B-186548, February 28, 1977. Employees assigned under 22 U.S.C. § 922 will be integrated into the Foreign Service at least by February 15, 1984 under the Foreign Service Act of 1980, Pub. L. No. 96-465, § 2101, 94 Stat. 2071, 2148, codified at 22 U.S.C. §§ 4152 and 4153.

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

d. Employees of VA

Under 38 U.S.C. § 235, VA employees who are U.S. citizens assigned to the Philippines may be authorized Foreign Service allowances and benefits under 22 U.S.C. § 4081.

e. Employees of Agriculture

In addition to expenses otherwise payable under Title 5 of the U.S.C., 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.

4. Employees not covered

a. Foreign Service personnel assigned under the IPA

The entitlement to travel and transportation expenses of Foreign Service personnel detailed under the IPA is governed by the provisions of that act, specifically 5 U.S.C. § 3375. That section authorizes the reimbursement of certain expenses in accordance with Chapter 57 of Title 5 of the U.S.C., and the FTR. Thus, while the travel expenses of Foreign Service personnel are normally paid pursuant to the Foreign Service Act and the Foreign Service Travel Regulations, expenses incurred incident to an IPA assignment are payable only insofar as authorized by 5 U.S.C. § 3375. B-190182, September 5, 1978.

E. Overseas Allowances

1. Statutory authority

Subchapter III of Chapter 59 of Title 5 of the U.S.C. 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 CPLM Title I—Compensation. The four allowances specifically payable upon relocation to or from a foreign assignment are the TLA and LQA payable under 5 U.S.C. § 5923, and the FTA and HSTA authorized by 5 U.S.C. § 5924(2).

2. Regulations

State's regulations implementing 5 U.S.C. §§ 5923(1) and 5924(2), are contained in S.R. Chapters 120, 240, and 250.

3. 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.

F. Relocation Expenses Incident to Employee's 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 U.S. When an employee dies while stationed at a post of duty outside the U.S., or while in transit to or from such a post, 5 U.S.C. § 5742 authorizes the reimbursement of the cost of the return transportation of the decedent's immediate family and HHG to his former home or an alternate location. The regulations implementing 5 U.S.C. §§ 5741 and 5742 are contained in 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 TDY as well as PDY assignments. For this reason, they are discussed in CPLM Title III—Travel, ch. 11.

G. Return to United States for Separation

An employee stationed in Puerto Rico was authorized to make an early return to his home in the United States for retirement. His travel authorization erroneously authorized him to incur relocation expenses. Employee seeks reimbursement under 5 U.S.C. § 5724a. The claim is denied. Those provisions apply only to employees who are transferred between duty stations to perform permanent duty at new station. Travel rights of employees returning to continental United States for retirement or separation are governed by 5 U.S.C. § 5722, and FTR, para. 2-1.5g(2) (b), which do not permit reimbursement of any of the expense items claimed. Arnold Krochmal, B-213730, April 17, 1984.

H. Meritorious Claims Act

GAO will no longer follow its general policy of not referring erroneous advice cases to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d). Instead, each such case will be considered for submission based on its individual merits. Accordingly, GAO submits to Congress claim of new appointee to a manpower-shortage position who was erroneously issued travel orders authorizing reimbursement for temporary quarters subsistence expenses, real estate

expenses, and miscellaneous expenses where the appointee reasonably relied on this erroneous authorization and incurred substantial costs. John H. Teele, 65 Comp. Gen. 679 (1986).

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 CPLM Title IV, Chapters 3 through 11, 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 CPLM Title IV, Chapter 1. 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 CPLM Title IV, Chapters 3 and 9.

A. General Requirements

1. 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 U.S. and to posts of duty outside the U.S. It is imposed upon new appointees to shortage-category positions in the U.S., upon student trainees appointed to positions in the U.S., and upon new appointees to posts of duty outside the U.S.

Employees transferred or appointed to posts of duty outside the U.S. 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 as 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.

a. Statutory condition on entitlement

A service agreement is not contractual, but is a statutory condition for a new appointee. Also, since the statute specifically refers to individuals selected for appointment, appointment itself is not necessary before the obligation is incurred. B-196795, June 5, 1980.

Former air traffic controller challenges indebtedness for relocation expenses paid incident to his transfer from Alaska to California where he failed to complete the 12-months service required by the

service agreement he signed pursuant to agency regulations. Although a service agreement is not required by statute for a transfer from Alaska to the 48 states, our decisions have held that an agency may require it before paying relocation expenses. Since the former employee signed a service agreement, he is bound by its terms. Jeffrey P. Cardinal, 64 Comp. Gen. 643 (1985).

b. Agency discretion to impose requirements

In 61 Comp. Gen. 361 (1982), we advised the Director of the FBI that the agency may require that an employee posted overseas sign a service agreement which obligates the employee to repay the government the cost of his transfer to the overseas post, if he elects to retire prior to the completion of the 12-month term of the service agreement. Likewise, the FBI may require that if an employee transferred overseas voluntarily retires within a period of not less than 1 nor more than 3 years, prescribed in advance by the Director of the FBI, then the employee's return expenses shall not be allowed. It is within the FBI's discretion to make a determination that a voluntary retirement within the period of a service agreement is not a separation beyond the employee's control.

c. Requirement to execute agreement

(1) Local overseas transfers—Employees who are transferred between official stations located in the same territory or country outside the continental U.S. are not required by 5 U.S.C. § 5724(d) to enter into a service agreement. Section 5724(d) applies only to employees transferred between official stations in different territories or countries outside of the continental U.S. Nevertheless, an agency, by policy or regulation, may require its employees to enter into a service agreement. 48 Comp. Gen. 39 (1968).

(2) Transfers back to U.S.—While there is no statutory requirement for execution of a service agreement incident to a transfer from overseas to the U.S., we have held that an agency has authority to refuse to authorize or approve payment of any relocation expenses in connection with the transfer until the employee concerned executes an agreement to remain in the government service for a specified period of time. See 60 Comp. Gen. 308 (1981) and 47 Comp. Gen. 122 (1967). Thus, an overseas employee of the Army, transferred to the U.S., but did not remain in government service for 1 year after her transfer, may not be paid relocation benefits

incident to her transfer that are in excess of her entitlement to return travel and transportation expenses to her place of actual residence in the U.S. B-205892, July 13, 1982.

(3) Failure to execute service agreement—Where an employee was notified that his agency intended to transfer him and he incurred expenses in reliance on the intended transfer, the expenses are reimbursable, even though the transfer was canceled and the employee did not execute a service agreement. The employee remained in the government service for 12 months after the date the transfer was canceled and thus satisfied the 12-month service obligation imposed by 5 U.S.C. § 5724(i). 57 Comp. Gen. 447 (1978). See also Thomas D. Mulder, 65 Comp. Gen. 900 (1986).

Collection by set-off 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. See also B-187184, March 2, 1977.

The 12-month government service obligation in FTR para. 2-1.5a(1)(b) is a statutory condition precedent to payment of relocation expenses incident to a change of official duty station to Alaska. Thus, an employee may be bound by a 12-month service obligation even though she did not execute a service agreement, and where the employee has been continuously employed for a 12-month period following a transfer, the condition precedent is satisfied and a service agreement need not be executed. B-195180, October 24, 1979 and B-188048, November 30, 1977. See also Baltazar A. Villereal, B-214244, May 22, 1984.

(4) Resignation following agreement execution—Employee accepted a transfer and signed the required 12-month service agreement. He resigned after 5 months and became obligated to reimburse the government for his relocation expenses. The fact that the employee had previously transferred in a position which gave him "transfer of function rights" back to first station did not in itself entitle him to perform the return travel at the government's expense. An employee is required to sign and fulfill the

terms of a new service agreement in connection with each permanent change of station within the continental United States. See paragraph 2-1.5a(1)(a) of the FTR. Kenneth J. Bray, B-211449, July 11, 1983.

2. Government service vs. agency service

a. Transfers

(1) Generally—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 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).

An Agriculture employee, who signed a 1-year service agreement after a relocation at government expense, left Agriculture after 11 months and accepted employment with the Federal Deposit Insurance Corporation (FDIC). Although the FDIC is not an agency covered by the relocation statutes, we conclude that employment with the FDIC is government service for the purposes of a relocation service agreement. Emily R. Cooper, B-221677, July 21, 1986.

(2) Computation of period of service—An employee whose transfer was effective during September 1970, moved his family and HHG 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 HHG. 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.

(3) Effect of leave without pay (LWOP)—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 LWOP 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 LWOP status is considered government service within the meaning of 5 U.S.C. § 5724(i). B-184948, November 18, 1975.

An employee of the U.S. Customs Service bound by a 12-month service obligation incident to her transfer of official station to Alaska, served 10 months and was then granted 3 months LWOP by her agency. Although she resigned at the conclusion of the LWOP period, the employee is entitled to specified travel and relocation expenses incident to her transfer to Alaska, since time spent in a LWOP status is creditable time in government service within the meaning of 5 U.S.C. § 5722(b)(2) and the employee fulfilled her 12-month service obligation. B-195180, October 24, 1980.

Although the U.S. Customs Service granted an employee transferred to Alaska LWOP to return to his actual residence for personal reasons, the employee is not entitled to reimbursement of those return trip travel and transportation expenses. The U.S. Customs Service requires that employees transferred to Alaska serve 24 months there in order to be entitled to reimbursement of travel and transportation expenses to their place of actual residence at the time of transfer, unless they return earlier for reasons beyond their control and acceptable to the agency. Thus, the claim of a former employee of the Customs Service was properly denied where the agency presented a reasonable basis for finding that the employee's premature return and separation in the circumstances presented was for reasons within her control and not acceptable to the government. B-195180, March 10, 1980. See also, B-197104, February 6, 1980.

(4) Effect of absence without leave (AWOL)—An Agriculture employee agreed to remain in government service for 12 months after his effective date of transfer on June 5, 1977. The employee applied for disability retirement and the agency granted him sick leave August 7, 1977, pending the outcome of his application. After the employee exhausted sick and annual leave, the agency granted him LWOP. When his application and request for reconsideration were denied by the CSC, the agency ordered the employee to report for duty on June 2, 1978, or be placed in "AWOL" status. The employee is not entitled to relocation expenses since he failed to

report and AWOL time is not creditable service for the purpose of a service agreement. 59 Comp. Gen. 25 (1979).

(5) Release from service agreement—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 the determination that reasons for a separation are beyond the employee's control and acceptable to the agency rests primarily with the agency concerned. B-197609, October 20, 1980 and 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) and B-198938, March 4, 1981.

Employee of Department of Housing and Urban Development (HUD) who was transferred from Dallas to Fort Worth, Texas, failed to complete 12-month service agreement when he voluntarily retired, and HUD refused to reimburse his relocation expenses. Determination whether separation is beyond employee's control and for reasons acceptable to the agency is primarily for the agency to decide. Our Office will not overturn the agency's determination, unless it is arbitrary or capricious. Here agency promulgated regulation which provided that voluntary separation of an employee upon satisfying age and service requirements for optional retirement is an acceptable reason for release from a service agreement. Accordingly, agency action in refusing to accept voluntary retirement as an acceptable reason for not fulfilling obligation under service agreement is contrary to agency's own regulation and arbitrary. Therefore, agency action is improper and employee may be paid claimed expenses to extent otherwise proper. John T. Phillips, B-219473, March 12, 1986.

An employee of the Department of Agriculture (USDA), who resigned from her position within 12 months of a transfer, is obligated to repay the government the amount paid by the government in connection with her transfer. Her separation was not for reasons beyond the employee's control and acceptable to USDA as provided in 5 U.S.C. § 5724(i) (1982). The assessment of interest or other appropriate charges on this debt is governed by 31 U.S.C. § 3717 (1982) and 4 C.F.R. § 102.13 (1988). Jennifer L. Johnson, B-230338, June 21, 1988.

(6) Inter-agency transfer—An employee involved in an inter-agency transfer in the interest of the government without a break in service, which also involved vested overseas return travel rights from Alaska, is entitled to relocation expenses under 5 U.S.C. §§ 5724 and 5724a. Milton J. Parsons, 58 Comp. Gen. 783 (1979), distinguished. Thomas D. Mulder, 65 Comp. Gen. 900 (1986).

3. Separation beyond employee's control

a. 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). But see 61 Comp. Gen. 361 (1982).

b. 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).

c. 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.

d. 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.

e. 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 U.S. before 1 year had expired. He is not obligated under the 3 year service agreement, since the agency regulations provided that a transfer within the department does not constitute a violation of a service agreement. B-181964, December 4, 1974.

f. Dispute over job assignments

An employee transferred overseas, who signed a 36-month service agreement, resigned after 1 year because of a dispute with the agency concerning his job assignments. The agency's decision not to pay the expenses of his return travel, based on its determination that his separation was not for reasons beyond his control and acceptable to the agency, is not improper. The acceptability of the reasons for an employee's resignation prior to completion of his agreed period of service is for determination by the agency involved and is reviewable only if the facts establish that the determination was arbitrary or capricious. B-191081, July 26, 1978. To the same effect, see B-193456, December 28, 1978, involving an employee who retired voluntarily after only 5 months of service.

g. 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.

h. Creates entitlement

An employee was relieved of his obligation to complete a 2-year tour of duty at an overseas post for the benefit of the government. Although he did not complete his tour of duty at the second duty point because he transferred at his own request to the U.S., the employee is entitled under FTR para. 2-1.5a(1)(b), to return travel and transportation expenses not to exceed the cost from his first

overseas post to the place of residence in the U.S. since he completed his first overseas tour and has an unused entitlement for return travel and transportation. B-194448, April 28, 1980.

i. Successive transfers

An employee who had fulfilled his overseas service agreement with his first agency transferred to a position in the U.S. with another agency and thereafter breached his service agreement with the second agency. Notwithstanding the violation of his service agreement, the employee is not required to refund transfer expenses paid by the second agency, where those were solely for the transportation of HHG and the employee's own travel, since he was entitled to such expenses as a consequence of having satisfied his overseas service agreement with the first agency. 60 Comp. Gen. 308 (1981). In such circumstances, the gaining agency's obligation to pay the employee's travel and transportation expenses is separate from that of the initial agency the employee transferred from. B-198051, June 2, 1980.

After signing a transportation agreement, an employee was transferred from Barksdale AFB, Louisiana, to Lajes Field, Azores. Three months later she returned to her former position at Barksdale AFB at her own request. The employee is not required to reimburse relocation expenses paid by the government in connection with her transfer to Lajes Field, provided she remains in the government service for 12 months. B-194836, August 28, 1979. Employees who are transferred between official stations in different territories or countries outside the continental U.S. 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).

j. Canceled transfer

Where an employee's transfer is canceled, the employee should be treated as if the transfer were completed and the employee were 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 canceled. B-189953, November 23, 1977 and 54 Comp. Gen. 71 (1974).

k. Separation and reemployment

An employee separated from the government within 12 months of a transfer becomes obligated to repay relocation costs where the separation is not for reasons beyond the employee's control and acceptable to the agency. Reemployment with the government approximately 3 years later does not fulfill the statutory requirement of 12 months' service with the government following a transfer so as to relieve the employee from debt. Donald A. Holmes, B-187650, April 4, 1985.

4. Effective date of transfer or appointment

a. Reporting for duty

An employee who was issued transfer orders to Washington, D.C., and who reported for duty is entitled to relocation expenses even though his reassignment was subsequently disapproved and he was required to return to New Orleans. A transfer is effective on the date the employee reports for duty at his new station. B-192146, March 15, 1979.

b. Failure to report to new duty station

58 Comp. Gen. 385 (1979), holding that a transfer was not effective so as to entitle the employee to relocation expenses where he was issued transfer orders and embarked upon change-of-station travel, but resigned before reporting to his new duty station. As to a delay in transfer due to a special assignment, see B-161266, May 1, 1967 and B-164871, August 19, 1968.

c. Transfer to TDY location

When an employee is transferred to a place at which he is on TDY, the transfer is effective on the date that he receives notice of the transfer. B-190107, February 8, 1978. While on TDY in Boston, an employee's permanent appointment at the TDY station, effective July 12, 1970, was confirmed. Notice of the appointment was not received in Boston until July 27, four 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). Also, regarding confirmation of assignments, see B-176798, February 2, 1973.

d. Approved reporting date delayed

An employee's permanent change-of-station travel orders designated his reporting date at his new duty station as "on or about September 26, 1982," but the employee delayed reporting until October 4, 1982, because he was authorized annual leave. He is entitled to increased relocation benefits effective for employees who report to their new duty stations on or after October 1, 1982, since the actual rather than designated reporting date governs entitlement to benefits. Daniel Dorris, B-213697, April 16, 1984.

5. Time to begin travel

a. Generally

Under FTR para. 2-1.5a(2), 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 U.S. is not feasible, because of shipping restrictions.

b. Transfers

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.

Through administrative error, an employee who was transferred a short distance was not issued travel orders for 2 years after reporting for duty at his new station. Although he delayed moving his family because of management's handling of his travel orders, the employee may not be reimbursed relocation expenses since the 2-year limitation elapsed. B-193814, June 18, 1979.

Although an employee's failure to relocate his family until 2 months beyond the 2-year period of limitation may have been due

in part to delays in resolving his discrimination complaint, his relocation expenses may not be reimbursed. B-190202, August 14, 1978.

c. 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 U.S. 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 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).

6. Orders

a. Authorization of transfer and necessity for orders

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 a transfer, even though he is not issued official transfer orders. 57 Comp. Gen. 447 (1978) and B-191912, April 5, 1979. See also Thomas D. Mulder, 65 Comp. Gen. 900 (1986).

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 PCS orders be prepared in this situation. B-188048, November 30, 1977.

b. Authorization or approval of allowances

The travel order issued an employee incident to 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 oral authorization. B-185532, September 2, 1976. Other allowances, including travel of dependents, real estate transaction expenses and TQSE, 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.

c. Documentation provided after the fact

As a result of a RIF, a civilian employee of the Army transferred from Fort Ord, California, to Fort Detrick, Maryland, in June 1978. He was not issued PCS travel orders until April 1980. The employee may be reimbursed for relocation expenses if the required documentation is submitted with the travel voucher, even though written travel orders were issued subsequent to travel, since, under 2 JTR para. C4101, an employee who is subject to a RIF is entitled to reimbursement of relocation expenses. The fact that the travel orders were not issued until 2 years later does not reduce that entitlement. B-200841, November 19, 1981.

d. 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 inadvertence. B-175433, April 27, 1972, and 48 Comp. Gen. 119 (1968). The subject of retroactive modification of orders is discussed in more detail in CPLM Title III—Travel. Moreover: Exceptions are to be carefully construed; thus, where an agency determined that the employee's transfer was for his own convenience and specifically intended not to reimburse his relocation expenses, the fact that other employees were reimbursed under similar circumstances does not provide a basis to retroactively modify his orders. B-191482, November 7, 1978.

A transferred employee was authorized travel, relocation, and miscellaneous expenses. He is entitled to retain such expenses since legal rights and liabilities regarding per diem and other travel allowances vest when the travel is performed under orders and such orders, if valid, may not be canceled or modified retroactively to increase or decrease the employee's rights. Since original orders were not clearly erroneous, agency's re-determination 4 years after the fact that the transfer had not been in the best interest of the government cannot be given effect. Steve W. Frederick, B-217630, July 25, 1985.

e. 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 oral orders given by a party lacking authority to authorize the 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.

7. Advance of funds

a. Generally

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. 2-1.6a(1).

b. 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

1. What constitutes a transfer

a. Generally

The word "transfer" relates to the situation in which an employee has been directed to make a PCS. 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 PCS. 54 Comp. Gen. 991 (1975).

b. Agency defined

The claimant transferred from a position in the Office of the Architect of the Capitol to one in the Department of Energy as a manpower-shortage category appointee. There was no transfer between agencies for the purposes of 5 U.S.C. § 5724a because the Office of the Architect of the Capitol is not included within the definition of "agency" under 5 U.S.C. § 5721. Therefore, the claimant is

limited to recovering the expenses allowed under 5 U.S.C. § 5723 for manpower-shortage positions, and he is not entitled to the additional relocation expenses allowable under 5 U.S.C. § 5724a. Charles L. Steinkamp, B-208155, July 12, 1983.

c. Transfer effective date

Because regulations and amended regulations both unambiguously define "effective date of transfer," as the date an employee reports for duty at his new official station, employee who reported for duty prior to effective date of amended regulations may not be paid increased miscellaneous expense allowance. Effective date indicated on form SF-50 is not determinative of effective date of transfer. Robert A. Motes, B-210953, April 22, 1983.

d. Transfer vs. TDY

(1) Question of fact—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 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 TDY station. B-172207, July 21, 1971. Compare our decision B-203009, May 17, 1982, where a transferred employee did not have his family join him at his new duty station because of notification from his agency that his position might be abolished. His position ultimately was not abolished and the agency retroactively modified the employee's travel orders to designate that duty station as TDY for the period when the status of the position appeared uncertain. An employee's travel orders may not be retroactively modified to designate his PDY station as a TDY station so that per diem may be paid, since administrative officials may not retroactively modify travel orders to increase or decrease entitlements. The employee's TDY claim is disallowed because the station constituted his PDY station, and mere uncertainty as to duration of assignment does not convert it to TDY.

An employee stationed in Cheyenne, Wyoming, accepted a demotion and transfer to Denver, Colorado. His family remained in the Cheyenne area and he commuted to Denver. Following the transfer, he appealed that action to the Merit Systems Protection Board. The Board ruled in his favor and required the agency to restore him to his former position and location with back-pay. He now claimed temporary duty travel expenses for the period, contending that, since the transfer was improper, his permanent duty station remained in Cheyenne and his duty in Denver was temporary. The claim is denied. Remedial action restoring an employee to old position and location does not convert the new station from permanent to temporary, even though expenses incurred were incurred because of the erroneous transfer. The only remedy available to recompense losses sustained due to unwarranted personnel actions is 5 U.S.C. § 5596 which limits recovery to pay, allowances and differentials. F. William Eikenberry, B-223306, October 23, 1986.

An employee was detailed from his agency position in Washington, D.C., to a position with a commission in Flagstaff, Arizona. Relocation expenses were authorized for his travel to Arizona in 1982 and for his return travel in early 1984 after the detail was terminated. Although the agency's auditors question the payment of relocation expenses in this situation, we conclude that such payment was proper. Based on the issuance of the orders directing the assignment, the duration of the assignment, and the nature of the duties to be performed, it appears clear that this assignment was a permanent rather than temporary duty assignment. Lewis K. Miller, B-224055, May 21, 1987.

(2) Duration of duty assignment—The duration of the assignment is one factor to be used in determining whether the assignment was TDY or a PCS. Orders directing an employee's PCS to Philadelphia for a 2 to 4 month period in contemplation of a permanent assignment to Albany, Georgia, are subject to retroactive modification to reflect the fact that the assignment to Philadelphia was for TDY. Assignment for 2 to 4 months is generally a TDY assignment. B-200745, September 1, 1981. In addition, in holding that an assignment for 2 years and 9 months was a PCS, we also stated that it is within the agency's discretion to authorize reimbursement for mileage where

an employee is on a TDY assignment near the PDY station. B-198887, September 21, 1981.

e. Relocation income tax allowance

The Department of Agriculture requests an opinion as to whether claims for Relocation Income Tax (RIT) allowances may be paid to certain employees who were transferred from the United States to the Virgin Islands and Puerto Rico since the statutory authority in 5 U.S.C. § 5724b (Supp. III 1985) does not specifically state the RIT allowances apply to possessions of the United States. The claims may be paid since it is consistent with the intent of Congress that RIT allowances be extended to federal employees transferred in the interest of the government to United States possessions and the Commonwealth of Puerto Rico in the same manner as those employees transferred within the United States. However, it will be necessary for the Administrator of General Services, in consultation with the Secretary of the Treasury, to establish the applicable marginal tax rate. Carlos Garcia, 67 Comp. Gen. 135 (1987).

f. Transfer to TDY site

An employee may not be paid per diem at his new duty station after notification that he is to be transferred to his TDY 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 new station. B-188093, October 18, 1977. 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. As a result, 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.

g. Defective travel orders

An employee transferred from Cali, Columbia, to Sandusky, Ohio, may not have his reimbursement for indirect travel computed on the basis of authorized travel by way of California under amended travel orders purporting to transfer him first to Davis, California, his duty station prior to the overseas assignment, and then to Ohio. The employee may not be transferred first to a former U.S. duty station where he is not expected to remain for an extended period of time. The amended travel orders are without legal effect. B-192199, January 31, 1979.

The CSC ordered GSA to restore an employee to his position at his former duty station based on its finding that the RIF that had led to the employee's transfer was procedurally defective. The later-determined illegality of the personnel action that resulted in the transfer did not convert the new duty station from a permanent to a TDY station for the purpose of entitlement to travel expenses. B-194447, August 7, 1979.

h. Travel with training en route as TDY en route to first duty station

The Director of the FBI requests reconsideration of the ruling in 58 Comp. Gen. 744 (1979), that new appointees assigned to training in Washington, D.C., may not have Washington designated as their first PDY station so as to entitle them to travel and relocation expenses from Washington, D.C., when assigned to a PDY station after training. No basis exists to alter this ruling, since an assignment for training is not a permanent assignment, and the employee must bear the expense of reporting to his first PDY station. This follows from our determination that new appointees initially assigned to training in Washington, D.C., are responsible for bearing the expense of reporting to their first PDY assignments following training. The FBI may not lessen that responsibility by assigning them to 1 month of so called "permanent duty" at a convenient location following completion of training and prior to the intended PDY assignment. A 1 month assignment following training should be treated as TDY en route to the first duty station. 60 Comp. Gen. 569 (1981).

i. Short distance relocation

The National Park Service denied an employee's claim for reimbursement of relocation expenses in connection with a short-distance transfer within the Shenandoah National Park. The employee was required to vacate a government-owned house at his old duty station, which he had been required to reside in as a condition of employment. The expenses may be allowed since the employee's relocation of residence was clearly required by his official change of station, notwithstanding that the transfer occurred within the park boundaries and that the net increase in commuting distance was less than 10 miles. Gregory Stiles, B-230365, July 25, 1988.

An employee entitled to relocation expenses because he was transferred and required to occupy government housing at a site 26 miles from his previous duty station was not entitled to deduct any of the moving expenses from his income tax because the move was less than 35 miles. Employee may be paid a relocation income tax allowance based upon the entire amount of the reimbursed expenses since none of his expenses were deductible in the particular circumstances of this case. A.J. Mitchell, Jr., 66 Comp. Gen. 478 (1987)

An employee's permanent duty station was to be relocated to larger quarters at a new site approximately two miles distant from the old duty station. Due to the need for extensive renovation of the new quarters, the employee and others were quartered at an interim location, which was closer to the employee's residence, for a period of 9 months. Upon the subsequent move to the newly renovated quarters, the employee claims entitlement to relocation expense reimbursement, contending that the interim move was a permanent change of station and that when the move was made to final destination, it increased his commuting distance more than 10 miles. The claim is denied. Whether an assignment to a particular location is temporary or permanent is a question of fact. In this case the record shows that the interim location was clearly a temporary duty station and that the employee's subsequent move to the renovated office space does not entitle him to relocation expenses. Steven L. Karty, B-225351, June 2, 1987.

An employee claims entitlement to relocation expenses in connection with a short-distance transfer and argues that the preferred commuting route increases the commuting distance by 15 miles.

Under the Federal Travel Regulations, para. 2-1.5b(1), the agency must determine whether relocation of an employee's residence is incident to a short-distance transfer before reimbursement is allowed. Ordinarily, the commuting distance must increase by at least 10 miles. The 10-mile criterion is not an inflexible bench mark which, when exceeded, entitles the employee to a determination that the move was made incident to a transfer. Since the agency involved considered various factors, including the distances of the commutes and the various routings used in determining that a change of residence would not be incident to the transfer, we cannot find that determination was clearly erroneous, arbitrary, or an abuse of discretion. John W. Lacey, 67 Comp. Gen. 336 (1988).

j. Assignments for training

(1) Generally—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 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).

(2) PCS interrupted by temporary period of training—An FBI employee stationed in Philadelphia was appointed as a special agent and detailed to Washington, D.C., for 16 weeks' training at the FBI Academy, Quantico, Virginia, and upon completion of training was assigned to PDY in Baltimore. The employee may be reimbursed for the sale of his residence in Philadelphia upon transfer to Baltimore, since employees are entitled to relocation expenses incident to a PCS interrupted by a temporary period of training. Washington, D.C. was a duty station for administrative purposes only during the training period. Note that: Matter of Hughie L. Ratliff, B-192614, March 7, 1979, held that an FBI special agent having a residence at his old PDY station before 16 weeks' training at Quantico, Virginia, was entitled to reimbursement for the sale of his residence incident to a PCS. Ratliff applies retroactively, since it followed well-established precedent. Therefore, an FBI employee who was appointed as a special agent and who sold his house before Ratliff was decided, is entitled to sales expenses incident to his transfer. B-195976, February 8, 1980. However, an employee is not entitled to real estate expenses when he sold his residence before he was selected for transfer to an FBI position requiring a PCS

after temporary training. He did not reside in the residence when he was first definitely notified by competent authority that his PDY station would be changed. His claim is barred by FTR para. 2-6.1d. B-199042, March 3, 1981.

(3) Transfer with training en route—An employee assigned to training at a location other than his permanent station may not be reimbursed TQSE as an incidence of training. However, where the training assignment is to be followed by a 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 PCS. B-185281, May 24, 1976 and B-166681, July 9, 1969.

k. Intermediate vs. permanent duty station

An employee was sent to a location away from his old duty station for 1-term training (5 U.S.C. § 4109) to be followed by a permanent change of station (PCS) to a then undetermined location. Employee claims reimbursement for his move to the training site as a PCS move since he was promoted for purpose of that travel under agency merit promotion program. Since travel to a location for training contemplates either a return to the old duty station or another permanent duty station upon its completion, a training site is but an intermediate duty station. Until the employee is actually transferred to a new permanent duty station, the duty station from which he traveled to the training site remains his permanent duty station. John E. Wright, 64 Comp. Gen. 368 (1985).

l. IPA assignments

(1) Generally—An IPA assignment is not a PCS. B-183283, August 5, 1975, reconsideration denied October 15, 1976; B-170589, September 18, 1974. 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. Furthermore, 5 U.S.C. § 3373(a) provides that a federal employee assigned to a state or local government under the Intergovernmental Personnel Act is either—

"(1) on detail to a regular work assignment in his agency; or

"(2) on leave without pay from his position in the agency."

(2) Limitation on reimbursement—An employee stationed in Chicago, Illinois, was given an IPA assignment to Phoenix, Arizona, and was subsequently transferred to Washington, D.C. Action of the certifying officer in suspending reimbursement of the expenses of a house-hunting trip from Phoenix to Washington and expenses of selling a home in Phoenix is proper. No such reimbursement is provided under the IPA and since Phoenix was not his PDY station such expenses are not reimbursable under 5 U.S.C. §§ 5724 and 5724a. B-206258, June 16, 1982. See also B-193797, May 11, 1979.

Under 5 U.S.C. § 3375, a Western Carolina University employee who completed an assignment with the federal government under the Intergovernmental Personnel Act may be reimbursed the cost of moving his HHG and dependent travel, to Cleveland State University not to exceed the constructive cost of such travel and transportation to Western Carolina University. The employee's own travel costs may be reimbursed to the same extent, since he was not required by regulation or the terms of his IPA agreement to return to Western Carolina University. 59 Comp. Gen. 105 (1979) and B-183283, August 5, 1975.

m. Assignments for executive interchange

Employees relocated under the President's Interchange Program established pursuant to Executive Order 11451, 3 C.F.R. § 101 (1969)—now the President's Executive Exchange Program under Executive Order 12136, 3 C.F.R. § 387 (1980)—are deemed transferred and are entitled to travel and relocation allowances authorized for employees transferred in the interest of the government. 54 Comp. Gen. 87 (1974). In 60 Comp. Gen. 582 (1981), the issue was whether an employing agency has the authority to grant—in lieu of moving expenses—per diem or reimbursement of commuting expenses, to an employee participating in the Executive Interchange Program, when payment of such expenses would be less than or equal to moving expenses. We held that federal government employees assigned to the business sector under the Executive Exchange Program may be authorized relocation expenses or travel expenses not to exceed such relocation expense, whichever is determined more appropriate by the employing federal agency. 54 Comp. Gen. 87 (1974), amplified. And citing to this decision in 60 Comp. Gen. 582 (1981), we held that since the prior decision clarifies existing authority, it may be given retroactive effect. B-201704 and B-202015, November 4, 1981.

n. 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. But see B-205352, June 10, 1982 and B-196294, June 1, 1981, for construction of entitlements in connection with reemployment after service with international organizations under 5 U.S.C. § 3582.

o. 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, the expenses of transporting the employee's HHG may, under certain conditions, be reimbursed as an administrative expense of the installation.

Employee, who was transferred to new official duty station 36 miles away from old station, is not entitled to relocation expenses where the agency determines that relocation of the employee's residence was not incident to the transfer of duty station. We will not upset agency's determination that employee's relocation was not incident to transfer where, although employee attempted to sell home and moved family and household goods out of residence, the record contains no evidence of employee's intention or good faith attempt to relocate closer to new duty station. Jack R. Valentine, B-207175, December 2, 1982.

p. Relocation upon reemployment

(1) 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 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. Compare: An attorney employed by HUD in Washington, D.C., was offered a position as a law clerk to a Judge of the U.S. Bankruptcy Court in San Diego, California. He resigned from his position with HUD on October 5, 1979, and reported for duty at San Diego on October 29, 1979. Since it was known to all parties, prior to resignation, that the employee was resigning to accept another federal position and it was the clear intent of the Administrative Office of the United States Courts to pay relocation expenses, the employee's separation date from HUD may be retroactively adjusted to avoid a break in service and to permit payment of relocation expenses. B-197771, August 11, 1981.

Where an individual is reemployed at his former duty station following a period of separation during which he was carried on the rolls of the Office of Workers' Compensation Programs, he is not entitled to reimbursement for expenses he incurs in relocating his residence back to that same duty station incident to the reemployment action. The individual's handicap resulting from an on-the-job injury does not justify an exception to the rule that one reappointed to federal employment following a break in service must bear the costs of traveling to his first duty station. These costs are common to all individuals appointed or reappointed to positions at locations distant from their places or residence; therefore, reimbursement for such costs cannot be viewed as ameliorating access-to-work impediments that arise as the result of a handicapping condition. However, because of equitable considerations, a report is being submitted to the Congress recommending that it authorize relocation expenses as a meritorious claim under 31 U.S.C. § 3702(d). Larry V. Salas and William D. Morger, 67 Comp. Gen. 295 (1988).

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

(3) Restoration following on-the-job injury—An employee, as the consequence of an on-the-job injury, was separated from federal

employment and carried on the rolls of the Office of Workers' Compensation Programs. Upon reemployment 5 U.S.C. § 8151 mandates that he be treated as though he had never left federal employment for the purpose of benefits based on length of service. Where he is reemployed at a different geographical location from his duty station at the date of separation he, therefore, is entitled to relocation expenses under 5 U.S.C. §§ 5724 and 5724a to the same extent as if he had been transferred to the new duty station without a break in service. Larry V. Salas and William D. Morger, 67 Comp. Gen. 295 (1988).

(4) 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.

(5) Reemployment after RIF

(a) Within 1 year—An employee separated involuntarily due to a RIF 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.

(b) After more than 1 year—An employee separated by a RIF, who was not reinstated to a position at a different geographic location until a period of more than 1 year had elapsed, is not entitled to relocation expenses. Although the delay in obtaining reemployment may have been due to an agency error in failing to list the employee on the DOD Priority Placement List throughout the first year following his separation, and notwithstanding that he was registered as a reemployment eligible for an additional period to give him his full year of entitlement to priority job placement, that error does not provide a basis to extend the 1-year period specified in 5 U.S.C. § 5724a(c) within which an individual separated by a RIF must be

reemployed to be eligible for relocation expenses. B-195374, September 14, 1979. See also B-186245, September 22, 1976.

2. Notice of transfer

a. Generally

An employee ordinarily should not incur expenses for relocation until after he has received transfer orders. 54 Comp. Gen. 993 (1975). However, our decisions have held that where the employee incurs relocation expenses prior to and in anticipation of a transfer of his official duty station, these expenses may be reimbursed, if the travel order subsequently issued includes authorization for the expenses on the basis of a previously existing administrative intention, clearly evident at the time the expenses were incurred by the employee, to transfer the employee. 58 Comp. Gen. 208 (1979) and 53 Comp. Gen. 836 (1974). What constitutes a clear intention to an employee depends on the circumstances in each case. B-188301, August 16, 1977 and B-186763, October 6, 1976.

b. What constitutes "clear expression" of intent to transfer

An employee who was unofficially contacted by telephone to determine his interest in employment in Sacramento and notified of a RIF 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 the circumstances, to conclude that his official station would be changed to another location. B-170800, December 22, 1970 and B-187045, August 3, 1977. Similarly, notice of tentative transfer pending completion of an employment agreement and medical and security clearances establishes the requisite administrative intent to transfer him and his claim for residence transaction expenses may be allowed. B-198880, October 21, 1980. And, even though he was advised that the transfer was subject to higher level approval and that he should not relocate prior to receipt of orders, an administrative intent to transfer the employee was demonstrated by preparation of transfer approval documents and the fact that he was given a transfer date for "planning purposes." B-191912, April 5, 1979.

c. Compelling reasons in government's interest

Because of a medical determination that his wife could not remain in Hawaii, an employee entered into a contract to sell his Hawaiian residence on May 24. On July 6, he was orally notified that he would be returned to the mainland and travel orders were issued on July 20. Settlement for the sale of his residence occurred 3 days later. Under the circumstances, his only options were to transfer or separate. When he incurred the real estate expenses, there were compelling reasons in the government's interest for the transfer and these reasons were the basis for subsequently issuing travel orders approving the real estate expenses. Where such a compelling reason leads the employee to believe he will be transferred and where he actually is transferred, there is substantial compliance with the requirement for a clearly evident intention to transfer him. 58 Comp. Gen. 208 (1979). Compare B-174997, April 21, 1972.

d. Mass transfers

Employees were personally informed that their function would be relocated at a specific date. The preliminary offers of transfer, though advising employees that separations may be possible, offered assistance in relocating with the agency. Such preliminary offers of transfer constitute communication of the intent to transfer the employees and, even though the transfer was cancelled, they may be reimbursed for relocation expenses incurred after the date of such notification. 57 Comp. Gen. 447 (1978).

e. 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.

f. 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 incurred after

November 22, 1966, when he received definite notice that the relocation of the 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.

g. 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 PCS. B-185281, May 24, 1976, and B-183597, September 3, 1975.

h. Notice of transfer to TDY site

An employee was transferred to a station at which he was on TDY. He received notice of the transfer by a selection letter signed by the official with the 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.

i. Definite intent to transfer lacking

(1) Informal oral advice—An employee who moved his family and household effects to Washington, D.C., incident to an 11-month TDY 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 TDY assignment cannot be considered as evidencing such an intent. B-178410, July 6, 1973 and B-187088, February 3, 1977. See also B-206239, April 26, 1982.

(2) 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).

(3) Project assignment ended—Employee who was transferred claims reimbursement for the costs of selling his residence. Since project to which employee was assigned was ended, and since agency was not able to give definite reply to inquiry concerning his next assignment, employee reasonably believed that he would be transferred and placed his house on the market. Employees may be reimbursed for expenses of sale as totality of circumstances indicates substantial compliance with requirement that there be an administrative intention to transfer an employee when real estate expenses are incurred. Lawrence C. Jackson, B-207564, November 22, 1982.

3. Interest of the government generally

a. Generally

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 reimbursement may be made only when the transfer is in the government's interest. B-174997, April 21, 1972.

b. 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). Where an agency acts under this authority and determines that the transfer was for the convenience and benefit of the employee, such a determination is binding in the absence of a showing that it was arbitrary or capricious. B-191228, September 29, 1978; affirmed November 28, 1978.

Where an agency issued travel orders allowing the payment of certain relocation allowances to a transferred employee, the agency is presumed to have made the determination that the transfer was in the interest of the government. Unless the original orders were

arbitrary, capricious or clearly erroneous, we will not overturn the agency's original determination that the transfer was made in the interest of the government. Ronald DeFore, B-227663, October 23, 1987.

Employee who was transferred from Idaho Falls, Idaho, to Albany, Oregon, failed to complete 12-month service requirement when he voluntarily retired. The employee had requested retirement for health reasons so that he could return to Albany, Oregon. However, this case is distinguished from those cases where the employee transfers solely for retirement purposes since, here, agency requested employee to remain on duty for approximately 3 months and employee performed necessary and substantial duty at Albany, his new official duty station, prior to his retirement. Compare James D. Belknap, B-188597, June 17, 1977. Thus, his transfer is considered to be in the interest of the government, and his voluntary retirement prior to completion of the 12-month service period may be considered as a valid reason for separation, and his travel and transportation expenses may be paid, subject to a determination by the head of the agency that his separation was for reasons beyond his control, and acceptable to the agency. Jack L. Henry, 65 Comp. Gen. 657 (1986). See also Eleanor C. Hill, B-222905, March 30, 1987.

c. Certification necessary

An agency has the discretion to determine whether to authorize relocation expenses of an employee who obtains a position after receiving notice of an impending RIF. 2 JTR para. C4100-2.4 states that where an employee is involuntarily separated and obtains a position on his own initiative, the transfer is in the government's interest only if the losing activity certifies that the employee has not declined a suitable position. Since the requisite certification has not been made in this case, relocation expenses may not be allowed. B-193250, September 26, 1980.

d. No basis to overturn

A transferred employee's entitlement to relocation expenses depends upon a determination that the transfer is not primarily for the convenience or the benefit of the employee and GAO will not

disturb an agency determination, unless clearly erroneous, arbitrary, or capricious. Thus, an agency determination to deny relocation expenses to an employee who transferred from Hawaii to Virginia is sustained where the agency's determination that the transfer was for the employee's own convenience was based on the fact that the employee voluntarily transferred to accept a position with an identical title, grade, and potential for promotion. Neither the fact of competitive selection to the position, nor erroneous advice as to the relocation entitlements, is a basis to overturn an agency determination. B-206011, May 3, 1982.

e. 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; affirmed October 4, 1977. However, if the agency recruits or requests an employee to transfer to a different location it will regard such a transfer as being in the interest of the government. B-185077, May 27, 1976, and B-184251, July 30, 1975.

f. 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), and B-190487, February 23, 1979.

g. 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 there must also be a determination that relocation of the employee's residence was incident to the transfer.

h. 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 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).

4. After the fact determinations

a. 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 his 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.

b. Employee appeals

A Forest Service employee appeals the denial of her claim for relocation expenses from Fremont National Forest, Lakeview, Oregon, to Sawtooth National Forest, Twin Falls, Idaho. Her claim was denied, as the transfer did not appear to be in the government's interest. The agency now advises us that the appropriate official has determined that the transfer was in the government's interest. Accordingly, appropriate relocation expenses may be reimbursed. B-198398, October 17, 1980.

5. Transfers in the government's interest

a. Merit promotion transfers

An employee's entitlement to relocation expenses under 5 U.S.C. §§ 5724 and 5724a is conditioned upon a determination that the transfer is in the interest of the government and not primarily for the convenience or benefit of the employee. 56 Comp. Gen. 709 (1977) and B-190487, February 23, 1979. When an agency issues a vacancy announcement under its merit promotion program, such action is a recruitment action and when an employee transfers pursuant to such action, the transfer is normally regarded as being in the interest of the government in the absence of agency regulations to the contrary. B-203429, January 27, 1982; 59 Comp. Gen. 699 (1980); reconsidered 61 Comp. Gen. 156 (1981).

Accordingly, absent agency policy to the contrary, merit promotion transfers are considered to be in the government's interest and relocation expenses are payable even though the agency failed to issue travel orders at the time of selection. B-201732, June 30, 1981. An employee may not be denied relocation expenses of a transfer pursuant to selection under a merit promotion plan on the basis that the employee initiated the job request by replying to a vacancy announcement. Budget constraints do not justify denial of relocation expenses on a transfer in the interest of the government. 59 Comp. Gen. 699 (1980), amplifying B-184251, July 30, 1975. See also B-188048, November 30, 1977. In B-201256, April 27, 1981, an employee reclaimed the cost of tour renewal travel which was deducted from his relocation expenses for failure to fulfill his renewal agreement. We held that the employee may be reimbursed the cost of tour renewal travel as a transfer incident to a merit promotion is not a violation of an overseas tour renewal agreement.

Department of the Navy employee's transfer to a new duty station 45 miles from his old duty station pursuant to a merit promotion was in the interest of the government. Because the distance between the two duty stations was more than 10 miles and because the employee relocated his residence from 60 miles to 30 miles from the new station, he is entitled to relocation expenses. Ronald Rapks, B-224631, September 17, 1987.

b. Agency policy contrary

An employee was denied relocation expenses incident to his transfer from San Diego, California, to Cheyenne, Wyoming, on the basis of agency anticipation of many local qualified applicants and a shortage of funds at the Cheyenne facility. Although the vacancy announcement was not explicitly placed under the agency's merit promotion program, the applicable OPM and agency regulations required that it should have been so included. Absent an agency regulation or provision in a vacancy announcement to the contrary, merit promotion transfers are considered to be in the government's interest, and relocation expenses are payable under 5 U.S.C. §§ 5724 and 5724a. Budget constraints do not justify denial of reimbursement of relocation expenses when a transfer is in the interest of the government. The employee is entitled to relocation expenses. B-201860, August 27, 1982.

c. Effectuating agency policy

Our decision Eugene R. Platt, 59 Comp. Gen. 699 (1980), was silent on the question of how agencies may effectuate a policy as to when to authorize reimbursement of relocation expenses pursuant to merit promotion transfers. However, our decision does not preclude GSA, OPM or the employing agency from issuing regulations on relocation expenses and merit promotions stating conditions and factors to be considered in determining whether a transfer is in the interest of the government. Payment of relocation expenses need not automatically be tied to the existence of a vacancy announcement issued pursuant to a Merit Promotion Program. Reconsideration of Platt, 61 Comp. Gen. 156 (1981).

d. Lateral transfers

Defense Logistics Agency's refusal to grant a transferred employee relocation expenses was not clearly erroneous, arbitrary or capricious where the employee initiated the transfer to a lateral position with no greater promotion potential. Also the transfer was primarily for the convenience of the employee, thereby precluding entitlement to relocation expenses. Julia R. Lovorn, 67 Comp. Gen. 392 (1988).

The employee is not entitled to relocation benefits where the employing agency properly exercised its discretion in determining

that the employee's lateral transfer at the same grade and salary was not primarily in the interest of the government. The employee applied and was competitively selected for the transfer under a vacancy announcement notifying applicants that a lateral transfer would preclude reimbursement of relocation benefits unless considerations related to labor market conditions or other factors resulted in a determination that the lateral transfer was in the interest of the government. The agency's decision under this standard is not overturned unless clearly unreasonable. James Trenkelbach, B-219047, April 24, 1986.

6. Transfers for convenience of the employee

a. Agency determinations

A transferred employee's entitlement to relocation expenses depends upon a determination that the transfer is not primarily for convenience or benefit of employee and the Comptroller General will not disturb an agency determination unless it is clearly erroneous, arbitrary, or capricious. Thus, an agency determination to deny relocation expenses to a transferred employee is sustained where the agency's determination that transfer was for the employee's own convenience was based on the fact that the employee voluntarily transferred to accept lower grade position with no greater potential for promotion is not a basis to overturn agency determination. Curtis E. Jackson, B-210192, May 31, 1983. See also Carol B. McKenna, B-214881, May 15, 1984.

b. At employee's request

The agency bears no responsibility for the payment of moving expenses where a transfer is initiated by the employee for his personal benefit or convenience. The agency is responsible for the payment of such expenses, however, when it recruits, requests, or orders an employee to transfer to a different location. B-184251, July 30, 1975. Thus, 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; affirmed (October 4, 1977).

While at a meeting, an employee learned of a position opening in Sacramento. He wrote a letter requesting to be transferred to Sacramento for "personal reasons" and stating that he understood "a money freeze was in force" and waiving all moving costs. Under the circumstances, the agency's determination that the employee's transfer was for his own convenience is fully supported by the record. B-193666, August 20, 1979. Similarly, an employee who initiated his transfer by a memorandum request for reassignment and completed the transfer by signing a statement acknowledging that the reassignment was at his request and at no expense to the government was properly determined to have been transferred for his own convenience and at his request. B-191482, November 7, 1978; and B-193631, May 3, 1979. See also B-197887, August 7, 1980; and B-195382, June 23, 1980. Neither a possible misunderstanding by an agency as to why an employee was building a house at his new duty station prior to his transfer, nor the fact that the employee was selected for an announced vacancy, is sufficient in and of itself to overturn the agency's determination that the transfer was primarily for an employee's benefit. B-199943, August 4, 1981. As to details and subsequent transfers at the employee's request, see B-198937, April 15, 1981.

c. Transfer outside Merit Promotion Plan

An air traffic control specialist requested a transfer to Cleveland under the FAA's Internal Placement Program, a voluntary, noncompetitive program by which employees seek reassignment to other FAA positions at the same grade level. Since the transfer was a lateral transfer to a position with no greater promotion potential, it constitutes an exception to the Merit Promotion Plan and the agency properly determined that the employee's transfer was for his own convenience. B-192105, May 16, 1979. Also see B-144304, September 19, 1979; B-197729, August 6, 1980; and B-173783.192, December 21, 1976.

d. 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.

e. Reemployment after RIF

An employee who was separated by a RIF 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.

f. Successive transfers

An employee was transferred 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 the shipment of his household effects from his first official station to the third station, since, upon transfer 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.

7. Short-distance transfer

a. Generally

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. B-188083, June 27, 1977 and 51 Comp. Gen. 187 (1971).

An employee appealed the denial of his claim for relocation expenses incident to a short-distance transfer on the basis that his agency improperly used routing by way of congested interstate highways in concluding that the transfer did not increase his commuting distance by at least 10 miles. Agencies have considerable latitude in determining whether relocation of an employee's residence is or would be incident to a short-distance transfer. Although agency could have approved routing employee claims to have

taken, its determination of routing to be used to determine commuting distance was proper. Rodney T. Metzger, B-217916, August 26, 1985. See also John W. Lacey, 67 Comp. Gen. 336 (1988).

b. Administrative determination

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. See for example B-168126, February 10, 1970. Consider the following:

- 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.
- A new appointee to a manpower-shortage category position may not be paid moving expenses for a short-distance relocation of his residence, since his new residence was no closer to his first duty station than was his old residence. There is no evidence of other circumstances showing that the relocation was incident to his appointment. B-191393, (May 11, 1978).
- 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, and May 11, 1978.

c. Cases illustrating exceptions

(1) 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 residence to the old duty station, relocation to a new residence shall not be considered incident to the 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.

(2) 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.

(3) Local or metropolitan area—The words "general local or metropolitan area" as used in FTR para. 2-1.5b(1) are descriptive, rather than restrictive. These are general criteria, rather than fixed rules to be narrowly applied in all cases involving transfers between official stations which are relatively close to each other. Therefore, it does not follow that for the relocation to be incident to a transfer of duty stations it must invariably result in less commuting time and distance. Thus, where the old duty station and the new duty station are located 77 miles apart and the employee's residence from which he commuted daily 43 miles to the old station is located midway between the two stations, the fact that the employee chose to relocate to the new station rather than continue to commute 45 miles daily, does not preclude a determination that the relocation was incident to the transfer. 58 Comp. Gen. 319 (1979).

8. Overseas transfer

a. Generally

Upon transfer to a position outside the conterminous U.S., 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. The provisions of 5 U.S.C. § 5728(a) and the regulations set out at FTR

para. 2-1.5g(3) place the responsibility for determining the place of actual residence of an employee on the administrative agency and as requiring the determination to be made on the basis of all available facts. 45 Comp. Gen. 136 (1965); 39 Comp. Gen. 337 (1959); 37 Comp. Gen. 848 (1958); 35 Comp. Gen. 101 (1955). Such a determination must, of necessity, be based on the facts of each case, and ordinarily our Office will not question any reasonable determination made by the agency of the employee's actual residence. 35 Comp. Gen. 244, 246 (1955).

An employee, in advance of an overseas transfer, performed vacation travel away from his permanent duty station. He returned to his permanent station for a short period to accompany his spouse while she was examined to become a naturalized citizen prior to their overseas travel. His claim for travel expenses for himself to return to his permanent station is denied. Under 5 U.S.C. § 5702 and paragraphs 1-1.4 and 1-11.3b of the Federal Travel Regulations, in order for travel to be deemed to be on official business, it must be authorized or approved in writing. Since he had not been on authorized official business away from his permanent station, his return travel to his permanent station may not be paid. James E. Moynihan, B-229074, March 28, 1988.

b. Residency determination authority

An employee who was locally hired for a position in Puerto Rico with HUD after having served 5 months with IRS in Puerto Rico claims entitlement to renewal agreement travel under 5 U.S.C. § 5728(a), claiming that his place of actual residence is New Jersey where he had lived prior to his transfer to Puerto Rico with the IRS. Based on information evidencing his intent to relocate to Puerto Rico on a permanent basis, HUD properly determined that the employee's residence at the time of his appointment was Puerto Rico. Prior residency determination made by IRS would not be binding on HUD. Miquel Caban, 63 Comp. Gen. 563 (1984).

In decision B-197205, May 16, 1980, we considered a claim for home leave and round-trip travel expenses and held that (1) the correction of an error in an overseas transfer agreement may be made when clearly shown that the place of actual residence was other than the place named in the agreement, and (2) that the place of actual residence at the time of transfer must be determined by the agency on the basis of all the available facts. Following our

decision the agency made a factual determination on the employee's residence based on an independent review of all available evidence. Since the agency's determination is not clearly arbitrary, capricious, or contrary to law, we will not substitute our judgment for the agency's as to the employee's actual residence. Accordingly, the employee is not entitled to home leave and round-trip travel expenses. B-197205, February 16, 1982. See also B-191143, January 3, 1979.

c. 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 U.S., at the time he was hired. B-182226, January 27, 1975, and B-169704, October 20, 1970.

A former employee of a government contractor on Guam was subsequently hired by the Navy and was denied a transportation agreement based on the Navy's initial determination that he was a resident of Guam and did not have return transportation rights with the contractor. Subsequently, for the purpose of finding him entitled to a non-foreign post differential, the Navy found that he had return transportation rights with the contractor, indicating that he had a U.S. residence. The latter determination was made under regulations listing as classes of eligible employees, virtually the same classes of employees as are entitled to a transportation agreement. Therefore, the employee is entitled to a transportation agreement. B-191012, May 17, 1978.

9. Canceled transfer

a. Generally

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 canceled. B-166909, July 14, 1976.

Where a transfer has been canceled 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 prior to its cancellation. If the employee's duty station has not been changed as a result of the canceled 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.

b. Reimbursable expenses

The impact of a canceled 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 of a transfer to Johnson Island which was subsequently canceled. He may be reimbursed the 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 the expenses of buying and selling residences in Maryland, since the canceled transfer was to a location outside the U.S. and to other than an area designated by 5 U.S.C. § 5724a(a)(4). In the case of a canceled transfer, the employee is regarded as transferred to his then PDY 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 canceled transfer. B-189900, January 3, 1978.

c. Expenses incurred after cancellation

After notification that his transfer orders were canceled, an employee shipped his HHG. Since the order was canceled 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 canceled may be reimbursed real estate transaction expenses even though settlement under the sales contract did not occur until after the transfer orders were canceled. B-177130, February 2, 1973.

d. Avoidable expenses

An employee whose transfer was canceled, 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 canceled the listing agreement without obligation or expense. B-181321, November 19, 1974.

10. Successive transfers

a. 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).

b. 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 canceled. The employee may be paid TQSE for 30 days in connection with the first transfer to Washington, D.C., and for 30 days in connection with the anticipated, but canceled transfer to Alabama. B-189457, August 23, 1975.

c. Two transfers—one relocation of employee and family

Generally, where an employee does not relocate his immediate family or his HHG 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.

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.

d. Transportation of HHG within 2 years of first transfer

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

e. 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.

f. 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.

11. Funding of transfers

a. Transfer between agencies

In the case of a 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.

Ordinarily, all relocation expenses reimbursements under 5 U.S.C. §§ 5724 and 5724a associated with an inter-agency transfer are the sole responsibility of the gaining agency. 5 U.S.C. § 5724(e). However, where an employee also has vested return travel rights under 5 U.S.C. § 5722, these are to be paid by the losing agency so long as return travel is performed before the transfer is effected. Milton G. Parsons, 58 Comp. Gen. 783 (1979); 46 Comp. Gen. 628 (1968); and Thomas D. Mulder, 65 Comp. Gen. 900 (1986).

b. Transfer upon completion of period of overseas duty

An Air Force employee in the Canal Zone, who was entitled to travel and transportation costs to his home of record, transferred to a position with the Forest Service in Oregon. The Air Force's payment of travel and transportation expenses to his new station before the effective date of the Forest Service appointment was proper, to the extent that those costs did not exceed the constructive costs of travel and transportation to the employee's home of record. Milton G. Parsons, 58 Comp. Gen. 783 (1979); and William F. Krone, B-213855, May 31, 1984.

c. Transfer within DOD

When functions of the Comptroller Services Division, 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. C2053-2b(1)(b) provides that costs incident to movement between DOD activities located in the U.S., caused by a RIF or a transfer of function, will be borne by the losing activity. B-170253(1), August 25, 1970.

d. Reemployment after RIF

When an employee is separated by a RIF or a 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 a RIF, 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).

Where an employee, separated by one agency as the result of a reduction in force, is subsequently hired within the following year by another agency, both the gaining and the losing agency have direction to pay all, any or none of the individual's relocation expenses. Since it is the Department of Defense's policy for the losing agency to pay these costs, the determination by Defense Logistics Agency as the gaining agency not to pay these expenses was proper. Where the gaining agency has declined to pay any such expenses, the losing agency's payment of a portion of the employee's relocation expenses is not contingent upon any agreement between the heads of the two agencies involved. Gordon W. Kennedy, 65 Comp. Gen. 332 (1986).

e. Reemployment without break in service

An employee who returns to his place of actual residence in the U.S., 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 the expenses of relocation from his place of actual residence to his new duty station. 47 Comp. Gen. 763 (1968).

f. Reemployment after erroneous retirement

An employee stationed in Oregon decided to retire in lieu of accepting a directed reassignment to another duty station. After retirement, she moved to the state of Washington. The employee was later reinstated retroactively since the agency had erroneously determined she was eligible for retirement. She was offered employment near her new residence. Her claim for relocation expenses after her retirement is denied since these expenses are not allowances the employee would have received but for the erroneous retirement. Gertrude M. Grammer, B-226519, August 22, 1988.

An employee who moved after retirement was reinstated when it was determined that the agency erroneously computed her eligibility for retirement. She was offered employment near her new residence and was later reassigned to her former duty station. Her claim for relocation expenses back to her former duty station may be allowed since the reassignment constituted a permanent change of duty station. Gertrude M. Grammer, B-226519, August 22, 1988.

g. Effect of break in service—erroneous agency advice

An employee of the U.S. Forest Service claims travel and relocation expenses in connection with a move to a duty station at Payette National Forest, Idaho, where a retroactive travel authorization was issued on the basis that the break in his government service was the result of erroneous advice by agency officials that he had to resign his former position at Logan, Utah, in order to accept the new position. Payment may not be allowed, as 5 U.S.C. §§ 5724 and 5724a, which provides for reimbursement of travel and relocation expenses, require that a change in PDY station be without a break in service. The government is not responsible for any erroneous advice or acts of its officers, agents, or employees. B-196292, July 22, 1980.

C. Travel to First Duty Station

1. First duty station in U.S.

a. Generally

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). New appointees must bear the expense of reporting to their first official duty station, which is the place where the major part of the employees' duties are performed and where they are expected to spend the greater part of their time. 58 Comp. Gen. 744 (1979).

b. Application of the rule

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 the training. 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. Similarly, new appointees cannot be reimbursed travel and relocation expenses from Washington, D.C., to their duty stations, where the agency erroneously indicated that Washington was their PDY station rather than their TDY station while in training for four months. 58 Comp. Gen. 744 (1979). And, the fact that new appointees were erroneously presumed to be appointees to shortage-category positions and were incorrectly advised that their moving expenses would be reimbursed does not provide a basis for payment. B-194032, June 19, 1979.

c. Shortage-category appointees

(1) Generally—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 HHG to the extent authorized by 5 U.S.C. § 5724. They are not entitled to expenses for the sale and purchase of residences or to subsistence while occupying temporary quarters. B-194341, May 22, 1979. Nor are they entitled to miscellaneous expenses. B-194270, May 9, 1979. 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 HHG. B-187173, October 4, 1976. A shortage-category appointee may not be allowed real estate transaction expenses, TQSE, or miscellaneous expenses payable in connection with a PCS. 54 Comp. Gen. 747 (1975), and B-203502, October 8, 1981. See also John H. Teele, 65 Comp. Gen 679 (1986).

(2) Failure to issue travel orders—An employee appointed to a manpower shortage position was not issued orders authorizing travel and transportation allowances to his first duty station but was advised that family travel and transportation of household goods had to be accomplished within 1 year. Since these entitlements are in accordance with the statute and regulations, original after-travel orders may be issued. Such orders may permit travel within the 2-year period authorized by the FTRs unless there is a mandatory agency regulation limiting travel and transportation in these circumstances to 1 year after the appointment. Dr. Chih-Wu Su, B-217723, August 12, 1985.

(3) Travel orders canceled—Claimant was selected for manpower-shortage position and signed a 12-month service agreement. Agency issued a travel order and advanced funds for travel expenses, but withdrew offer of employment prior to reporting date due to budget constraints. Claimant is not liable for portion of travel advance paid by agency relating to relocation travel since failure to fulfill service agreement was for reasons beyond her control. There is no authority to allow remainder of expenses. Betsy L. Randall, 64 Comp. Gen. 617 (1985).

(4) 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.

(5) Relocation incident to appointment—Where a shortage-category appointee relocated his residence to a place which did not result in

a reduction in the commuting time or distance to his first duty station, the relocation was not incident to his appointment and his moving expenses may not be paid. B-191393, May 11, 1978.

(6) Shortage-category determination

(a) 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.

(b) 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. The erroneous administrative authorization of such expenses provides no basis for entitlement, since the government cannot be bound beyond the actual authority conferred on its agents by statute and regulation. B-194341, May 22, 1979, and B-188095, September 28, 1977.

2. First duty station overseas

A new appointee to a position outside the conterminous U.S. 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). The agency is required to make a determination as to the place of actual residence of a new appointee to an overseas position. For example, 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 U.S., 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. And, in regard to TDY en route, our decision B-193041, May 5, 1981, responded to an agency questioning whether new appointees who

are assigned to the Washington, D.C., area for TDY prior to reporting to an overseas duty station are entitled to a subsistence allowance. Both new hires and transferees may be authorized subsistence at Washington, D.C., since, under the circumstances presented, it is a training or TDY site, not a PDY station, and the employee would undoubtedly incur additional expenses.

D. Renewal Agreement Travel

1. Generally

The renewal agreement travel provisions originally enacted by the Act of August 31, 1954, ch. 1155, 68 Stat. 1008, are intended to provide expense reimbursement for round-trip travel and transportation by civilian government employees and their families between tours of duty overseas for the purpose of taking leave. House Report No. 2096, 83d Congress, Senate Report No. 1944, 83d Congress; B-131459, May 6, 1957. Now codified in 5 U.S.C. § 5728, the law states that under regulations prescribed by the President an agency shall pay such travel expenses to an employee who has (1) "satisfactorily completed an agreed period of service outside the continental United States" and (2) signed a new agreement to serve another tour of duty outside the "continental United States." Alaska is considered to be outside the "continental United states" under the definition of that term in 5 U.S.C. § 5721(3). B-205137, May 18, 1982.

The regulations governing renewal agreement travel are promulgated by the GSA in FTR para. 2-1.5h. Corresponding to the qualifications in 5 U.S.C. § 5728, there are two eligibility requirements for renewal agreement travel under FTR para. 2-1.5h(1). First, the employee must have completed either an agreed period of service or the 1 to 3 year period of service prescribed in advance by the head of the agency as a condition to the employee's entitlement to return travel and transportation expenses under FTR para. 2-1.5a(1)(b). The second eligibility requirement is that the employee enter into a new written agreement as provided in 2-1.5a(1)(b) for another period of service outside the "conterminous United States." The term "conterminous United States," means the 48 contiguous states and the District of Columbia. It is synonymous with the term "continental United States" in 5 U.S.C. § 5721(3). FTR paras. 2-1.4a and 2-1.5a(1)(b).

As expressly set forth in 5 U.S.C. § 5728, the period of service under the first, as well as the second, eligibility requirement for renewal travel under FTR para. 2-1.5h(1)(a) must be outside the continental U.S. See also B-186560, December 9, 1976.

2. Eligibility

a. Stationed in the U.S.

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

b. 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).

c. 5 U.S.C. § 5728 amendment—Alaska and Hawaii

On September 8, 1982, 5 U.S.C. § 5728 was amended to restrict tour renewal travel for employees assigned to Alaska and Hawaii to situations in which travel was necessary to recruit or retain an employee for a tour of duty in Alaska or Hawaii. Regulations implementing this change were published on July 15, 1983, to be effective retroactive to September 8, 1982. An employee who was recruited for an assignment to Alaska during retroactive period with a commitment for tour renewal travel, may be granted tour renewal travel in these circumstances since it appears that this benefit was necessary for recruitment. J. Brice Chastain, B-218523, October 15, 1985.

On September 8, 1982, 5 U.S.C. § 5728 was amended to restrict tour renewal travel entitlements for employees assigned to Alaska to not more than two round-trips commenced within 5 years after the date the employee first commenced any period of consecutive tours of duty in Alaska. As provided in regulations implementing the amended statute, date of assignment to Alaska for purposes of coverage under the amended statute is the date the employee commenced travel to Alaska under the terms of his service agreement,

rather than the earlier date on which he signed the service agreement. Therefore, an employee commencing travel to his duty station in Alaska subsequent to the amendment is bound by the provisions of that law. Dean Littlepage, B-227464, April 14, 1988.

On September 8, 1982, 5 U.S.C. § 5728 was amended to restrict tour renewal travel for employees assigned to Alaska and Hawaii to situations in which travel was necessary to recruit or train an employee for a tour of duty in Alaska or Hawaii. That statute and the implementing regulations now provide that only employees who have been continuously stationed in Alaska and Hawaii on and since September 8, 1982, may retain unrestricted tour renewal travel rights. Under the plain terms of the applicable statute and regulations three civilian employees of the Air Force who were recruited for an assignment in Hawaii prior to September 1982 but who were later reassigned away from Hawaii and were not stationed in Hawaii on September 8, 1982, did not retain the unrestricted renewal travel entitlements when they subsequently returned to Hawaii in 1983. Joseph J. Wuscher, Robert J. Rosen, and Sebastian P. Luizzi, B-225013, October 28, 1987.

d. 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).

e. Guam—new appointee

In response to a job announcement, an employee applied for and was accepted for a position in Guam. The job announcement and his travel orders authorized one round-trip vacation to Hawaii for the employee and his family at government expense. His claim for reimbursement for these vacation travel expenses is denied since (1) the government is not bound by employment offer, (2) the employee's rights are statutory and not contractual, and (3) there is no statutory authority for payment. The government is not bound by unauthorized acts of its agents, and the facts of this case do not contain equitable considerations that warrant our reporting the matter to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d) (1982). Claude R. Hall, B-223737, June 24, 1987.

f. 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).

g. 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 employee agreement. However, FTR 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); and B-191144, March 15, 1979. Similarly, see B-191674, March 29, 1979, involving an Air Force member who, while stationed in Oklahoma, applied for an FAA position and was appointed from the local register as a local hire. And, the fact that an employee was appointed without a break in service from an agency which had granted him entitlement to home leave travel is not controlling. B-190590, February 21, 1979.

h. Husband and wife both employed

A single employee was hired outside the continental U.S. for service in Labrador and permitted to negotiate a transportation agreement. Ten years later she married another employee of the U.S. 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 a RIF 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 U.S. reinstated, since her husband was no longer a U.S. employee. 54 Comp. Gen. 814 (1975).

i. Separate travel periods—employee and dependents

Federal employees who agree to perform consecutive overseas tours of duty are eligible for tour renewal travel for themselves and their dependents to the United States for a period of leave. An

employee's dependents may properly perform tour renewal travel by accompanying the employee on a temporary duty assignment in the United States, and the employee in that situation may defer his own tour renewal travel for use during leave taken at a later date. Hence, the wife and son of a Defense Department employee stationed overseas were properly authorized tour renewal travel to accompany the employee when he performed a temporary duty assignment at Fort Meade, Maryland, notwithstanding that as a general rule federal employees have no entitlement to the concurrent travel of their dependents on temporary duty assignments.

Federal employees stationed overseas who are eligible for tour renewal travel to the United States for themselves and their dependents may elect to defer their own tour renewal travel to some time subsequent to the time of their dependents' travel. An employee who defers personal tour renewal travel and is later unable to perform that travel has no obligation to refund the expenses of the tour renewal travel performed earlier by the dependents. A Defense Department employee who was apparently precluded by official action from exercising his own eligibility for deferred tour renewal travel is thus not liable to refund the expenses of the tour renewal travel performed earlier by his wife and son. Charles E. Potts, 65 Comp. Gen. 213 (1986).

j. Fulfilling eligibility requirements

An employee who meets all of the eligibility requirements under 5 U.S.C. § 5728 is entitled to renewal agreement travel. In holding that an agency cannot defeat an employee's travel entitlement under section 5728 by refusing to negotiate a renewal agreement where the particular position could be filled locally, we have recognized that renewal agreement travel is not merely a matter of privilege. 37 Comp. Gen. 848 (1958). As stated in 5 U.S.C. § 5728, "...an agency shall pay...the expenses of round-trip travel..." when the conditions of entitlement are satisfied. The language "shall pay" is mandatory, rather than discretionary. B-205137, May 18, 1982.

An employee who executed an agreement to remain with IRS in Puerto Rico for 24 months but who obtained an appointment in Puerto Rico with HUD only 5 months later, did not satisfy the terms of his original agreement by remaining with HUD for an additional

19 months. An agency may require an employee to satisfy an agreement to remain in the service of that particular agency at a designated overseas post of duty for a specified period as a condition of return travel. Miquel Caban, 63 Comp. Gen. 563 (1984).

k. Completion of tour of duty

An employee was transferred from Alaska to Okinawa under a 24 month agreement. Due to a RIF he was transferred 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 entitlement to round-trip travel for the purpose of taking home leave. B-177097, January 19, 1973.

An employee who had been stationed in Montreal, Canada, for 2 years, agreed to serve there for an additional 2-year period and performed renewal agreement travel under 5 U.S.C. § 5728 (1982). After returning to that duty station in Montreal for approximately 18 months, the employee transferred to a position in the United States. Although the employee did not complete the agreed period of overseas service, she may retain renewal agreement travel expense reimbursement since she served for more than 1 year under the new agreement. Virginia M. Borzellere, B-214066, June 11, 1984.

3. Procedural requirements

a. 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. See also B-205137, May 18, 1982, in which we stated that the employing office is required by 5 U.S.C. § 5728 and FTR para. 2-1.5h(1)(a), authorizing renewal agreement travel, to either ask employees assigned outside the conterminous U.S. to agree upon an initial

period of service outside the conterminous U.S., or prescribe in advance a fixed period of between 1 and 3 years. Also, tour renewal agreements necessary for renewal agreement travel should clearly stipulate that the service is to be outside the conterminous U.S.

b. 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.

Former employee upon completion of a 2-year tour of duty at Thorne Bay, Alaska, signed a renewal agreement and agreed to remain at the same or another post of duty outside the conterminous U.S., in government service for a minimum period of 2 years. Upon completion of renewal agreement travel to Fairbanks, Alaska, an alternate location, he was reassigned to Ketchikan, Alaska. Employee declined the reassignment and resigned his position with the agency 2 months after returning from renewal agreement travel. Employee's reasons for not accepting the reassignment were personal in nature, within his control, and not acceptable to the agency. Hence, employee is not entitled to reimbursement of expenses incurred during renewal agreement travel. R. Steve Scheldt, B-214495, January 31, 1985.

c. 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 state-side 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.

d. Place of actual residence determination

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; and 37 Comp. Gen. 846 (1958). See also B-197205, February 16, 1982, for a discussion of the basis for agency determinations.

e. Actual travel requirement

Generally, an employee stationed outside the continental U.S. is entitled to be reimbursed for the cost of his dependents' round-trip travel to the U.S. only if the employee himself returns to the U.S. 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 U.S., 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.

f. Points of travel

(1) 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 U.S. 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).

(2) Travel from other than overseas post—When an employee is stationed at a post of duty outside the continental U.S., 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).

(3) Travel to U.S. required—FTR para. 2-1.5h(2) 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 U.S., 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 U.S., met the substantial time requirement. 53 Comp. Gen. 468 (1974). However, an employee who made a 4-day stop in the U.S., 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.

A Foreign Service employee of State requested home leave in the Canal Zone. Home leave may not be authorized in the Canal Zone since home leave may only be granted in the continental U.S. or its territories and possessions and the Panama Canal Treaty of 1977, effective October 1, 1979, provides that the Republic of Panama has full sovereignty over the Canal Zone. Since home leave for purposes of "re-Americanization" is compulsory under 22 U.S.C. § 1148, the employee should designate an appropriate location for this purpose. 59 Comp. Gen. 671 (1980).

(4) One-trip limitation—While in North Carolina, an intermediate point on authorized home leave travel to California, the employee was notified of transfer from Newfoundland to the Azores and was required to return to Newfoundland to complete transfer arrangements. Under amended orders authorizing home leave in California enroute to the Azores, he traveled to Dallas, Texas, for leave before reporting to his new duty station. Because he was reimbursed for that travel, the agency questioned whether he was also entitled to be reimbursed for the round-trip to North Carolina. An employee is entitled to round-trip travel expenses only for one home leave trip. Although the cost payable by the government for travel to an alternate home leave point is generally restricted to the cost actually incurred, not to exceed the constructive cost to the place of actual residence, the employee should be reimbursed his travel expenses

not to exceed the constructive cost of one round-trip between Newfoundland and Dallas and the constructive cost of a trip from Newfoundland to the Azores. B-192619, July 23, 1979.

g. Reimbursable expenses

(1) Transportation of baggage—An employee performing renewal agreement travel may not be authorized transportation of IIHG, 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).

(2) Automobile rental charges—An employee on renewal agreement travel who was authorized to use his POV in connection with such travel rented an automobile which he used, in part, for travel between the airport and his place of residence and return. As the employee's automobile was overseas and he did not have a POV at his disposal, he may be reimbursed the cost of the rental automobile for travel between the airport where the cost was less than that of commercial limousine service. B-196196, August 19, 1980.

(3) 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 the payment of per diem while in a leave status is not applicable to tour renewal agreement travel. 55 Comp. Gen. 1035 (1976). However, the employee's family is not entitled to per diem while traveling. B-166379, April 10, 1969.

(4) Scheduling traveltime—An employee who performed renewal agreement travel from Kwajalein, Marshall Islands, to Huntsville, Alabama, arrived at Hickham AFB, Hawaii, at 6:30 p.m. after a 5-1/2 hour flight and continued on to Los Angeles by a flight departing from Honolulu at 11:30 p.m. 2 days later. The employee's entitlement to per diem should not be based on a constructive schedule which requires him to continue on from Hawaii by a flight departing at 11:30 p.m. on the same night as his arrival at Hickham AFB. The fact that the employee traveled at a late hour following 2 days of rest does not warrant a departure from a constructive travel schedule otherwise applicable which would permit him to

continue on at a reasonable hour the following morning. 61 Comp. Gen. 448 (1982) and B-200305, April 23, 1981.

(5) Traveltime—An employee who travels from a duty station in Alaska or Hawaii to the continental U.S. 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 U.S. to the U.S. 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).

(6) Funding of renewal agreement travel—An Interior employee who satisfactorily completed an overseas tour of duty returned to the U.S. for home leave upon signing a tour renewal agreement. He arranged a transfer to AID while on home leave. The employee's salary should be charged to the Interior appropriation for the period of home leave since the employee earned it as an Interior employee and the effective date of his transfer to AID, agreed to by Interior, was after the completion of home leave. 58 Comp. Gen. 633 (1979).

E. Separation Travel

1. Generally

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 of actual residence at the time of assignment. FTR para. 2-1.5g(4).

2. Eligibility

a. Employees hired locally

An employee who was an overseas local hire and who did not sign a transportation agreement at the time of his appointment is not entitled to reimbursement of transportation expenses to his home of record in the U.S. at the time of his separation. 58 Comp. Gen. 385 (1979); and B-184972, May 5, 1976. And, 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).

b. Last duty station in U.S.

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 PDY in the U.S. B-163997, May 10, 1968.

c. 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 U.S., 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 agency may set further requirements: 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 non-approved 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

1. Erroneous overpayment

a. 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 U.S., is not estopped from repudiating the advice given by 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.

b. 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. § 3701, 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. And, according to the Federal Claims Collection Standards, an employee may be permitted to repay his debt in regular installments over a period of not more than 3 years (see 4 C.F.R. § 102.9). The agency should charge interest on that debt, in conformity with the Treasury Fiscal Requirements Manual. B-206258, June 16, 1982.

c. Back Pay Act

Under the Back Pay Act of 1966, as amended, 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.

An employee who was transferred to a new duty station filed a complaint alleging discrimination in the transfer. The CSC ruled that the transfer was based on race and sex discrimination, and the agency retroactively restored the employee to her former position at her old duty station. The corrective action taken did not change her interim duty station from permanent to temporary and the new

employee may not be paid per diem while stationed at the new duty station for 3 years. There is no basis under the Back Pay Act for payment of such expenses and neither the Civil Rights Amendments of 1964, as amended, 42 U.S.C. § 2000e-16, nor its implementing regulations, provide for the payment of such expenses. However, the employee is entitled to relocation expenses incident to two transfers. B-191056, June 5, 1978. See also B-190332, April 26, 1978.

d. Waiver

An employee was transferred to his temporary duty site and continued to reside in the same housing he had occupied while on temporary duty. He may not be allowed temporary quarters subsistence expense because, under paragraph 2-5.2c of the Federal Travel Regulations, those expenses are payable only if an employee has vacated the residence he was occupying at the time of his transfer. However, his indebtedness may be considered for waiver. William E. Gray, 66 Comp. Gen. 532 (1987).

An appointee to a manpower-shortage category position was issued orders erroneously authorizing reimbursement of relocation expenses as though he were a transferred employee, and he was given an advance of funds to cover some of those expenses. After he completed travel to his duty station the error was discovered. The employee has no legal right to reimbursement of the expenses of the house-hunting trip and temporary quarters subsistence expenses he incurred, even though the orders purportedly authorized reimbursement of these expenses, since the expenses were in excess of those prescribed by statute and the government is not bound by orders or advice contrary to the applicable statutes. The government's resulting claim against the employee for repayment of the travel advance can be considered for waiver under 5 U.S.C. § 5584 to the extent that (1) the advance was used for the erroneously authorized temporary quarters subsistence expenses and (2) the employee remains indebted to the government for repayment of the amounts advanced after the advance has been applied against the legitimate expenses. Since in this case the employee's legitimate expenses exceed the amount of the travel advance, there is no net indebtedness which would be appropriate for waiver consideration. Rajindar N. Khanna, 67 Comp. Gen. 493 (1988).

A Veterans Administration employee who, due to an agency administrative error, received improper authorization for a house-hunting trip for his wife and himself from San Juan, Puerto Rico, to Houston, Texas, is granted a waiver of the claim against him for the cost of the round-trip airfare paid by the government. Payment for house-hunting trips to, from, or outside of the continental United States is not authorized under 5 U.S.C. § 5724(a)(2). However, a waiver of the claim is granted under the Comptroller General's newly extended waiver authority at 5 U.S.C. § 5584 since there is no evidence of fraud, misrepresentation, fault or lack of good faith on the part of the employee and collection in this case would be against equity and good conscience and not in the best interests of the United States. Michael Moran, 66 Comp. Gen. 666 (1987).

The Comptroller General's authority to waive a claim against an employee applies to cases where an agency actually made an erroneous payment of pay or allowances or travel and transportation expenses. In a case where the agency erroneously authorized a house-hunting trip from a point outside the continental United States for the employee and the employee incurred the expense but the agency made no payment, the waiver statute does not apply since there is no claim of the United States to waive. In addition, there is no authority to authorize payment for expenses arising out of such house-hunting trips which are not otherwise authorized by law. Michael Moran, 66 Comp. Gen. 666 (1987).

Agency erroneously authorized certain relocation expenses and the error was discovered after the employee had incurred the expenses but before the voucher was paid. The newly amended waiver statutes do not authorize waiver in cases where no payment has been made. Nothing in the statute, either before or after its amendment modifies or abrogates the rule that the government is not liable for the erroneous advice of its agents. The statute and its legislative history demonstrate that Congress intended waiver authority to apply only to cases in which an erroneous payment has already been made. Rebecca T. Zagriniski, 66 Comp. Gen. 642 (1987).

G. Fraudulent Claims

See, generally, discussion of cases in CPLM Title III, Chapter 10, Part B. See also specific index headings, Chapters 3-13 of Title IV, Relocation.

Travel of Employee and Immediate Family

A. Authorities

1. Statutory authorities

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 U.S. 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 a RIF under 5 U.S.C. § 5724(c); to manpower-shortage category appointees, student trainees and certain Presidential appointees under 5 U.S.C. § 5723; to employees assigned for training under 5 U.S.C § 4109, and for IPA 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 CPLM Title III—Travel.

2. 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. FTR para. 2-2.1 provides that, except as otherwise set forth in Chapter 2-2, the expenses 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 CPLM Title III—Travel, are for consideration when travel is performed incident to relocation.

B. Eligibility

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

1. Incident to relocation

a. Transfer

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

b. 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 U.S. is not bound by the unauthorized acts of its officers and employees. B-171592, February 26, 1971.

Where new appointees were told to report to Washington, D.C., for 4 months, during most of which period they were assigned to training in Georgia, and were thereafter assigned to PDY stations other than Washington, Washington was improperly designated as their first duty station. As new appointees, they may not be reimbursed travel expenses for reporting to their subsequently assigned PDY stations, which were in fact their first duty stations. However, new hires who traveled to training sites enroute to those first duty stations may be authorized travel expenses in excess of what would have been incurred in traveling directly from the employees' homes to their first duty station. 58 Comp. Gen. 744 (1979).

c. 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 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.

Travel orders of Navy civilian employee, filling a manpower-shortage position, limited reimbursement for first duty station travel by privately owned automobile (POA) to the constructive cost of commercial air. Both the Federal Travel Regulations (FTR) and 2 Joint Travel Regulations (2 JTR), however, state that use of POA for such travel is advantageous to the government. Where the applicable regulations prescribe payment the claim must be allowed, regardless of the wording of the travel orders. See FTR para. 2-2.3a; 2 JTR para. C2151(3). Dominic D. D'Abate, 63 Comp. Gen. 2 (1983).

d. Appointment after RIF

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).

e. Travel for separation—alternate destination

Under 5 U.S.C. § 5722, civilian employees who are separated abroad are entitled to travel and transportation expenses to their place of actual residence at the time of overseas assignment. We hold that such employees are entitled to those expenses to any alternate destination, within or outside the United States, provided, however, that the cost to the government shall not exceed the cost of transportation to the actual place of residence. Since this represents a change construction of the statute, it is for prospective application only, effective as of the date of this prospective application only,

effective as of the date of this decision. Thelma I. Grimes, 63 Comp. Gen. 281 (1984).

In order for employee to be reimbursed expenses incident to return travel to former place of residence, travel must be clearly incidental to separation and should commence within reasonable time thereafter. Employee who resigned position effective October 2, 1981, notified agency on March 2, 1982, of intent to return to former place of residence commencing on September 23, 1983, and who accepted employment at location of resigned position does not meet requirements for reimbursement. Consuelo K. Wassink, 62 Comp. Gen. 200 (1983).

f. 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 TDY. On the other hand, when the cost of transportation of the employee's immediate family and HHG 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, in lieu of per diem, the employee may be authorized transportation of his immediate family and HHG 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 HHG 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 his family and HHG, 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.

An employee who was reinstated with the FBI after a break in service of 6 years, took the oath of office in Buffalo, New York, which was designated as his "headquarters," and he then was sent for new agents' training in Quantico, Virginia. At the completion of his training he was advised that he was being transferred directly to New York City and that he would be reimbursed relocation expenses from Buffalo to New York. After his arrival in New York the employee was informed that he had been given erroneous

advice and was entitled only to the allowances for transportation of dependents and household goods authorized by 28 U.S.C. § 530. The employee's claim for the additional relocation expenses and interest on loans may not be allowed since Buffalo was not his permanent duty station for relocation allowance purposes, and the government cannot be bound by the erroneous advice of its agents. Daniel R. Russo, B-226000, January 11, 1988.

g. IPA assignments

Under the Intergovernmental Personnel Act, 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. 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 PCS allowances (including transportation and per diem for the immediate family) or per diem to employees assigned under the IPA. 53 Comp. Gen. 81 (1973).

h. TDY assignments

An employee who moved his family to the place where he was on TDY 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 TDY 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).

Where dependents were living elsewhere at the date the employee was notified of his transfer to the TDY location, the employee is entitled to be reimbursed for their transportation to the new duty station in an amount not to exceed the cost of the dependents' transportation from the old to the new duty station. B-199525, May 6, 1981.

i. Return of employee's widow to old duty station

An employee who was transferred from California to Ohio for a 2-year tour of duty died prior to the end of the 2-year period. There is no authority to pay his widow's claim for moving expenses

incurred incident to her return to California. Lowell W. Cossairt, B-224711, January 8, 1987.

j. 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 his travel orders issued 18 months later failed to indicate that the earlier travel by his dependents was authorized. B-182013, May 14, 1975; affirmed September 13, 1976.

k. Break in service

Where the record does not establish that prior to an employee's reporting to his duty station there was a clear intent by the agency that relocation expenses were to be paid and that the change of duty station was to be accomplished without a break in service, there is no basis to authorize a retroactive adjustment of the employee's separation date to avoid a break in service prior to his reporting to the new duty station to permit the payment of travel relocation expenses. Greg T. Montgomery, B-196292, July 22, 1980, affirmed on reconsideration, B-196292, June 6, 1983.

Temporary employee was offered and accepted a permanent position with the Forest Service in Alaska while serving in California. The appointment was deferred due to hiring freeze of January 1981. He was then offered a temporary position in Alaska pending lifting of freeze. He resigned his position, had a break in service from March 14, to 25, 1981, and traveled at his own expense to accept the temporary appointment. After hiring freeze was lifted, employee was again offered permanent appointment. He accepted and his temporary appointment was converted to a permanent one. Claimant, because of break in service, may be reimbursed travel and transportation expenses as a new appointee in traveling to accept a temporary position at a post of duty outside the continental United States under 5 U.S.C. § 5722 (1976), even though travel authorization has not been issued. Robert E. Demmert, B-207030, September 21, 1983.

2. Immediate family—generally

Under FTR Chapter 2-2, allowances for subsistence and transportation are payable for the travel of the employee's immediate family. The term "immediate family" is defined in FTR para. 2-1.4d.

Individuals who are included in the term "immediate family" and are temporarily absent from their home attending school, visiting, etc., at the time the employee is transferred to a new permanent station, continue to be members of the employee's immediate family. 25 Comp. Gen. 325 (1945).

An employee's transportation expenses for minor children whose custody has been divided between the employee and his former spouse are reimbursable pursuant to 5 U.S.C. § 5722, when his children met the definition of "immediate family" as set forth in FTR para. 2-1.4d, and became "members of employee's household" consistent with the decisions of this Office. The length of time which the children actually live with the parent-employee and the discernible intent which characterizes these periods are integral evidentiary facts to be considered. 59 Comp. Gen. 450 (1980).

In decision B-191441, May 11, 1978, it was held that a Forest Service employee could not be reimbursed transportation and related expenses of a minor daughter who was married since the FTR limits reimbursement to the employee's "immediate family" and the definition of that term excludes married minor children. Since the employee has now obtained an annulment of his daughter's marriage, rendering the marriage a nullity, the employee may now be reimbursed his daughter's transportation expense. B-191441, June 6, 1980.

Employee was transferred from Washington, D.C., to Ogden, Utah. He had been divorced and legal custody of his daughter had been awarded to his former wife who lived in Claremont, California. Although the daughter had resided with employee for some 10 months prior to employee's transfer, at the time employee reported to his new duty station he was neither accompanied by his daughter nor did she later join him in Utah. Under the Federal Travel Regulations, a dependent must be a member of the employee's household at the time he or she reports for duty. Accordingly, employee may not be reimbursed for the cost of his daughter's

travel from his old duty station to his former spouse's home upon his transfer. John W. Richardson, Jr., 65 Comp.Gen. 845 (1986).

3. Spouse

a. Nondependent husband

A transferred female employee is entitled to the 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).

b. Marriage after date of travel orders

An employee who is married after the issuance of a travel order directing his PCS, but prior to the date travel is authorized or directed, is entitled to be reimbursed for his new wife's transportation. 26 Comp. Gen. 293 (1946) and 41 Comp. Gen. 574 (1962).

c. Marriage en route to new station

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

d. Marriage while on TDY

An employee married while in the U.S. on TDY. He is not entitled to the transportation of his wife to his official station outside the U.S. at government expense. 30 Comp. Gen. 55 (1950).

e. 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.

f. Employee's wife resides at new duty station

The employee's wife, who resided at the new duty station and was not involved in the employee's change of station, traveled to the old duty station for the purpose of driving the employee's car to the

new duty station since the employee was driving a rental truck to transport his household goods. There is no entitlement to mileage and per diem for his wife's travel since her residence was at the new duty station and she was not officially relocating or performing permanent change-of-station travel, and thus was not a person entitled to travel at government expense. Thomas R. Stover, B-224092, March 23, 1987.

g. Marriage at overseas post

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

(2) Prior to separation—An employee who acquired a wife while serving overseas and who returned to the U.S. for separation upon the 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 was acquired after the signing of the employment agreement. 33 Comp. Gen. 252 (1953).

(3) Occupational separation—An employee and his wife maintained separate residences for 2 years. Because separation was not due to the dissolution of the marriage and because the parties have reestablished a common household at the employee's new permanent duty station, the wife should be considered a member of the employee's household at the time of his transfer. Thus, he is eligible to receive relocation allowances for expenses incurred by his wife when she joined him at his permanent duty station. Robert L. Rogers, B-209002, March 1, 1983.

4. Parents of employee or spouse

a. 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. 2-1.4d(c), 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. IRS standards of dependency are not controlling. 55 Comp. Gen. 462 (1975) and B-175019, March 6, 1972.

(1) 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.

(2) Surrogate parents—An employee may not be reimbursed travel and transportation expenses for an aunt who raised him since he was never legally adopted by her. Therefore, she is not within the definition of "immediate family" contained in FTR para. 2-1.4d. The term "dependent parent" as used in that regulation has reference only to dependent parents (including step and legally adoptive parents) of the employee or his spouse. B-194127, August 10, 1979.

b. Dependent in-laws

An employee's mother-in-law, who resides in Belize, Central America, with her husband and six children, was visiting the employee's family on a 3-month visa at the time of his transfer and was dependent upon him for support during her visit. She was not a member of the employee's immediate family within the purview of 5 U.S.C. § 5724(a)(3). B-194350, September 14, 1979.

Where an employee's mother-in-law was in fact dependent upon him at the time of a 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.

c. 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 his 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." The

expenses for her travel incident to the employee's transfer may not be paid. B-160638, January 23, 1967.

d. 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 the payment of her 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).

5. Children

a. Children under age 21

(1) Foster children—A transferred employee could not be reimbursed for the relocation expenses of his foster children, since such children were not within the definition of "immediate family" contained in FTR para. 2-1.4d. B-188924, June 15, 1977. However, reimbursement could be made under the current version of FTR para. 2-1.4d, where such foster children are under the legal guardianship of the employee or the employee's spouse.

(2) Custody after transfer—After an employee transferred to his new duty station, he was awarded custody of his brother's four children. The employee incurred travel and temporary living expenses in moving the children to his new duty station. Expenses for the children's travel to the new station may not be paid since they were not members of the employee's immediate family within the meaning of FTR para. 2-1.4d at the time the employee reported to his new duty station. James H. Woods, B-206456, March 25, 1983.

(3) Legal wards, guardianship—Prior to beginning PCS travel, an employee was granted temporary custody of her niece. The niece's travel expenses may not be reimbursed since at the time the transfer occurred, the term "immediate family" as defined in 2 JTR covered only children, stepchildren, and adopted children. A change in that definition the following year to include legal wards and other dependent children who are under the legal guardianship of the employee is not applicable to the employee's transfer which was

accomplished before the regulations were changed. B-193958, May 29, 1979.

(4) Stepchildren—An employee who acquires a stepson while on home leave may not 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.

(5) 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 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.

(6) 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.

(7) 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 U.S. 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).

(8) Children of divorced employee

(a) Spouse's custody—An employee who was divorced 6 months prior to a 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 the 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 their travel was performed. Nothing precludes the 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.

(b) Joint custody—Although a divorced employee is financially responsible for the support of his three minor children, was awarded joint custody, 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.

(c) Common-law remarriage—Although an employee and his wife were divorced and the 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.

b. Children over age 21

(1) Generally—A transferred employee is not entitled to travel expenses 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.

(2) Status at date of transfer—An employee's son was nineteen 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.

(3) 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 U.S., since FTR para. 2-1.5g(6) provides for return travel to the U.S. 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 U.S. but not beyond the end of the employee's current agreed tour of duty. B-169898, August 18, 1970. The reimbursement for the 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.

(4) 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. B-188096, April 6, 1977.

(5) Grandchildren—An employee could not be reimbursed the travel and transportation expenses for two grandchildren incident to her transfer. Even though the grandchildren were in the employee's custody and were recognized as her dependents for income tax purposes, they were 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). However, reimbursement could be made under the current version of FTR para. 2-1.4d, where such grandchildren are under the legal guardianship of the employee or the employee's spouse.

C. Procedural Requirements

1. Generally

Certain procedural requirements such as the authorization and approval of transfers and appointment actions, the issuance of competent orders, and the execution of service agreements, must be accomplished in connection with the reimbursement of relocation expenses, including travel expenses for the employee and his immediate family. These procedural requirements are discussed in detail in Chapter 2 of this title.

2. Reporting for duty

Employee stationed in Italy, was transferred to the United States and later discharged for failure to report for duty in the United States. Notwithstanding the MSPB order requiring her reinstatement, she may not be reimbursed for travel from Italy to the United States on the basis of her transfer since she never reported for duty in the United States. Colegra L. Mariscalo, 64 Comp. Gen. 631 (1985).

D. Time Limitation

1. Generally

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.

2. Limitation is specifically enforced

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 their travel was attributable to medical and educational considerations. B-178234, June 18, 1974.

A shortage-category appointee to a position in Idaho did not move his family from California until 26 months after he reported for duty. The delay was attributed by the employee to the fact that he had filed a discrimination complaint based on his failure to be appointed to a position in Oregon and his desire not to move his family until the matter of his possible appointment to the position in Oregon was resolved. The fact that the discrimination complaint was not resolved for more than 2 years after the period allowed by FTR para. 2-1.5a(2) for beginning travel had passed, does not provide a basis to allow the transportation expenses for the employee's family. B-190202, August 14, 1978.

An employee transferred in November 1975 may be reimbursed expenses for his family's travel, even though the record is unclear as to whether they traveled to the new duty station in November or December 1975. The only requirement with regard to the timing of dependents' travel incident to a transfer is that all transportation for the dependents must begin within 2 years from the date the employee reports for duty at the new duty station. B-191597, November 8, 1978.

An Air Force employee was transferred from Robins AFB to St. Louis, Missouri, and then to Wright-Patterson AFB, Ohio. Although he did not relocate his family to St. Louis, because he signed an agreement to return to Robins AFB at the end of 3 years or when the need for his services was greater there, he is entitled only to the constructive cost of the transportation of his dependents and HHG from Missouri to Ohio because the transfer to Missouri was permanent, the transportation took place more than 2 years after his transfer to Missouri, and the entitlement is under a travel order authorizing transportation to Ohio. B-195556, February 19, 1980.

3. 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 a change of station, the transportation of a dependent may be authorized from the employee's place of residence in the U.S. 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.

4. 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 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

1. One-trip limitation

a. Second trip to settle affairs

An employee traveled to his new duty station in June 1973. In conjunction with a TDY assignment in Albuquerque the following week, he returned to his old station in Los Angeles to arrange for the shipment of his HHG and to terminate his lease. Because he had already accomplished his change of station at government expense, he may not be paid the 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.

b. 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 a 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; B-172012, July 2, 1971; Gary E. Pike, B-209727, July 12, 1983; and Huai Su, B-215701, December 3, 1984.

c. Second trip to fly own aircraft

Transferred employee who reported for duty at his new official station may not be paid for his travel expenses for a subsequent trip to fly his privately owned aircraft from his old to his new duty station. Employee's travel expense entitlement became fixed at the time he reported to his new post of duty. Hence, he is entitled to payment for his own travel expenses from his old to his new duty station when he reported for duty, but not for his subsequent trip. George W. Lacey III, 64 Comp. Gen. 801 (1985).

d. 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 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.

e. Transfer while on TDY

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 the round-trip travel expenses from Seattle to Miami for the purpose of transporting their automobiles, HHG and families, and selling their residences. B-167022, July 12, 1976.

While on TDY 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 the round-trip travel between his old and new stations for the purpose of moving his family and furnishings. B-169395, October 28, 1976.

f. 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.

Where a civilian employee of the Army who is stationed overseas has been reimbursed for the advance travel of his wife to the continental U.S. pursuant to 5 U.S.C. § 5729(a), there is no basis for allowing reimbursement for the cost of the dependent's second return travel incident to the same overseas tour of duty. B-195147, December 26, 1979.

2. Family's separate travel

a. Generally

Under the provisions of FTR para. 2-2.2 and paras. C7000 and C7000-1 of 2 JTR, an employee is entitled to the travel and transportation expenses of his dependents from one duty station to another in connection with the employee's PCS. In addition to the general presumption that travel by common carrier is advantageous to the government, the regulations provide that when an employee uses his POV for PCS travel, such travel also will be considered advantageous. See FTR paras. 1-2.2c(1) and 2-2.3. Para. C7001-3 of 2 JTR specifically provides that dependents are not required to accompany the employee by a POV, should he elect that mode of travel. In recognizing the rule that separate travel is authorized, this regulation is consistent with FTR para. 2-2.2 which, insofar as pertinent, provides that the travel of the immediate family may begin at a point other than the employee's old duty station, provided that the cost to the government "shall not exceed the allowable cost by the usually traveled route between the employee's old and new official stations." Thus, when an employee's dependents travel by a commercial carrier as authorized, the employee's entitlement to reimbursement for their travel is not limited to the constructive cost of travel by a POV as if they had accompanied him. See 60 Comp. Gen. 38 (1980) and B-150935, July 23, 1970. If travel by a common carrier or POV has been authorized, and the employee travels by POV, there is no requirement for a separate authorization of the dependent's unaccompanied travel by the authorized common carrier. B-203015, February 19, 1982, modifying B-183563, May 4, 1976.

b. Round-trip excursion airfare cost

A transferred employee secured a one-way airfare ticket for his dependent daughter to travel from her college location to his new permanent duty station to effect her change of station. He exchanged that ticket for a round-trip excursion airfare ticket for her at a lesser cost than the initial one-way ticket, thus, permitting her to return to college at no additional expense. Since the record shows that no one-way airfare ticket between the two points could be issued at a cost less than the round-trip excursion airfare ticket, the expense claimed may be paid in its entirety under authority of the Federal Travel Regulations pertaining to indirect travel, which limits reimbursement to the constructive cost by the usually traveled route. John P. Butt, 65 Comp Gen. 47 (1985).

c. Family travel for visitation

Members of an employee's immediate family joined him at his new duty station for varying periods after which they returned to and remained for a substantial period in the family's residence at the old duty station. Because they had not vacated their residence at the old duty station and because their travel was for visitation rather than to relocate to the new duty station, the employee is not entitled to reimbursement for their travel expenses or to temporary quarters subsistence expenses for their stay at the new duty station. Michael F. Locke, B-221751, July 11, 1986.

3. Trip to port to ship POV

When an employee is authorized to ship his POV at government expense, the 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 authorization is more fully discussed in Chapter 11 of this title of the CPLM.

Since an employee assigned to training overseas is not entitled to transportation of his POV at government expense, he may not be reimbursed for the expense of his round-trip travel to the port of debarkation to pick up his automobile. 58 Comp. Gen. 253 (1979). Also see Chapter 11 of this title.

4. Use of U.S. air carriers

Under 49 U.S.C. § 1517, as amended, popularly known as the Fly America Act, travel to, from, and between points outside the U.S. is required to be performed aboard certificated U.S. air carriers when such service is available. This requirement is discussed at length in CPLM Title III—Travel.

Upon transfer to the U.S. 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 U.S. aboard U.S. 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 U.S. carrier service for 4,182 of 7,450 miles traveled, and since the proper routing via Dakar would have involved travel of 4,143 of 5,610 air miles by U.S. air carriers, the employee is liable for the loss of U.S. air carrier revenues computed in accordance with the formula set forth at 56 Comp. Gen. 209 (1977). See also, 57 Comp. Gen. 76 (1977).

5. Abandonment of travel

Upon completion of her tour of duty in Anchorage, an employee was issued travel orders authorizing her return to her place of actual residence in the U.S. 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 the reimbursement of her travel expenses incurred, including per diem, to the point of abandonment. 32 Comp. Gen. 571 (1953).

F. Transportation Expenses

1. Mode of travel, generally.

a. Rental car

Employees are generally authorized to travel by a common carrier or POV. However, 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 his travel by a common carrier, in the absence of any indication that the use of a rental vehicle was authorized under FTR para. 1-2.2c(11). B-186975, March 16, 1977.

Incident to his transfer from overseas to Maryland, an employee who was authorized the use of his POV upon return, in fact had no vehicle at his disposal. Upon arrival at Dulles Airport, he rented a vehicle for his general use in which he drove 50 miles to his temporary place of residence. Under the particular circumstances, the employee may be reimbursed for travel from the air carrier terminal based on the pro rata cost of the rented car, not to exceed the usual taxicab or limousine fare. His reimbursement is not limited to the mileage rate for travel by POV. B-194061, September 2, 1979.

b. Travel by air

(1) Attendant for child—The wife and 16-month-old twins of a transferred employee traveled part of the distance by air between the old and new stations prior to the employee's travel. Airline regulations required an adult to accompany each child under 2 years of age. Although the employee was not specifically authorized airfare for an attendant to accompany the second twin, he may be reimbursed such airfare as attributable to the child's travel. B-191284, September 22, 1978 and B-183563, May 4, 1976.

(2) 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 the charter under FTR para. 1-2.2c(4) which permits the use of special conveyances under limited circumstances, since administrative approval was obtained prior to the travel as required. B-184813, June 24, 1976. Compare B-175436, April 27, 1972.

(3) Travel orders—An employee transferred from Germany to the U.S. may be reimbursed for the full cost of the commercial fare for the flight, because his travel orders were not annotated to restrict him to a military flight as required by 2 JTR before reimbursement may be limited. B-195851, October 29, 1980.

(4) Travel by privately owned airplane—Travel orders authorized an employee to be paid mileage for the use of a privately owned airplane for travel to the employee's new duty station incident to his transfer. A determination was made that use of the airplane would be advantageous to the government. The airplane was needed at the new duty station to conduct experiments and for temporary duty travel. Because travel regulations gave the employing agency discretion to authorize the mileage and the employee used

the airplane for the transfer, mileage should be reimbursed to the employee. Dr. Timothy L. Crawford, B-228781, April 14, 1988.

Under the Federal Travel Regulations, an employee who is authorized common carrier air travel but who, as a matter of personal preference, flies his personally owned aircraft is limited to the lesser of that cost or the constructive cost of common carrier air travel. The employee is not entitled to the higher actual cost of his relocation travel by using his privately owned aircraft merely because he may have saved the government money by hauling household goods authorized for shipment under a government bill of lading. The value of hauling these household goods may not be used in computing the cost comparison between travel by common carrier and privately owned aircraft. Harold R. Fine, B-224628, January 12, 1988.

If lower-class space is generally available on scheduled flights, the Federal Travel Regulations provide that a first-class airfare may not be used to compute the constructive cost of common carrier air travel in reimbursing the employee the lesser of the constructive cost or the actual travel cost by privately owned aircraft used as a matter of personal preference. Although in this case the coach seats may have been booked on flights until the day after the travel began, less than first-class travel was generally available on scheduled flights. Harold R. Fine, B-224628, January 12, 1988.

c. Travel by POV

(1) Generally—Under FTR para. 2-2.3a, when an employee uses a POV for a PCS, 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 any 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 PCS is not entitled to reimbursement for the 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 U.S. and a post of duty outside the continental U.S. B-188391, December 16, 1977. The subject of the transportation of POVs is more fully discussed in Chapter 11 of this Title.

(2) 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.

(a) 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 the 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.

An employee received an inter-agency transfer from Alaska to Oklahoma. He was authorized to use two privatelyowned vehicles (POV), as his and his family's mode of personal transportation. His claim for mileage for the second POV was disallowed based on 5 U.S.C. § 5727 (1982), which precludes the overseas shipment of more than one POV. Under para. 2-2.3 of the FTR the use of one or more POVs, in lieu of other approved modes of personal transportation, may be authorized as advantageous to the government. Thus, the mileage claim for the second POV use for personal travel is approved since such POV use was their only mode of transportation. David J. Dosset, B-217691, July 31, 1985.

(b) 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 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; cited in B-203009, May 17, 1982.

(c) 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 a 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, 1978.

(d) Large family—Incident to a change of station, 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 the 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.

(e) Personal effects—Agency properly denied employee reimbursement for use of two vehicles where employee lacked justification for use of second vehicle under paragraph 2-2.3e(a) of the Federal Travel Regulations. Either employee's or his spouse's vehicle could have transported both with luggage. Use of a second vehicle may not be justified on the basis of a general statement that the vehicles were used to transport personal belongings. Donald F. Daly, B-209873, July 6, 1983.

(3) Reimbursement limitation

(a) 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).

Although the mileage tables show a distance of 38 miles between Avery, Idaho, and Silverton, Idaho, the employee's old and new duty stations, he may be reimbursed travel expenses based on a distance of 106 miles by a usually traveled route, since the 38 mile direct route is unsafe, due to steep slopes, narrowness and an unsafe bridge. B-192142, March 21, 1979.

(b) Deviations—Where the mileage tables show a distance between Ithica, New York, and Washington, D.C., the old and new stations,

as 304 miles, the employee may not be reimbursed on the basis of his claim for the 350 miles he traveled, in the absence of a statement explaining the deviation of 46 miles. B-160203, October 31, 1966 and B-175018, June 19, 1972.

(c) Personal travel—An employee transferred from California, Columbia, to Ohio, with TDY in Denver, Colorado, who traveled by way of Florida and Connecticut for personal reasons, is entitled only to transportation expenses based on direct official travel. B-192199, January 31, 1979 and B-193923, January 3, 1980.

(d) Illness—While performing PCS 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 the usually traveled route between Ketchikan and Kodiak. B-175436, April 27, 1972.

Employee who traveled by a longer route and did not travel 300 miles per day in connection with a permanent change of station explains that the route and delay resulted from his wife's illness. The agency may reimburse the employee on the basis of the mileage and time claimed if they determine that the employee has explained to their satisfaction the reasons for the alternate route and delay. John L. Duffy, 65 Comp. Gen. 647 (1986).

(e) TDY en route—Before leaving his permanent station in Miami for TDY 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 PCS travel with TDY en route. He is entitled to mileage at the rate for PCS travel for the direct distance from Miami to Washington, D.C. Any additional mileage resulting from his TDY is payable at the rate authorized for PDY travel. B-160180, October 31, 1966.

(4) Travel at no expense

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

(b) Travel on leave—Incident to his 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 his 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.

(5) Travel to alternate location

(a) 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 the 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.

(b) 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 Washington, D.C. There is no provision for the 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 the usually traveled route from the old to the new duty station. B-169065, March 17, 1970.

(c) Travel to TDY—Upon a transfer from Washington, D.C., to Denver, an employee, whose position required almost continuous TDY, was assigned to extended TDY in Indiana. Although he purchased a

new residence for his family in Virginia, the 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 their travel to Denver, the new duty station. B-186185, November 15, 1976.

(d) 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 their transportation between Washington, D.C., and San Francisco. B-190330, February 23, 1978.

(e) Authorized alternate location—An overseas employee transferred to Mississippi was authorized the travel of his family to Arizona, because of hurricane conditions in Mississippi. The employee is entitled to the transportation of his family based on their 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.

(f) Successive transfers—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 the transportation of HHG, 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 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 the usually traveled route from Arkansas to New Mexico. B-166752, July 2, 1969.

When an employee's family moved from their 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.

(g) Constructive cost for use of foreign-flag vessel—Employee claims reimbursement on the basis of constructive cost where he and his family performed permanent change-of-station (PCS) travel from Frankfurt, Federal Republic of Germany, to Denver, Colorado, by mode of transportation other than that authorized, and by an indirect, i.e., circuitous, or not usually traveled route. Instead of flying, they took the Queen Elizabeth II, a foreign-flag ocean vessel, to New York and drove by privatelyowned vehicle (POV) from New York to Denver. Employee's constructive cost comparison should be based only on the portion of his trip from Frankfurt to New York since Federal Travel Regulations specify that POV use for portion of travel from New York to Denver is deemed to be advantageous to the government. Paul S. Begnaud, B-214610, February 19, 1985.

(6) Mileage rates

(a) Generally—For cases in which PCS travel is performed by a 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 the use of one or more than one POV is authorized.

(b) 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 his 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 the 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 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.

(c) 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-177790, August 1, 1973 and 48 Comp. Gen. 119 (1968).

(d) 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.

(e) Travel combined with house hunting—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. The employee is entitled to reimbursement at the rate of 8 cents per mile authorized for house-hunting for himself and his wife. 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.

(f) Employee's second trip—An employee traveled alone by a 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, he only 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.

(g) 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 any 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.

(h) Odometer reading—A transferred employee who claimed reimbursement for mileage between the old and new duty stations, did not submit odometer readings for the mileage. His payment should be based upon standard highway mileage guides at the rate stated in his travel orders. B-200841, November 19, 1981.

(7) 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 HHG, but he may not be reimbursed the amount claimed as mileage for the POV. The regulations require actual use of the vehicle and there is no authority for transporting a POV within the conterminous U.S. at government expense. B-183974, November 14, 1975, and B-188214, May 9, 1978.

The authority for the 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 the payment of mileage. Therefore, an employee who was authorized to use two cars for PCS 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.

An employee transferred from Florida to Connecticut was authorized the use of his automobile. He drove from Miami to Sanford, Florida, took Auto Train to Lorton, Virginia, and drove from there to Danbury. Since the cost of the travel as performed by the employee and his dependents was less than if they had driven the entire distance, he was properly reimbursed the total Auto Train fare, including the amount allocable to the shipment of his automobile. B-194267, September 6, 1979.

G. Per Diem

1. 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 of the per diem rate for the employee.

2. 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.

3. Assignments for training

Employees assigned to training may not be paid per diem for their families' travel. FTR para. 2-2.2c.

4. Prior return of dependents

Where an employee's dependents returned to the U.S. from overseas nearly 1 year prior to the date of the employee's transfer under orders authorizing their early return, there is no basis for the payment of their per diem. B-194061, September 12, 1979.

5. 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 families' travel. FTR para. 2-2.2c.

6. Travel by POV

When the travel is performed by a 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 of travel per day.

a. Less than 300 miles per day

An employee performing PCS 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 the usually traveled route between the old and the 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.

b. 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.

c. 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 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.

d. Vehicle breakdown

Employee who performed travel incident to transfer of duty station was delayed by breakdown of automobile. Employee may be allowed per diem and traveltime for period of delay since, during the entire trip, he averaged more than the daily minimum driving distance specified in FTR para. 2-2.3d(2), FPMR 101-7 (May 1973), as amended, and arrived at new duty station within time authorized. However, per diem entitlement is subject to reduction since employee resided with relatives during period of delay, unless he can show that his relatives incurred additional expenses as a result of his stay. Richard Coon, B-194880, January 9, 1980, overruled in part by Oscar Hall, B-212837, March 26, 1984.

e. 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).

f. TDY 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.

7. Per diem extended

a. Common carrier delays

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

b. 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.

c. 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.

d. Delay to pick up POV

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

e. 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 were caused by the government in requiring the family to leave Wake Island before quarters in Kwajalein were available, and not for the personal convenience of the employee and his family. B-180736, June 18, 1974.

f. Justifiable delay

An employee transferred from Medford to Portland, Oregon (282 miles). He and his family arose at 5:00 a.m. and left Medford at 4:30 p.m., after the moving company completed loading their HHG. En route, the employee, after traveling approximately 175 miles, stopped overnight in Eugene, Oregon, due to the late hour, ground fog on the highway, and fatigued condition of the family. The employee continued the trip on the following morning and arrived in Portland at 11:00 a.m. We held that the claimant exercised good judgment and prudence in scheduling the move. Further, in stopping overnight, the employee acted as a prudent person, and the delay in travel was justifiable. Therefore, a per diem allowance is payable for the entire period of the travel. B-199467, March 17, 1981. Similarly, an employee of the Fish and Wildlife Service who delayed travel for 2 days due to severe snowstorms and "no travel" advisories while en route to the new PDY station by a POV, may be reimbursed per diem for those days. However, for the remainder of the trip, the employee averaged less than the 350 miles minimum driving distance per day prescribed by the agency. For those days, his per diem is limited to the number of days it would have taken him to travel between his old and new station at the minimum daily mileage rate. B-195764, February 20, 1980.

An employee who is delayed by a breakdown of his automobile en route to a new duty station may be allowed traveltime and be reimbursed for an additional day of per diem where the agency determines that the reason for delay was beyond the employee's control and acceptable to the agency. Thomas S. Swan, Jr., 64 Comp. Gen. 173 (1984).

8. Per diem not extended

a. Dependent's illness

Additional reimbursement for the expenses incurred by an employee incident to a PCS 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 a delay occasioned by the illness and hospitalization of the employee's daughter. B-175436, April 27, 1972 and B-181573, February 27, 1975.

b. 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.

c. 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 HHG. 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.

d. Weekends and holidays

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

e. TDY en route

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

f. 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.

g. Unanticipated delays

An employee transferred from Washington, D.C., to Anchorage, Alaska, a distance of 4,400 miles, was authorized 15 days traveltime based on a minimum of 300 miles per day traveled. In fact, the trip took 50 days. The employee attributed the delay to the fact that he chose to transport his HHG himself and encountered a series of mishaps requiring periodic layovers en route. Although the delays may not have been anticipated, they were not officially necessary or related to government business and they may not be reimbursed in the form of a per diem allowance. B-193393, April 17, 1979.

h. 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 his 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.

i. Delay to pick up POV

The government's obligation for the payment of travel costs may not be increased by the payment of per diem for a period of delay at the port of debarkation awaiting arrival of the employee's POV, which was not authorized to be transported at government expense. 29 Comp. Gen. 205 (1949).

An employee who was authorized the use of his automobile incident to his transfer from Honolulu to Atlanta, incurred 2 additional days of living expenses in Los Angeles while awaiting delivery of the automobile at port. Where the delivery of the automobile was not delayed due to circumstances beyond the employee's control, additional per diem may not be allowed. B-193935, June 18, 1979.

j. Early delivery—POV shipment

Civilian employee of the Department of Defense is not entitled to additional per diem for travel by privately owned vehicle in connection with a permanent change of station from the United States to an overseas post since he has already received the maximum amount allowed under the regulations for that portion of his travel. The fact that he left his former duty station early to deliver his automobile to the port for shipment does not permit the increase in the number of days authorized for per diem payments under the applicable regulations. Warren Shapiro, B-208590, November 24, 1982.

9. Rate of per diem

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). As to age changes, in December 1976, when the employee reported to his new duty station, his daughter was age 11. By April of 1977, when she traveled to join him, she was age 12. Her per diem for travel is to be determined on the basis of her age at the time she traveled. Thus, the employee is entitled to be reimbursed for his daughter's travel at the per diem rate for a dependent of age 12. 57 Comp. Gen. 700 (1978). The subject of per diem rates is dealt with more extensively in CPLM Title III—Travel.

10. Itemization and receipts

A transferred employee claimed the reimbursement of lodging and meal expenses for the travel between his old and his new duty stations. Since the reimbursement of lodging and meal expenses for the employee and his dependents is on the same basis as the reimbursement for similar expenses during travel by the employee alone, the same documentation requirements apply. The employee may not be reimbursed for lodging expenses here, because no receipts were submitted. However, he may be reimbursed for food expenses without receipts. B-200841, November 19, 1981; Lucy Tellez, B-214146, October 24, 1984.

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 a PCS 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 the travel of his dependents. 54 Comp. Gen. 892 (1975) and B-169819, June 26, 1970.

An employee who is handicapped by blindness and cannot travel alone claims the travel expenses and per diem entitlement for an attendant in connection with an officially approved PCS. Transportation expenses and per diem expenses incurred by an attendant to a handicapped employee may be allowed as necessary to the conduct of official business and consistent with explicit congressional

intent to employ the handicapped and prohibit discrimination based on a physical handicap. 59 Comp. Gen. 461 (1980). See also, CPLM Title III—Travel, for a discussion of the expenses for attendants to handicapped employees.

I. Fraudulent Travel Vouchers

Where the employee deliberately misstated his per diem expenses by including both his own subsistence expenses (which would be reimbursable) and his wife's alleged subsistence expenses where there is no evidence that she performed any travel, per diem for those days must be entirely disallowed. Fraudulent Travel Vouchers, B-204295, August 27, 1984.

Miscellaneous Expenses

A. Authorities

1. Statutory authority

Employees who are transferred in the interest of the government from one PDY 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 RIF or transfer of function.

2. Regulations

The regulations governing the 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 CPLM Chapters 1 and 2 of this Title, for a more general discussion of the conditions of eligibility for the reimbursement of relocation expenses, including the payment of the miscellaneous expenses allowance.

1. Location of duty stations

While not entitled to real estate transaction expenses, an employee transferred from Saipan to the U.S. 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 U.S. as a condition to the entitlement. B-163113, June 27, 1968.

2. First duty station

Even though a new appointee in a manpower-shortage category was given incorrect information regarding his entitlement to miscellaneous expenses and his written authorization for moving expenses reflected that information, his claim must be denied, since

FTR para. 2-1.5f(4) specifically prohibits the payment of those allowances. B-194270, May 9, 1979.

3. Incident to change of official station

a. 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 PCS was involved. B-171319, December 22, 1970.

b. 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 PDY station upon graduation. Under the circumstances, a transfer was effected. B-166681, July 9, 1969.

c. IPA assignments

An employee assigned to the University of Hawaii under the Intergovernmental Personnel Act 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. § 3375(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; B-185810, November 16, 1976, and B-198939, April 3, 1981. But see, section 603(b) of the Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111, 1191, amending 5 U.S.C. § 3375(a) to include reimbursement for miscellaneous expenses, effective under § 907 ninety days after October 13, 1978. 5 U.S.C. § 3375(a)(5).

An employee stationed in Kansas City, Missouri, was assigned under the Intergovernmental Personnel Act 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 PCS from Kansas City to Dallas. B-183283, August 5, 1975.

d. TDY assignments

Upon a PCS to Boulder, Colorado, following TDY at that location, an employee may not be reimbursed a miscellaneous expenses allowance, since the expenses claimed were incurred in connection with the employee's TDY assignment and not incident to his PCS. B-152697, April 10, 1969.

e. Move for personal convenience

An employee was detailed from Fort Smith, Montana, to Huron, South Dakota, from January 15 until June 30, in 1967, when he was ultimately transferred to Huron. He moved his family and HHG 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 PCS. Thus, the employee may not be paid a miscellaneous expenses allowance. B-165417, November 7, 1968 and B-161860, September 5, 1967.

f. Early reporting for duty

Because regulations and amended regulations both unambiguously define "effective date of transfer" as the date a transferring employee reports for duty at his new official station, an employee who reported for duty prior to the effective date of amended regulations may not be paid an increased miscellaneous expense allowance. Effective date indicated on SF-50 is not determinative of effective date of transfer. Robert A. Motes, B-210953, April 22, 1983.

C. Procedural Requirements

Refer to CPLM Title IV, Chapter 2 for a more general discussion of the procedural requirements for reimbursement of relocation expenses, including the payment of the miscellaneous expenses allowance.

1. 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.

2. 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 or possession of the U.S. 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 HHG 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

1. No permanent residence at old duty station

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.

2. Retransfer

An employee initially transferred from Nashville to Memphis, Tennessee, was transferred back to Nashville before his HHG 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.

3. Separate residence of family

a. 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.

b. 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.

4. Exceptions

a. 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 his 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.

b. Retransfer precludes residency

An employee transferred from Hawaii to Washington, 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 his 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 an immediate family is entitled to a minimum miscellaneous expenses allowance of $100 or 1 week's 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 at the time he reported for duty 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 at the time he reported for duty for 2 weeks. In no instance can the amount exceed the maximum rate of grade GS-13 at the time the employee reported for duty.

1. With- or without-family rate

a. Employees without immediate family

(1) 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 a 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.

(2) 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 an 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.

(3) Employee does not join family—An employee's dependents returned from overseas nearly 1 year before the date of the employee's transfer under orders for their prior return. The employee did not join his family upon his arrival, because he and his wife were separated. Since the employee's family did not discontinue a prior residence and establish a new residence in connection with the employee's transfer, the employee is entitled to the miscellaneous expenses allowance of $100 authorized for employees without an immediate family. B-194061, September 12, 1979.

(4) Family remains at old residence—Since the employee's dependents did not accompany him to his new station but remained at the old station, the employee is entitled to the $100 miscellaneous expenses allowance authorized for employees without an immediate family. B-192343, November 15, 1978; B-171685, February 22, 1971; B-187874, May 31, 1977; and B-164320, June 27, 1968.

b. Employees with immediate family

(1) Delayed move of family—Where an employee's dependents did not accompany him to his new duty station at the date of his 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 an 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.

(2) 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.

2. Reimbursement of minimum allowance

a. 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 an 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.

b. 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 who changes residence from one location to another

incurs miscellaneous expenses of the type authorized, since the record indicated that the employee did not incur the expenses normally associated with a transfer. B-164137, June 26, 1968. Compare: A transferred employee claimed $200 for miscellaneous expenses, but did not submit evidence of having incurred any miscellaneous expenses of the type listed in FTR para. 2-3.1b. Since the employee moved his household effects from one state to another, we assume he incurred miscellaneous expenses, and he is entitled to the minimum amount. B-200841, November 19, 1981.

c. 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.

d. No discretion to reduce minimum allowance

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

e. IPA assignments

Employee who returned with his family to permanent duty station following an IPA assignment, claims a $200 miscellaneous expenses allowance. The provisions of 5 U.S.C. § 3375(a) (5) (Supp. III 1979), added by the Civil Service Reform Act of 1978, specifically authorizes reimbursement for miscellaneous expenses incurred in connections with IPA assignments if the employee's change of station involves movement of household goods. Since the employee shipped

household goods, he may be allowed a $200 miscellaneous expenses allowance as provided under FTR para. 2-3.3a. F. Leroy Walser, B-211295, March 26, 1984.

f. Estimates do not create entitlement

In the absence of documentation of the 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).

3. Reimbursement of maximum allowance

a. 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).

b. Employee with family

An employee with an 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.

c. Employee without family

An employee without an 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 week's basic pay. B-183598, November 11, 1975.

d. 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-203009, May 17, 1982 and B-169392, June 25, 1970. The necessary documentation may consist of actual receipts, canceled checks, or tradesman's estimates. B-184229, September 2, 1975 and B-162320, September 18, 1967.

e. 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 a family and 2 weeks if with a family) in effect at the date the employee reports for duty at his new station. In no instance can the amount exceed the maximum rate of grade GS-13 at the time the employee reported for duty. B-173365, September 3, 1971 and 54 Comp. Gen. 335 (1974).

4. One allowance per transfer

a. Single transfer

When an employee changed PDY 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 PDY station involved. 54 Comp. Gen. 335 (1974).

b. 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.

G. Reimbursable Expenses

1. Adjustments to old furnishings

a. Grandfather clock

An employee transported a grandfather clock in connection with his change of station. While the cost of disassembling and reassembling the grandfather clock in connection with its relocation is not allowable as a miscellaneous expense where the clock was part of his HHG shipped under the commuted-rate system, the cost of servicing, leveling, and adjusting the clock, if it can be determined, may be recovered as a miscellaneous expense since it is associated with the installation of the clock in the new residence. B-190444, May 30, 1978 and B-183789, January 23, 1976.

b. 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.

c. 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.

d. Cutting and fitting rug

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.

e. 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.

f. Adjustment to refrigerator

A claim by a transferred employee for the cost of a refrigerator door reversal (from right-handed to left-handed), so that the refrigerator from the former residence could be used in the new residence, may be paid as a miscellaneous expense within the intent of FTR para. 2-3.1b. B-194851, April 8, 1980.

2. Disconnection and connection

a. Appliances

Generally costs associated with disconnecting and connecting appliances, equipment, and utilities are reimbursable as items of miscellaneous expense under FTR para. 2-3.1b(1).

b. Washing machines

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

c. Antenna cable television

The cost of connecting an antenna system is reimbursable as a miscellaneous expense. B-174542, February 25, 1972. A transferred employee is entitled to miscellaneous expenses for taking down and reinstalling a "ham" radio antenna and hooking-up an ice-maker and a dishwasher. An employee may not be reimbursed for replacing certain incidental parts needed to reinstall an antenna. 59 Comp. Gen. 600 (1980). Since cable television installation is analogous to "ham" radio antenna installation, it is also allowable. However, we have held that the purpose of the miscellaneous expenses allowance was, in part, to reimburse the costs the employee incurred in relocating appliances and equipment to his new residence and establishing the level of service he had at his old residence. 60 Comp. Gen. 285 (1981). If the employee can show that this expense establishes the same level of cable television service that he had in his old residence, it may be reimbursed. B-205695, August 2, 1982.

d. Swimming pool

Charges for dismantling and installing a swimming pool may be reimbursed under the miscellaneous expenses allowance. B-191724, March 29, 1979.

e. Pictures and mirrors

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

f. Necessary connection vs. structural alteration

A transferred employee who had a water line run from a supply pipe to an ice maker in the refrigerator at the new duty station may be reimbursed for the cost, including the pipe used, under the miscellaneous expenses allowance. Drilling a hole in the wall is not a "structural alteration," since it is necessary for the connection and proper functioning of the refrigerator. Prior decisions to the contrary will no longer be followed. The employee also had a gas line connected to, and a vent pipe run from, a clothes dryer at the new duty station, and may be reimbursed for the cost, including the pipe used, under the miscellaneous expenses allowance. Necessary holes in the walls are not "structural alterations," since they are necessary for the connection and proper functioning of the dryer. Prior decisions to the contrary will no longer be followed. 60 Comp. Gen. 285 (1981). Note: Holdings allowing reimbursement under the miscellaneous expenses allowance for the cost of connecting an icemaker, and connecting and venting a clothes dryer, are a substantial departure from our prior decisions and will be applied only to cases in which the expense is incurred on or after the date of this decision. 60 Comp. Gen. 285 (1981).

g. Utilities

Where a transferred employee at his new duty station acquires a level of telephone service comparable to what he had at his old duty station, the total installation charges may be reimbursed under the miscellaneous expenses allowance, even where "jacks" have been installed. Prior decisions to the contrary will no longer

be followed. 60 Comp. Gen. 285 (1981). Similarly, a claim by a transferred employee for a miscellaneous expense reimbursement covering the installation of three telephones at his new residence may be paid, since the telephones replaced three telephones at his old residence. B-194851, April 8, 1980; B-168582, January 19, 1970, distinguished.

3. Utility fees and deposits

a. Refundable or nonrefundable

An employee claims reimbursement for the deposit for electrical and gas utilities. The employee may not be reimbursed for the gas deposit as a miscellaneous expense, since it is refundable. The electrical deposit may be reimbursed, if it is determined to be nonrefundable. B-190209, July 13, 1978.

b. 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 an eventual refund. B-183792, August 4, 1975.

c. Transformer

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

d. 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. Note however, an employee being transferred from Germany to the U.S. may not, at that time, be reimbursed under miscellaneous expenses for a nonrefundable telephone deposit paid when transferred to Germany. That amount was reimbursable at the time it was paid. B-195851, October 29, 1980.

4. Real estate-related expenses

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

b. Telephone calls and telegrams

The 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.

c. Residential rental tax stamps

An employee who transferred to a new duty station in Mexico may be reimbursed under the miscellaneous expenses allowance for residential rental tax stamps required to register his lease in Mexico. The one time tax on the registration of lease documents was a necessary expense of relocating the employee's residence and is not in the nature of those taxes specifically excluded as miscellaneous expenses under FTR para. 2-3.1c(6). B-194133, April 16, 1980.

d. Forfeited deposits

(1) 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 his 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. An employee incurred expenses of $297 in obtaining a release from a binding contract for the construction of a home at his old duty station after notice of a PCS. He may have those expenses reimbursed as miscellaneous expenses. B-193280, May 8, 1979.

(2) Forfeited lease-purchase deposit—An employee was transferred after entering into a lease-purchase contract where by 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.

(3) 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. An employee who forfeited $112.50 of his rental deposit for the lease of a residence at his new duty station after receiving notice of the cancellation of the transfer, may be reimbursed the forfeited amount as a miscellaneous expense. B-191676, November 2, 1978.

Employee transferred to new duty station and contracted to purchase residence there. When agency delayed establishment of new office at this duty station, employee, due to uncertainty of the situation, chose to forfeit deposit on residence. Since agency delay appears to be the proximate cause of forfeiture, the deposit may be claimed as a miscellaneous relocation expense. Marvin K. Eilts, 63 Comp. Gen. 93 (1983).

e. Building inspection fee

An employee is not entitled to relocation expense reimbursement for a building inspection fee he paid as a result of his mother's insistence on the inspection as a condition for her loan to him of a down payment on his purchase of a residence at his new duty station. Since she had no loan security interest in the home, she did not benefit from the inspection as a lender and such lenders do not customarily require purchasers to obtain building inspections. Robert D. Good, B-224765, August 17, 1987.

f. Subsequent agreements

An employee transferred from a position with the U.S. Forest Service in Alaska to a position with the U.S. Marine Corps in California. Prior to transferring, the employee put down a deposit on a house in Alaska. As a result of the transfer, the purchase of the house was not consummated and the seller retained the employee's deposit as liquidated damages. The employee may have those expenses reimbursed as miscellaneous expenses to the extent authorized under FTR para. 2-3.3b. However, in the same circumstances, some time after the purchase contract was signed the employee entered into a subsequent agreement with the seller to pay additional earnest money of $1,000. This subsequent agreement is not a valid modification of the original purchase contract, since it was not supported by sufficient consideration. Since the claimant was not legally obligated to pay the additional earnest money, he may not be reimbursed for it. B-196002, March 18, 1980.

g. Postal expense

Postage for correspondence with realtors incident to a PCS transfer is a reimbursable miscellaneous expense. Also, postage expense for notifying subscription publishers, financial institutions, and the like, of change of address now may be allowed as a reimbursable miscellaneous expense. Gregory J. Cavanagh, B-183789, January 23, 1976, overruled by John J. Jennings, 63 Comp. Gen. 603 (1984).

h. Surcharge—month-to-month lease

Employee requests reimbursement for six $10 surcharges incurred incident to month-to-month leases he entered into after learning of his pending relocation. Although the surcharges may not be reimbursed as real estate transaction expenses, they may be paid as miscellaneous expenses, subject to the general limitations established for miscellaneous expense reimbursement. B-188604, February 14, 1978; B-188650, October 18, 1977, modified. Raymond J. Sexton, 65 Comp. Gen. 396 (1986).

i. Lease termination

U.S. Customs Service employee who twice incurred lease termination expenses at temporary quarters at his new duty station may be reimbursed up to the maximum miscellaneous expenses allowance

since the employee acted prudently in entering the leases and the forfeitures were caused by necessary temporary duty assignments that were scheduled by the agency. Kevin J. Love, B-222150, August 22, 1986.

5. 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 the relocation of mobile homes. 55 Comp. Gen. 228 (1975) and B-183598, November 11, 1975.

An employee's mobile home was destroyed by fire and he was living in temporary quarters at the time he was first definitely notified of his transfer. Since the employee would have resided in the house but for the fire, he has substantially complied with the occupancy requirement of FTR para. 2-6.1d. Therefore, the reimbursement of the brokerage fees for the sale of the property on which the home was located is allowable. B-193808, October 4, 1979.

a. Preparation for movement and relocation

Where a government employee, incident to a transfer of official duty station, incurs expenses necessary to connect his mobile home to the available utilities at the new mobile home court, those expenses, including required parts, are reimbursable under FTR paras. 2-3.1b(1) and (2), as miscellaneous expenses. See also, B-182168, April 22, 1975 and B-201645, December 4, 1981.

b. 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.

c. Portable room handling

The 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.

d. Use and excise taxes; license fees and related registration costs

An employee transferred from Utah to California who purchases 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).

Use taxes, excise taxes, license fees, and related registration costs imposed on boats and trailers brought into the state where the transferred employee's new duty station is located may be reimbursed as part of the miscellaneous expenses allowance. These items are reimbursable because they are substantially the same as those expressly authorized for automobiles and are directly related to the relocation of the employee's residence. They may be reimbursed regardless of the fact that the boats and trailers were not transported to the new duty station at government expense. John F. Manfredi and DeLewis A. Gudgel, 65 Comp. Gen. 285 (1986).

e. 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.

f. Waterborne residence-related expenses

(1) Sailboat—Employee may be reimbursed in connection with the occupancy of a sailboat as a residence upon transfer of station those expenses which would be reimbursed in connection with the purchase of a residence on land. Expenses necessary for the connection of utilities and launching the boat may be reimbursed as miscellaneous expenses under FTR para. 2-3.1b. Adam W. Mink, 62 Comp. Gen. 289 (1983).

(2) Floathouse—Forest Service employee transferred to a new permanent duty station may be reimbursed as a miscellaneous expense the cost of setup of his floathouse as his residence to the relocation of a mobile home. However, costs of insurance may not be reimbursed. James H. McFarland, B-209998, April 22, 1983.

6. Automobile-related expenses

a. 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. And, a claim for postage costs to mail auto license plates back to Massachusetts is reimbursable as a miscellaneous expense. The expense was incurred to comply with the law of the state of Massachusetts and was a necessary expense associated with bringing the employee's automobile out of the jurisdiction of the state of his former residence. Additionally, a duplicate auto title fee of $1 required by Maryland law to register the automobile of an owner who previously resided in Maryland and who previously paid a full title fee is reimbursable as a miscellaneous expense under FTR para. 2-3.1b(6). B-194851, April 8, 1980.

b. 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.

c. Inspection fees

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

d. 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. And see, B-204100, August 16, 1982.

e. 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.

f. 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.

g. 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 may be regarded as part of the cost of obtaining a new driver's license and may be reimbursed as a miscellaneous expense. B-178070, April 6, 1973.

h. 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).

7. Licenses

a. 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.

b. Dog license

We have held that the cost of a new dog license is reimbursable as a cost inherent in the relocation of a place of residence. B-170589, November 13, 1970. And in B-205695, August 2, 1982, we concluded that veterinary costs required as a condition precedent to the issuance of a new dog license may be reimbursed as part of the cost of obtaining the new dog license. We noted that the health

examination and shots were required as a condition precedent to the issuance of his dog's license in his new state of residence. See 1950 Code of Virginia § 29-213.20 (1979) and B-178070, April 6, 1973.

c. Teacher certification; course tuition fees

Under Federal Travel Regulations para. 2-3.1, miscellaneous expenses incurred because of a transfer, an employee may be reimbursed for (1) his wife's teacher certification fee as a license fee, and (2) his wife's teacher course tuition fee which was required as a condition precedent to the issuance of the teacher certification, where employee's wife had been a certified teacher in state in which old duty station was located. Donald W. Haley, B-201572, July 26, 1983.

8. Dental contract losses

Prior to his transfer an employee paid for orthodontic 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 the completion of orthodontic work for one son. 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. A transferred employee reclaimed forfeiture losses on orthodontic contracts for the treatment of his children where the claim had been denied by the agency on the ground that the losses were nominal, since the contracts required payments in full during initial treatment periods and none during 3-year periods when the children wore retainers. Held: The employee may be reimbursed, because the arrangement provided for the prepayment of the treatments during the retainer periods, and there were forfeitures for the treatments not made. Forfeitures should be determined by prorating the dollar amounts of contracts over the total months of treatments made by the first orthodontist (including those in the retention period), plus the number of months required to complete the treatment by the new orthodontist. B-197072, August 4, 1980.

9. Traveler's checks

Reimbursement for the cost of traveler's checks is specifically authorized for employees on official travel. FTR para. 1-9.1b-1. Thus, the amount claimed may be allowed, since the employee was on official travel at the time the expenses were incurred. Also, since it is specifically authorized elsewhere in the FTR, it should not be considered as a miscellaneous expense entitlement. See FTR para. 2-3.1c; B-205695, August 2, 1982.

H. Nonreimbursable Expenses

1. New items

Reimbursement for new items under the miscellaneous expenses allowance is specifically precluded by FTR para. 2-3.1c(5). 55 Comp. Gen. 1251 (1976).

a. 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.

b. 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.

c. New furniture

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

d. 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.

e. New swimming pool equipment

The costs of new sand and blocks required for the installation of a swimming pool at the employee's new duty station are not reimbursable. B-191724, March 29, 1979.

f. 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.

2. 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. An employee claimed reimbursement as a miscellaneous expense for the cost of custom draperies that he conveyed to the purchaser of his residence at the old station incident to his transfer. There is no authority for the reimbursement of the claimed expense. This situation is tantamount to the inclusion of the value of the draperies in the sale price of the house and FTR para. 2-3.1c(1) prohibits reimbursement for cost items in selling or buying real and personal property. B-197072, August 4, 1980.

3. Structural changes

a. Tree removal at former residence

The cost of removing a damaged tree from the site of a transferred employee's former residence is a cost of maintenance that cannot be reimbursed, either as a real estate expense or as a part of the miscellaneous expenses allowance. Joseph F. Kump, B-219546, November 29, 1985.

b. Site alterations

An employee may not be reimbursed for the costs of site alterations involved in installing a swimming pool at his new duty station. Site alterations are similar to structural alterations and are not reimbursable as miscellaneous expenses. B-191724, March 29, 1979.

c. Attorney's fees

Expenses for legal services related to items determined to be structural changes are not reimbursable, since miscellaneous expenses for structural alterations are not reimbursable. 57 Comp. Gen. 669 (1978).

d. Security locks

The expense of materials and labor for installing security locks at an employee's residence in Mexico, because of security problems, must be considered a cost of a structural alteration of living quarters not reimbursable under FTR para. 2-3.1c(13) as a part of the miscellaneous expenses allowance. B-194133, April 16, 1980.

e. Necessary connection vs. structural alteration

It has been determined that the cost of connecting appliances, equipment, and utilities involving minimal structural alterations are reimbursable as miscellaneous expenses under FTR para. 2-3.1b(1). All prior decisions involving "structural alterations," such as plumbing for ice makers, washing machines, venting for dryers, and telephone jacks, have been overruled prospectively. 60 Comp. Gen. 285 (1981).

4. 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.

5. Repairs

a. Television set

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 HHG while in transit to the new official station. B-178228, June 5, 1973 and B-165745, February 11, 1973.

b. Plumbing—former residence

The cost of replacing a washer in a shut-off valve may not be reimbursed even though the need for repair became apparent only after the employee's washing machine had been disconnected from the supply line in his former residence. Joseph F. Kump, B-219546, November 29, 1985.

6. Real estate-related expenses

a. Flea inspection and extermination

A transferred employee may not be reimbursed for a charge for exterminating fleas or the 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.

b. House insurance contract

The cost of a Homegard Contract, to insure against the seller's contingent liability for defects in the home, is intended to protect against future maintenance costs, and thus is not reimbursable as a miscellaneous expense. B-193578, August 20, 1979.

c. Homeowner's club membership

An employee may not be reimbursed the membership fee for a homeowner's club required upon purchase of a home at his new duty station. Such fees are personal and outside the scope of the miscellaneous costs allowable under Part 2-3 of the FTR. B-200082, February 25, 1981.

d. Leaded fuels use damage to POV

An employee transferred to an overseas duty station where only leaded fuels are available was authorized to ship his privately owned vehicle (POV) to that location. Although he could remove the catalytic converter to avoid leaded fuel damage to it, he was informed by his POV manufacturer that leaded fuel use could damage the engine and, if so, the damage would not be covered under the warranty. Such damage and repairs would not be reimbursable by the government as a miscellaneous expense under paragraph 2-3.1 of the Federal Travel Regulations. We have previously ruled that repairs of worn or damaged parts of a POV incident to a transfer are not reimbursable as a miscellaneous expense. Nick D. Swanstrom, B-227387, December 11, 1987.

e. Increase in property taxes

A transferred employee seeks reimbursement of property tax increase resulting from the loss of the homestead exemption as his family no longer occupied the residence and had moved to his new duty station. Federal Travel Regulations para. 2-6.2d(2)(c) provides that property taxes are nonreimbursable items of miscellaneous expense. The tax in question is, in fact, a property tax, and employee may not be reimbursed for property tax increase. Wayne M. Akers, B-226322, August 17, 1987.

f. 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.

g. Forfeited deposit

Under a lease with an option to purchase agreement a transferred employee forfeited the $3,500 amount paid as consideration for the option because he had not exercised the purchase option before he was transferred. Since agency transfer of employee appears to be the proximate cause of forfeiture, the deposit may be claimed as a miscellaneous relocation expense to the extent authorized under FTR para. 2-3.3. However, forfeited deposit may not be reimbursed as a real estate transaction expense. Nathan F. Rodman, 64 Comp. Gen. 323 (1985). See also Bryan H. Pridgeon, B-216404, March 25, 1985. Compare Lillie L. Beaton, B-207420, February 1, 1983.

h. Option to purchase

Under a lease with an option to purchase a transferred employee forfeited the $1,000 amount paid as consideration for the option because she had not exercised the option to purchase before she was transferred. The forfeited amount may not be reimbursed as an item of miscellaneous expense, since the evidence does not establish that the transfer was the proximate cause of the forfeiture. Lillie L. Beaton, B-207420, February 1, 1983.

i. Closing costs

A transferred employee may not be reimbursed for the buyer's closing costs he paid in the sale of his residence in the absence of evidence that such costs were customarily paid by the seller in the locality at that time. Bradley M. James, B-227567, August 26, 1988.

7. Mobile home-related expenses

a. New items

(1) 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.

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

(3) Anchors—The cost of purchasing and installing anchors for the employee's mobile home is not reimbursable as a miscellaneous expense, since they are newly acquired items. B-190209, July 13, 1978.

b. 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-186256, November 17, 1976.

c. 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.

Prior to a PCS transfer, an employee purchased a mobile home to be used as his residence at old station. The purchase was covered by a promissory note and installment loan contract. Under its terms, title remained in seller until note was paid, the mobile home would remain in trailer park until note was paid, and purchaser would pay monthly space rental fee. Employee contends purchase agreement precluded him from moving trailer and claims reimbursement

for cost of monthly space rental under FTR para. 2-6.2h for months following transfer. Employee has duty to avoid or minimize such expenses, if possible. Jeffrey S. Kassel, 56 Comp. Gen. 20 (1976).

According to agreement, the balance due on note could be prepaid without penalty. Record does not show that employee made any attempt to pay off the remaining balance on the note, which would allow him to move the mobile home, or to take any other action that would have mitigated his costs. Therefore, reimbursement is not authorized. Daniel J. Price, B-210918, March 20, 1984.

d. 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.

8. Automobile-related expenses

An employee may not include in his miscellaneous expenses the cost of auto registration paid after the initial year at the new duty station, since those fees are part of the employee's everyday cost of living. B-195851, October 29, 1980. An employee transferred to Mexico who incurred costs for automobile registration, tags, license, and a use tax in Texas should not have been reimbursed for those items under the miscellaneous expenses allowance, since the costs were not imposed by Mexico upon bringing the automobile into that country. See FTR para. 2-3.1b(6). Mexico does not require U.S. employees stationed there to register or license their vehicles in other than the state of their former residence. B-194133, April 16, 1980. Compare B-204100, August 16, 1982, where it was held that an employee may also be reimbursed for the cost of a license plate holder, because it is closely associated with the state's licensing and inspection requirements. FTR para. 2-3.1b(6).

a. New items

(1) 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.

(2) 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.

(3) 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. Similarly, the cost of replacing a windshield is a cost of maintaining and operating an automobile, not of titling and registering that vehicle. B-204100, August 16, 1982.

b. Other than initial expenses

An employee who was transferred to a PDY 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.

9. Transportation expenses

a. 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 the reimbursement of such transportation expenses. B-186435, October 13, 1977 and B-162503, October 13, 1967.

b. 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.

10. 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-191560, July 13, 1978; see also, B-167193, September 3, 1969 and B-180623, August 14, 1974.

11. Veterinarian fees

An employee is not entitled to the reimbursement of veterinarian fees and other costs associated with the transportation of pets incident to a PCS. FTR para. 2-1.4h excludes pets as HHG, and there is no authority to ship them at government expense. B-195162, December 5, 1979. Compare B-206538, September 14, 1982, where it was held that government employees who were relocated to Hawaii and who paid charges for state-required quarantine of their pets as a condition of entry into the state may be reimbursed for this cost under the miscellaneous expenses allowance. Quarantine costs were incurred as a consequence of establishing a residence at a new location and qualify as a general type of cost authorized for reimbursement by the allowance.

12. Excess trash removal

The excess trash removal fee of $10 charged for hauling away trash associated with the employee's move to a new residence is not reimbursable as a miscellaneous expense. B-192420, August 27, 1979.

13. Litigation

An employee is not entitled to reimbursement for the costs of litigation for a breach of contract to purchase a house under the miscellaneous expenses allowance, since the costs of litigation are

specifically disallowed elsewhere in the regulations. B-191920, December 26, 1976.

14. Tuition payments

A transferred employee is not entitled to reimbursement for the difference between in-state tuition at the University of Maryland and out-of-state tuition at the University of Colorado on behalf of his son, since such expenses are not among those contemplated by the miscellaneous expenses allowance. B-192471, January 17, 1979. 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 VA, since such expenses are not among those contemplated by the miscellaneous expenses allowance. B-186346, January 3, 1977 and B-162828, November 16, 1967.

a. Forfeiture of tuition deposits—textbook rental

We have held that forfeiture of tuition, because of a transfer, is not the kind of expense considered reimbursable as a miscellaneous expense under FTR para. 2-3.1b. 61 Comp. Gen. 136 (1981). We believe that textbook rental charges are analogous to tuition expenses in that they are not the kind of expense considered reimbursable as a miscellaneous expense. Therefore, since there is no existing provision in the law or the applicable travel regulation which contemplates reimbursement for a textbook rental fee, the claim for such an expense is denied. B-205695, August 2, 1982.

15. Postal expenses

a. Postage stamps

A transferred employee's claim for the 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.

Decision Gregory J. Cavanaugh, B-183789, January 23, 1976, disallowing postage stamp cost reimbursement for change of address notices on transfers is overruled. However, postage expenses to

obtain general information about the environs of the new duty station to which an employee is being transferred may not be reimbursed as a miscellaneous expense. While such information may be desirable, the expense of obtaining it is not an inherent part of the move. John J. Jennings, 63 Comp. Gen. 603 (1984).

b. Post office box rental

A transferred employee was required to rent a post office box at his new PDY 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 the rental of a post office box is not reimbursable as a miscellaneous expense. B-163107, May 18, 1973 and B-184908, May 26, 1976.

c. Use of special mailing services

An employee seeks reimbursement for the cost of transmitting his travel authorization and service agreement by express mail in order to obtain an imprest fund payment on his arrival at his new duty station. Postage costs may only be reimbursed where the purpose of the use of the postage was for an item that would constitute an allowable expense. B-183789, January 23, 1976. While it may or may not be true that "but for" the relocation of his place of residence pursuant to his transfer, the employee would not have incurred the expense for transmitting these documents, we consider the nature of the item claimed to determine whether it was contemplated as being reimbursable under the regulations. Transmittal of the employee's travel authorization and service agreement for that purpose was a matter of personal preference and not required because of the move. Therefore, this type of cost is not covered by FTR para. 2-3.1c. B-205695, August 2, 1982 and B-192471, January 17, 1979.

16. Transfer of payroll check proceeds

The costs of transmitting the proceeds of payroll checks by wire from a savings account at the new duty station to a bank at the old place of residence are transmittal costs and are analogous to postage costs. Therefore, telegram costs may only be reimbursed where the purpose of the telegram was for an item that would constitute

an allowable expense. Where this was a matter of personal preference and not required because of the move, reimbursement is precluded by FTR para. 2-3.1c. B-205695, August 2, 1982.

17. 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.

18. Commission on the sale of personal property

An employee seeks reimbursement for a commission of $105 that he paid to an implement dealer at his old place of residence for the sale of a lawn tractor because of his transfer. Cost items related to the selling of personal property are specifically prohibited from reimbursement by FTR para. 2-3.1c(1). The employee asserts that FTR para. 2-3.1c(1) relates only to dwellings and mobile homes and that the commission paid for the sale of his lawn tractor is a cost inherent in the relocation of a place of residence, the proximate cause of which was the relocation. FTR para. 2-3.1c(1) contains no limitation of its application to dwellings or mobile homes only. To the contrary, it is part of a provision intended to prescribe which costs are reimbursable as miscellaneous expenses in the broad context of discontinuing a residence at one location and establishing a residence at a new location incident to a transfer. FTR para. 2-3.1a. The decision to sell the lawn tractor, rather than move it to the new place of residence, as a matter of personal preference. The employee says that he sold it in order not to exceed his weight limitation for the movement of his household goods. Thus, FTR para. 2-3.1c(9) is applicable here. That paragraph precludes reimbursement for losses resulting from the sale of personal items not considered practical to move. The employee asserts that he is not claiming a loss, simply the cost of making a sale. However, the fact remains that he would have received the entire sales price, rather than the sales price minus a commission, had he not chosen to sell the lawn tractor through the implement dealer. Therefore, the commission can be properly categorized as a loss for purposes of FTR para. 2-3.1c(9). Accordingly, the employee may not be reimbursed the commission he paid for the sale of his lawn tractor at his old place of residence. B-205695, August 2, 1982.

19. Sale of horse and equipment

An employee on permanent change of station transfer, sold his personally owned horse and equipment, which was used in official government business, and claims reimbursement for the cost of selling it. Reimbursement is denied since paragraphs 2-3.1(c)(1) and (9) of the Federal Travel Regulations specifically excludes from that coverage losses and costs deemed to be personal property. Richard D. Knight, B-212688, December 16, 1983.

20. Medical records transfer fee

Under Federal Travel Regulations para. 2-3.1, miscellaneous expenses incurred because of a transfer may be reimbursed, but those costs incurred for reasons of personal taste or preference and not required because of the move may not be reimbursed. The employee may not be allowed reimbursement of a medical records transfer fee, since transmittal is reimbursable only when the subject of the transmittal is a reimbursable expense, and expenses relating generally to medical arrangements of transferred employees are not reimbursable. Donald W. Haley, B-201572, July 26, 1983.

I. Relationship to Other Allowances and Pay

1. 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 PCS 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).

2. Lost salary of spouse

An employee ordered to duty outside the U.S. is not entitled to reimbursement of salary lost by his wife, caused by amended travel orders delaying his departure, since such an expense is not among those covered by the miscellaneous expenses allowance. B-191560, July 13, 1978.

3. Expenses denied as TQSE

A transferred employee claims temporary quarters subsistence expenses (TQSE) on behalf of his daughter who remained in temporary quarters after the employee moved into permanent quarters. His claim is denied under the provisions of the Federal Travel Regulations (FTR) governing miscellaneous expense reimbursement may not include expenses denied under other provisions of the FTR. The claim is denied under the regulations governing TQSE reimbursement since the employee moved into permanent quarters. Gerald G. Shockley, B-230848, September 6, 1988.

J. Relocation Income Tax Allowance

Employees of the Veterans Administration seek payment of a relocation income tax allowance for their transfers which were effective prior to November 14, 1983. The claims are denied because the relocation income tax allowance as authorized by section 118 of Public Law 98-151 is available only to employees whose effective date of transfer is on or after November 14, 1983. Manuel A. Saleta, Jr. and Robert L. Lockley, B-223666, December 24, 1986.

An employee who incurred relocation expenses as the result of an Intergovernmental Personnel Act (IPA) assignment is entitled to a relocation income tax allowance under 5 U.S.C. § 5724b (Supp. III, 1985). The IPA relocation expenses are payable under the authority of 5 U.S.C. §§ 5724 and 5724a while the income tax allowance applies to reimbursements or allowances under the same statutes. Prior decisions are distinguished. Glenn A. Truglio, 65 Comp. Gen. 891 (1986).

The Department of Agriculture requests an opinion as to whether claims for Relocation Income Tax (RIT) allowances may be paid to certain employees who were transferred from the United States to the Virgin Islands and Puerto Rico since the statutory authority in 5 U.S.C. § 5724b (Supp. III, 1985) does not specifically state that RIT allowances apply to possessions of the United States. The claims may be paid since it is consistent with the intent of Congress that RIT allowances be extended to federal employees transferred in the interest of the government to United States possessions and the Commonwealth of Puerto Rico in the same manner as those employees transferred within the United States. However, it will be necessary for the Administrator of General Services, in consultation with

the Secretary of the Treasury, to establish the applicable marginal tax rate. Carlos Garcia 67 Comp. Gen. 135 (1987).

A transferred employee received payment of a Relocation Income Tax Allowance (RITA). Because 154 days elapsed between the time he submitted his voucher and the time payment was made, he claimed interest on the amount due for all the period beyond the first 30 days. His claim is denied since he is not entitled to interest under the Prompt Payment Act and there are no statutes authorizing the payment of interest on delayed relocation expense payments. David W. Eubank, B-219526, May 25, 1988.

An employee entitled to relocation expenses because he was transferred and required to occupy government housing at a site 26 miles from his previous duty station was not entitled to deduct any of the moving expenses from his income tax because the move was less than 35 miles. Employee may be paid a relocation income tax allowance based upon the entire amount of the reimbursed expenses since none of his expenses were deductible in the particular circumstances of this case. A.J. Mitchell, Jr., 66 Comp. Gen. 478 (1987).

K. Tax Return Preparation Fee

After the employee filed his federal and state income tax returns, his agency issued an amended Form W-2 which reflected higher wages and tax withholdings for his relocation expenses. We deny the employee's claim for reimbursement of a $70 tax preparation fee for filing amended tax returns. There is no authority to reimburse employees for the cost of an accountant-prepared tax return even though the agency's error necessitated filing amended tax returns. George C. Grisaffee, B-223574, April 23, 1987.

Travel to Seek Residence Quarters

A. Authorities

1. Statutory authority

Under 5 U.S.C. § 5724a(a)(2), funds are made available to pay the 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 U.S.

2. 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 CPLM Title IV, Chapters 1 and 2 for a more general discussion of the conditions of eligibility for reimbursement of relocation expenses, including reimbursement for travel to seek residence quarters.

1. Location of duty stations

a. Both in continental U.S.

An employee ordered to transfer from Fairbanks, Alaska, to Washington, D.C., with a delay en route for training in Michigan, upon completion of the transfer to Washington, D.C., will be entitled to those relocation allowances authorized in cases of transfers from Alaska to the continental U.S. 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 U.S. to permit authorization of a trip to seek residence quarters. 53 Comp. Gen. 834 (1973). And see B-203645, October 9, 1981, concerning a house-hunting trip performed by an employee's spouse for a transfer from Paris, France. Erroneous advice and authorization by agency officials does not create a right to reimbursement where the expense claimed is precluded by law. B-205041, May 28, 1982.

b. More than 75 miles apart

The claim of an employee for house-hunting trip 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). Compare however B-192142, March 21, 1979, where an employee who was transferred from Avery, Idaho, to Silverton, Idaho, which are only 38 miles apart, is nonetheless entitled to reimbursement for a house-hunting trip. Pertinent provisions of the regulations state that distances should be those via a usually traveled route and the record shows that the regularly traveled route is 106 miles and that the 38 mile direct route is unsafe because of steep slopes, narrowness, and an unsafe bridge.

2. Incident to change of official station

a. 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. And, new appointees who were erroneously authorized house-hunting trips from their training site to their first official station may not be reimbursed for such expenses. 58 Comp. Gen. 744 (1979).

b. Assignments for training

FTR para. 2-4.3b prohibits the authorization of house-hunting trips for employees assigned under the Government Employees Training Act, 5 U.S.C. § 4109, or their spouses.

c. Assignment to government quarters

An employee transferred and assigned to government quarters at Fort Irwin, California, terminated his employment 2 weeks after his 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 the 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 CPLM Title IV, Chapter 2 for a more general discussion of the procedural requirements for the reimbursement of relocation expenses, including reimbursement for travel to seek residence quarters.

1. Agreement to transfer

a. Trip before accepting transfer

An employee who made a trip to Coulee Dam before accepting a transfer from Montana may not be reimbursed his 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.

2. 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 had been issued which includes authorization for a round-trip, specifies the date for reporting at the new official station, and indicates that the employee has signed the required agreement.

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

b. Advance authorization required

An employee claims his expenses for a house-hunting trip incident to a PCS. Such expenses may not be paid, since authorization for the

house-hunting trip was not issued prior to the trip as required by FTR para. 2-4.3c. B-200841, November 19, 1981. And, at the time an employee started his house-hunting trip he was single, marrying en route to his new official station. In advance of his travel, the employee requested the amendment of his travel order so as to include an authorization for a house-hunting trip for his future wife. His agency's refusal to act on his request is not an administrative error. Since the agency never authorized his wife's travel in advance, he is not entitled to reimbursement for his wife's expenses. B-200421, June 8, 1982.

c. Erroneous advice

On the basis of erroneous advice that he could be paid TQSE allowance for the 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 an authorization prior to the performance of the trip by an official vested with the authority to grant such an authorization, house-hunting expenses may not be reimbursed. B-185532, September 2, 1976 and B-195233, March 31, 1980. Errors in omission of authorization from travel orders which can be retroactively corrected are those which relate to a failure to follow the specific intent of authorizing officials. When travel orders do not reflect this type of error, an employee may not be reimbursed the expense of a house-hunting trip taken without written or oral authority from an appropriate official. However: Although an employee and his wife who undertook a house-hunting trip without authorization may not be reimbursed house-hunting expenses, meals and lodging costs may be reimbursed as TQSE. Travel to the new station 5 days prior to reporting, although for house-hunting purposes, may be viewed as travel to effect a PCS. Entitlement to the temporary quarters allowance begins as of that date, rather than as of the reporting date, since, in the interim, the employee returned to his old station only briefly to arrange for the shipment of his HHG. B-195922, July 8, 1980.

d. Lack of knowledge of regulations

Although house-hunting expenses were not authorized in his travel order because the appropriate agency official was unfamiliar with the applicable regulations, an Army employee who made a house-

hunting trip incident to his transfer may not be reimbursed the expenses of a trip to seek residence quarters. The employee is not entitled to reimbursement for his 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.

e. After-the-fact determination of benefit

An employee who located a new residence while on TDY 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 TDY 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 the authorization of such expenses would have resulted in reduced cost to the government, furnishes no basis for payment. B-185511, March 3, 1976; B-166977, June 18, 1969; and B-192617, April 20, 1979. See also, B-194684, December 10, 1979 and B-191951, August 13, 1980.

f. Oral authorization by unauthorized official

An employee is not entitled to reimbursement for a house-hunting trip when such trip was made prior to official written notification, even if the house-hunting trip was orally authorized by a supervisor. The oral authorization must be given by an official vested with the authority to authorize travel prior to the house-hunting trip. B-192781, April 24, 1979.

g. Exceptions

(1) Administrative error—House-hunting expenses have been allowed notwithstanding a 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 the 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.

Thus, where the travel order issued to an employee did not authorize a house-hunting trip because the employee requested TQSE instead based on his understanding that his agency would not pay both such allowances, the employee may not be paid the expenses of a trip to seek residence quarters; since a house-hunting trip was not authorized in advance 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 the 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 a 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.

(2) 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 oral or other informal authority granted by an official properly vested with the authority to grant the entitlement to a house-hunting trip. Thus, an employee who traveled to her new duty station for a conference regarding her move and to survey the area's housing situation, but without prior written authorization, may be reimbursed her 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; B-170329, October 19, 1970; and B-192440, August 8, 1979. Compare B-179449, November 26, 1973 and B-181260, September 20, 1974, denying house-hunting trip expenses in the absence of an advance authorization where the official who induced the employee to perform the travel to seek residence quarters did not have the authority to approve house-hunting trips.

(3) 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 the payment of the 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 an administrative error.

D. Time Limitations

1. 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.

a. 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 their temporary quarters until July 31, 1969, the employee may be reimbursed his expenses in connection with his wife's trip to seek residence quarters begun on July 22, 1969. B-169667, August 26, 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 a trip is performed prior to the family's move to the new station. B-166119, March 6, 1969.

b. Six-day period for house hunting

FTR para. 2-4.2 provides 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).

c. 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 house hunting 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 the 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. Therefore, an employee may not be paid travel expenses for six house-hunting trips incident to a PCS, since the law and regulations permit only one round-trip. The maximum number of days for such a trip is 6, which must be consecutive. B-196153, February 12, 1980 and B-202506, August 20, 1981.

d. 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 the duty stations from the 6 days. B-167193, December 15, 1969.

E. Nature of Trip

1. One trip

Under 5 U.S.C. § 5724a(a)(2), the expenses for locating a residence may be allowed only for one round-trip. The 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 six separate house-hunting trips, five involving 1 day each and the sixth involving 2 days, the employee may not be reimbursed the 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 per diem for 6 calendar days for one round-trip. B-168829, March 11, 1970 and as expanded October 23, 1970.

An employee who is reimbursed for per diem and mileage when traveling to his new duty station for house-hunting purposes is not subsequently entitled to reimbursement for the one-way travel from the old to the new duty station after beginning to work at the new duty station as travel incident to a PCS. The one-way travel to the new station is travel incident to a PCS when the employee does

not return to the former duty station prior to beginning work at the new station. B-195973, August 25, 1980.

2. 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 the husband and wife or by either spouse. B-168829, July 27, 1976 and FTR para. 2-4.1a.

3. Children

An employee, who was authorized a house-hunting trip in connection with a PCS, claims house-hunting expenses for his wife and two children. His agency denied the expenses incurred by his children. The agency action was correct, since FTR para. 2-4.1a does not authorize house-hunting expenses incurred by the children of an employee. The agency correctly held that, even though the house-hunting trip was to a high-rate geographical area, the reimbursement was limited to the highest statutory per diem rate, not to actual expenses. B-202906, September 15, 1982.

Transferred employee's claim for reimbursement of child care expenses incurred at old duty station during period of spouse's house-hunting trip may not be paid since neither 5 U.S.C. § 5724(a)(2)(1976), nor Chapter 2, Part 4 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), authorize such an entitlement. William D. Fallin, B-210468, April 12, 1983.

4. 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, his wife returned to the new duty station to complete the 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, the expenses for the second house-hunting trip are not payable. B-166414, April 9, 1969.

5. Round-trip

a. No return to old duty station

An employee who left his old duty station on November 24, traveled 2,700 miles by a POV to his new official station and reported for duty on December 2, may not be reimbursed his 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 his 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.

b. Interim reporting for duty

An employee was authorized a house-hunting trip to facilitate a permanent change of station. FTR para. 2-4.1a provides that an employee's round-trip for house hunting, "must be accomplished prior to his/her reporting to the new official station." Since the employee reported for duty before completing the house-hunting trip, she must repay certain moneys advanced to her for the trip. That she reported for duty only to wait for her relocation check to arrive does not affect the application of the regulation. Sheryl Templeman, B-212261, February 6, 1984.

6. Transfers on short notice

An employee may be reimbursed for house-hunting trip expenses, even though he did not return to his former station as the house-hunting trip was accomplished in the interest of the government after arrival at his new duty station location, but before the employee was scheduled to report to work. Further, the expenses may be reimbursed for the allowable 6 calendar days. B-195787, June 11, 1980. Note also: In B-165825, January 29, 1969, we allowed payment for the expenses of a house-hunting trip where

the employee remained at his new duty station. In that decision, we pointed out that although the regulations authorize round-trip travel for an employee and his wife to seek permanent quarters, the regulations also contain guidelines to eliminate unnecessary trips. In the instant case, B-195787, as in B-165825, the house-hunting trip and the reporting date were so close together that it was in the interest of the government for the employee to have remained at his new duty station, instead of creating unnecessary travel expenses by returning to his former station.

7. Multiple trips

Employees who were permanently transferred from Miami to Orlando, Florida, seek reimbursement for several house-hunting trips. The claims are denied since each employee may be reimbursed travel and transportation expenses for only one round-trip between the localities of the old and new duty stations for the purpose of seeking residence quarters. 5 U.S.C. § 5724a(a)(2) (1982). The fact that the employees may have been given erroneous advice does not create a right to reimbursement where the expenses claimed are precluded by law. Riva Fralick, et al, 64 Comp. Gen. 472 (1985).

8. Purpose of seeking residence

a. Travel to seek residence quarters (lot)

The statute and regulations which authorize the 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).

b. 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.

c. Travel to settle house purchase

After having located his new residence, the employee traveled to his new station in order to make a 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. See also, B-192531, February 5, 1979.

d. Travel to ship HHG

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 the transportation of their HHG to the new station and not for the purpose of seeking residence quarters. B-164279, June 24, 1968 and B-163835, October 9, 1968.

9. 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, the 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. The expenses of house hunting are reimbursable only for travel to the new duty station of the employee. B-190330, February 23, 1978.

F. Mode of Transportation

FTR para. 2-4.2 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 that 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.

Under FTR para. 2-4.2, the mode of transportation for local travel incident to a house-hunting trip, as well as for travel to and from the new station for that purpose, may be "authorized or allowed." In this context, the term "allowed," like the term "approved," connotes administrative action after the fact, and an employee whose travel orders for a house-hunting trip did not specify any mode of local transportation may be reimbursed for car rental expenses based on the subsequent approval of that mode by an authorized official. B-197960, August 6, 1980.

G. Reimbursable Expense

1. Transportation expenses

a. Mileage

Rate applicable—FTR para. 2-4.2 provides that if a house-hunting trip is performed by a 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 a 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. A GAO employee requested reimbursement for a house-hunting trip at the rate of 15 cents per mile, instead of the 8 cents per mile rate paid on his claim. Although the employee could reasonably have interpreted his travel order as authorizing the higher rate, that by itself, does not entitle him to the higher rate. The record clearly indicates that GAO did not consider a house-hunting trip as falling within the category of trips that may be reimbursed at the 15 cents per mile rate under the FTR. B-198768, September 24, 1981.

b. 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 cents per mile rate authorized and is not limited to the 10 cents per mile rate set by FTR para. 2-2.3b for an employee and one family member traveling by a POV. FTR para. 2-4.2, 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.

c. 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 a 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).

d. Distance

An employee who is authorized travel to seek residence quarters is entitled to mileage for the distance traveled as shown in the standard highway mileage guides or by the odometer 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).

e. Airfare

An employee whose wife did not perform a house-hunting trip incident to his 1972 transfer from Mississippi to Georgia, but remained in Mississippi 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). Note, that for trips to and from an airport for a house-hunting trip, an employee is entitled to be reimbursed at the usual rate for such trips, not the reduced house-hunting mileage rate. B-202906, September 15, 1982.

f. Tax on rental automobile

An employee who rented an automobile in her own name while on a house-hunting trip in Colorado is entitled to be reimbursed a 6-1/2

percent state and local sales tax paid in connection with the rental. The incidence of the tax is on the employee as lessee, and the fact that the government is obligated to reimburse the employee for her car rental expenses, and thereby assumes the economic burden of the total costs, including the tax, does not thereby make it a tax upon the U.S. The government is not the "purchaser" and may not assert its immunity from state and local sales tax levied upon the rental of cars. B-203151, September 8, 1981.

2. Per diem

a. Employee traveling with spouse

FTR para. 2-4.3b provides for the 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 be duplicative and an appropriate adjustment should be made to recover one-half the rental fee. B-172739, June 14, 1971 and B-166119, March 6, 1969.

b. 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 the additional days spent at the new duty station as a result of their injuries. FTR para. 1-7.5b(1)

providing for the continuation of per diem for up to 14 days where an employee traveling on official business is incapacitated by an illness or injury, does not permit the payment of continued per diem under circumstances 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.

c. No return travel

An employee was authorized an advance house-hunting trip. Where return travel is not performed before the employee reports for duty, the travel actually performed is regarded as the employee's PCS travel and is reimbursable on that basis. However, house-hunting per diem would be payable for the days spent seeking permanent quarters in advance of reporting for duty, not to exceed house-hunting days actually authorized. Gary E. Pike, B-209727, July 12, 1983; and Huai Su, B-215701, December 3, 1984.

3. Local transportation costs

Under FTR para. 2-4.2, reasonable expenses for local transportation at the location of the new official station must be allowed. Agencies may authorize local transportation by common carrier, local transit systems, GSA contract rental or other commercially rented automobiles, or POVs; however, the mode of local transportation must be consistent with the mode of transportation authorized for travel to and from the new official station. Expenses for the use of taxis must be limited to transportation between depots, airports, or other carrier terminals, and the place of lodging.

H. Nonreimbursable Expenses

1. Kennel fees

An employee transferred to Denver, Colorado, from Washington, D.C., claims entitlement to higher per diem rate for a house-hunting trip than the rate authorized by his agency and, in addition, seeks reimbursement for kennel fees incurred during the period of that trip. In accord with the provisions of FTR paragraphs 1-7.5a and 2-4.3b he is entitled only to the standard CONUS per diem rate rather than the higher rate prescribed for temporary duty travel to

Denver. (See FTR Appendix 1-A). Since kennel fees are not specifically authorized by either the travel or relocation statutes and regulations, such fees may not be allowed. Henry J. Gerke III, B-227189, March 25, 1988.

2. Second house-hunting trip

Employee who was permanently transferred from Cincinnati to Cleveland, Ohio, seeks reimbursement for costs of second house-hunting trip. The claim is denied since an employee may be reimbursed travel and transportation expenses for only one round-trip between the localities of the old and new duty stations for the purpose of seeking residence quarters. 5 U.S.C. § 5724a(a)(2) (1982); Federal Travel Regulations para. 2-4.1a (Supp. 4, August 23, 1982). George M. Mackson, B-220479, March 10, 1986.

I. Transfer Not Consummated

1. Canceled 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 canceled, the 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.

2. Refusal to transfer

An employee may not be reimbursed for travel expenses incurred in connection with a house-hunting trip incident to the transfer of a PDY station where, subsequent to the trip, the employee declines to effect the transfer for personal reasons. B-183563, July 14, 1976 and B-193969, June 5, 1980. Compare, B-174976, March 10, 1972, where an employee, who was given PCS orders on the representation that the transfer involved a promotion, was reimbursed the expenses of house hunting where he declined the transfer upon

finding that the change would be to a position at the same grade. Also, an employee declined a transfer after a house-hunting trip, contending his wife could not tolerate the climate of the new duty station, because of allergies. If the reason for declination was in fact beyond the employee's control and acceptable to the agency, GAO will not object to the agency's payment of the expenses of a house-hunting trip. However, whether or not the reason meets this test is primarily for determination by the agency, and GAO will not disturb the agency's decision, unless it is clearly erroneous, arbitrary, or capricious. B-197816, June 24, 1981.

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.

Employee declined transfer after house-hunting trip, contending that he could not find suitable and affordable housing at new duty station. If reason for declination was acceptable to agency, GAO will not object to agency's payment of expenses of house-hunting trip. However, whether or not reason meets this test is primarily for determination by agency, and GAO will not disturb agency's decision unless it is clearly erroneous, arbitrary, or capricious. Murrel C. Hoage, 63 Comp. Gen. 187 (1984).

J. Relationship to Other Allowances

1. TQSE

Although FTR para. 2-4.1c provides that a trip for seeking a permanent residence may be avoided if a TQSE allowance is to be authorized, authorization of a house-hunting trip does not preclude authorization for TQSE, if the circumstances warrant. B-184024, January 21, 1976.

2. Miscellaneous expense reimbursement

Employee, who was authorized a house-hunting trip in connection with a permanent change of station, claims reimbursement for expenses incurred in making telephone calls and purchasing maps while on that trip. Telephone calls and maps are not reimbursable under the house-hunting trip authority but may be reimbursed, if properly documented, as miscellaneous expenses under Federal

Travel Regulations paras. 2-3.2 and 2-3.3. Paul J. Clemens, B-217372, August 2, 1985.

Temporary Quarters Subsistence Expenses

A. Authorities

1. Statutory authority

Under 5 U.S.C. § 5724a(a)(3), an employee for whom the government pays the expenses of travel and transportation under 5 U.S.C. § 5724(a) may be reimbursed subsistence expenses for himself and his immediate family for a period of up to 60 days while occupying temporary quarters when the new official station is within the U.S., its territories or possessions, Puerto Rico, or the areas and installations in the Republic of Panama made available to the U.S. pursuant to the Panama Canal Treaty of 1977 and related agreements. The period of residence or TQSE reimbursement may be extended for an additional 60 days if the agency determines that there are compelling reasons for the continued occupancy of temporary quarters.

2. Regulations

The regulations implementing 5 U.S.C. § 5724a(a)(3) are contained in 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.

a. Conflicting entitlement

An Agriculture employee transferred to a duty station in Mexico City under the Foreign Service Travel Regulations (FSTR) may not be paid TQSE and miscellaneous expenses under the FTR when transferred back to the U.S. in connection with his interdepartmental reassignment to the Forest Service. Where an employee was transferred overseas under Department-wide regulation providing for the payment of relocation expenses under the FSTR, the employee may not be reimbursed relocation expenses under the FTR incident to his return transfer. B-194741, February 19, 1981.

B. Eligibility

Refer to CPLM Title IV, Chapters 1 and 2, for a more general discussion of the conditions of eligibility for the reimbursement of relocation expenses, including the temporary quarters allowance.

1. Location of new station

a. In U.S. or designated area

An employee transferred from the U.S. to Okinawa may not be paid TQSE, even though he was properly authorized TQSE upon a subsequent retransfer from Okinawa to the U.S. TQSE may be paid in connection with the transfer to a new official station located in the 50 states, the District of Columbia, U.S. territories and possessions, the Commonwealth of Puerto Rico, and certain areas in Panama. Since Okinawa is not a territory or possession, there is no authority to pay TQSE upon transfer to that location. B-168031, November 3, 1970 and B-170921, November 12, 1970.

An employee who was hired as a new appointee to a position in the area formerly known as the Canal Zone, was erroneously authorized reimbursement for TQSE, although such reimbursement is not permitted under 5 U.S.C. § 5723 and FTR para. 2-1.5g(2)(c). The employee is not entitled to payment for temporary quarters as the government cannot be bound beyond the actual authority conferred upon its agents by statute or regulations. 60 Comp. Gen. 71 (1980).

When transferred federal employees can demonstrate a reasonable need, temporary quarters subsistence expenses (TQSE) may be paid for periods prior to the moving day at the old permanent residence and after the delivery day of household goods at the new permanent residence. Hence, an employee of the National Security Agency who was transferred from Ottawa, Canada, to Fort Meade, Maryland, may be allowed TQSE for his use of a hotel in Ottawa prior to the time his household goods were picked up at his old residence there, if he can demonstrate to the agency that the residence was unavoidably rendered uninhabitable prior to that time because of the packing of his furniture. The employee was also properly paid TQSE for an additional night's temporary lodgings following the delivery of his household goods in Maryland because the delivery was made late in the day and without advance notice, and in those circumstances the employee could neither move into his new residence immediately nor avoid being charged for staying an additional night at his hotel. William D. Dudley, 67 Comp. Gen. 310 (1988).

b. Residence outside U.S.

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 U.S. or other designated area, are unconcerned with the location of the employee's permanent residence. B-177930, March 27, 1973.

2. 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 the 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 PDY station. Their orders may be amended to designate Chicago as their TDY station and the employees may be paid per diem while so assigned, making an appropriate adjustment for TQSE already reimbursed. B-172207, July 21, 1971.

a. Transfer with training en route

An employee directed to travel from his duty station in Germany to Alabama for long-term training was given PCS orders to Texas the following year. An assignment for training is not a transfer in connection with which TQSE is 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 may be viewed as incident to his transfer to Texas with training en route. B-195281, May 24, 1976 and 58 Comp. Gen. 744 (1979).

An employee received PCS orders to the Canal Zone from La Paz, Boliva, incident to attending long-term training in the U.S. After 3 days in the Canal Zone, he took renewal travel for himself and his family in the U.S. His family remained in the U.S. until the

employee completed his training and additional TDY and was assigned to Bogota, Columbia by PCS orders of June 12, 1978. His claim for subsistence while occupying temporary quarters for July 20-27, 1978, in the Canal Zone is disallowed. On the record, the Canal Zone is not established as his PDY station so as to support his entitlement to such benefits. B-194536, January 9, 1980.

b. 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 TQSE, except for the period during which he is awaiting arrival of his HHG. FTR para. 2-5.2h. TQSE 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 TQSE 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 HHG. 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.

c. Measuring distance

Although the distance between the employee's old and new stations was 38 miles, he may be allowed TQSE, since the distances for determining eligibility are in accordance with the map distances along usually traveled routes—which was 128 miles. B-192142, March 21, 1979. But see, B-193903, June 19, 1979, where it was held that under FTR para. 2-5.2h, an employee is not entitled to TQSE where the difference between the distance from his old station to his old residence (78 miles) and the distance from his old residence to his new station (60 miles) is only 18 miles.

d. Canceled transfer

Seven weeks after his transfer from Fort Detrick, Maryland, to Washington, D.C., an employee was given orders directing a second transfer to Alabama. The second transfer was canceled. The

employee occupied temporary quarters for a period of 60 days after his transfer to Washington, D.C. Since the employee's extended occupancy of temporary quarters beyond 30 days was due to the anticipated, but canceled, transfer to Alabama, he may be reimbursed 30 days TQSE in connection with the canceled transfer to Alabama. B-189457, August 23, 1975 and B-192469, April 4, 1979.

3. Relocation upon reemployment

a. Reemployment without a break in service

An employee who returns to his place of actual residence in the U.S. 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 the expenses of his relocation, including TQSE, from his place of actual residence to his new duty station. 47 Comp. Gen. 763 (1968). The regulatory restriction relating to the payment of expenses incident to separation does not preclude payment of TQSE incurred after the date an employee was reemployed, without a break in service, by Interior following his return to the U.S. upon termination of his employment agreement with the Trust Territory of the Pacific Island Saipan. B-163113, June 27, 1968.

b. Reemployment after service with an international organization

An 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 Agriculture for an assignment in Gainesville. He may be considered reemployed at College Station and the designation of his new duty station at Gainesville and may be allowed TQSE 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. And see, B-196294, August 19, 1980.

c. Reemployment with a break in service

An employee who was recruited in Vermont for assignment overseas returned to San Francisco upon the expiration of his 2-year contract. Four months later, he received a temporary appointment with 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.

d. Reemployment after RIF

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 TQSE. 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 a RIF or transfer of function. B-181178, February 18, 1975.

4. 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 the reimbursement of the appointee's travel expenses and transportation of his immediate family and HHG to the extent authorized by 5 U.S.C. § 5724. TQSE is 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; B-194270, May 9, 1979; and B-194341, May 22, 1979.

A new appointee to a manpower-shortage position was issued travel orders erroneously authorizing reimbursement expenses, real estate expenses and miscellaneous expenses as though he were a transferred employee. After travel was completed, his orders were corrected to show entitlement only to travel, travel per diem and movement of household goods, as authorized for manpower-shortage positions. The claimant asserts entitlement to full reimbursement, arguing that the advice received when hired and the travel orders issued are consistent with private sector practices. The claim is denied. Under 5 U.S.C. § 5723 (1982), the travel and transportation rights of a manpower-shortage appointee are strictly prescribed. Regardless of whether the error was committed orally or in writing, the government is not bound by any agent's or

employee's acts which are contrary to governing statute or regulations. John H. Teele, 65 Comp. Gen. 679 (1986).

C. Procedural Requirements

Under the provisions of 5 U.S.C. §§ 5724a(a)(3) and 5724(a), and the implementing regulations in FTR para. 2-5.1, et seq., an employee and his immediate family may be reimbursed for the expenses of the occupancy of temporary quarters in connection with an official transfer to a new duty station. In accordance with this authority, authorization for TQSE is discretionary with the agency. Refer to CPLM Title IV, Chapter 2, for a more general discussion of the procedural requirements for the reimbursement of relocation expenses, including the temporary quarters allowance.

1. Authorization or approval

In the absence of an administrative authorization or approval of the use of temporary quarters, an employee may not be reimbursed for TQSE. 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 prior to the time expenses were incurred, the employee's voucher for TQSE may be certified for payment, if properly approved by an appropriate official. B-172108, April 21, 1971. Where an advance authorization for a temporary quarters allowance would have been granted but for the employee's failure to fill out a form requesting authorization, TQSE may be post-approved. B-173113, July 26, 1971 and B-168908, April 2, 1970.

Where the employee was not authorized TQSE because his agency's policy was to authorize TQSE or a house-hunting trip, but not both, the employee may not be paid a TQSE allowance, even though his taking a house-hunting trip resulted in less cost to the government. 58 Comp. Gen. 652 (1979).

a. Modification of orders

An employee returned to his PDY station following an IPA assignment and was authorized temporary quarters reimbursement. His family did not join him for 1-1/2 years but his claim for temporary

quarters reimbursement for his family may not be denied. Notwithstanding a policy to limit or deny temporary quarters where an employee arrives before his family, travel orders may not be modified retroactively by the agency to deny reimbursement. B-198939, April 3, 1981.

2. Authorization of period of occupancy

a. Less than 30 days authorized (the statutory limitation is now 60 days)

(1) Modification of orders—Where the travel authorization specified 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 an 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 an error is not apparent on the face of the orders, and since the authorization of 10 days does not clearly conflict with any 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.

(2) Ratification of oral authorization—An employee's travel orders authorized 10 days TQSE. Before the end of the 10-day period, the employee requested and was orally authorized an additional 10 days. Administrative approval 2 months later of the additional 10-day period may be viewed as the ratification of an oral authorization. B-184025, June 3, 1976.

(3) 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 house hunting. He may be reimbursed 30 days less 2-1/2 days TQSE in view of the agency's instruction directing the 30-day period for occupancy of temporary quarters 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.

Transferred employee was authorized 120 days Temporary Quarters Subsistence Expenses (TQSE) and a house-hunting trip. He did not take the house-hunting trip, but his wife did. The agency paid for her house-hunting trip, but deducted the 7 days paid for her trip from the employee's 120 days of TQSE. Employee's reclaim for the 7 days of TQSE for himself and his children was properly denied, since these are discretionary items and the agency interpretation of the regulations and travel orders is not unreasonable. James F. Kilfoil, 67 Comp. Gen. 258 (1988).

D. Period of Entitlement

1. Limited to 30 days (The statutory limitation now is 60 days)

a. Transfers within the continental U.S.

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

b. Transfers within Alaska

Due to difficulties in obtaining living-quarters, employees transferred from Anchorage to Juneau, Alaska, requested a maximum of 60 days of TQSE. Their claims for TQSE in excess of 30 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).

c. Erroneous authorization

Entitlement to TQSE in excess of the statutory limitation cannot be predicated on erroneous advice or purported authorization in a travel order issued to an employee. B-199251, November 18, 1980. Moreover, the general rule that orders may not be revoked or modified retroactively to increase or decrease rights or benefits that have vested when the travel was performed has reference only to competent orders. It is not a mechanism by which an authorizing official may expand the scope of his authority as limited by law and regulation. It is not a bar to a retroactive amendment of an order whose provisions are clearly in conflict with a law, agency

regulation or instruction. B-204951, March 4, 1982 and B-188106, March 3, 1977.

2. Limited to 60 days (The statutory limitation is now 120 days)

a. Agency discretion

An employee who was transferred to Alaska sought additional TQSE beyond the initial 30-day entitlement under the discretionary authority provided in 5 U.S.C. § 5724a(a)(3). In accordance with its established policy, his agency denied an extension based on a finding that the employee's voucher did not justify the necessity for additional time in temporary quarters, and there was no evidence that the extension was required for reasons beyond the employee's control or unique to a particular area. Since it is the responsibility of the employing agency, in the first instance, to determine that subsistence expenses are necessary and reasonable, GAO will not challenge the agency's determination, unless arbitrary, capricious, or contrary to law. B-201382, August 26, 1981 and B-174986, July 14, 1972.

b. Failure to obtain extension authorization

Reimbursement of temporary quarters subsistence expenses of transferred employee is limited to the 30 days authorized by the agency where the employee failed to obtain authorization to spend 90 additional days in temporary quarters and the agency did not approve the additional time by administrative action. Meryl Bullard, B-221978, April 2, 1986.

E. Occupancy of Temporary Quarters

1. Necessity for occupancy

In order to be eligible for TQSE, an employee must occupy temporary quarters. Under FTR para. 2-5.2c temporary quarters are any lodgings, "obtained from private or commercial sources to be occupied temporarily by the 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." See generally, B-199958, April 22, 1981 and B-202906, September 15, 1982. Before payment of TSQE may be made, there must be a determination that the 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. The administrative determination as to whether the 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 the 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. For example, under circumstances including the fact that shipment of HHG was delayed, administrative approval of TQSE is proper. B-184024, January 21, 1976 and B-164888, August 20, 1968.

2. Occupancy incident to transfer

a. Occupancy caused by delay in en route travel

An employee transferred from Washington, D.C., to Alaska was authorized to travel by POV and was authorized 15 days traveltime based on a driving distance of 300 miles per day. The trip in fact took 50 days. The employee may not be paid TQSE for the 35 days delay en route, which he attributed to "a series of mishaps which required periodic layovers." He did not occupy temporary quarters at his old or new duty station and his occupancy of temporary quarters en route was attributable to personal delays. B-193393, April 17, 1979. Compare B-193935, June 18, 1979.

Employee who performed travel incident to transfer of duty station was delayed by breakdown of mobile home in which he and his family were traveling. On basis of such delay, he claimed temporary quarters expenses for a 6-day period during which the mobile home was being repaired. Temporary quarters expenses may not be paid since the employee's rights are limited by 5 U.S.C. § 5724a to an appropriate per diem allowance rather than temporary quarters expenses, for the period of actual travel en route to the new station, if agency approved. Robert T. Bolton, 62 Comp. Gen. 629 (1983). See also Chapter 3, Part G of CPLM Title IV.

b. New residence unrelated to transfer

(1) Family residence elsewhere—An employee transferred from Raleigh to Salisbury, North Carolina, rented an 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 TQSE. B-185727, March 2, 1976 and B-163153, February 6, 1968.

(2) Wife's separate residence—Where his wife and children resided in quarters separately from the employee prior to his transfer, their continued occupancy of those quarters was not incident to the employee's transfer, and TQSE is not reimbursable. B-171780, June 15, 1971.

c. Occupancy for medical reasons

(1) Employee hospitalized—Upon his transfer, an 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 TQSE for the period of hospitalization based on the hospital room charges. That portion of his claim for TQSE 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.

(2) 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 her 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, the lodging expenses of the wife and child may be considered to have been incurred incident to the occupancy of temporary quarters in connection with the transfer. B-179556, May 14, 1974. And, in B-195509, January 25, 1980, we held an employee entitled to reimbursement for the cost of groceries for the family members as temporary quarters subsistence, since the old residence was vacated,

even though HHG were left there when the family members temporarily moved in with the employee's mother-in-law at the old duty station. Moreover, his family "vacated" their residence within the meaning of the applicable regulations, since care for a premature baby in it would have delayed its sale. Also, the employee is allowed meal costs incident to a visit to his family at his mother-in-law's home while in a non-duty status away from his temporary lodgings at his new station.

(3) Dependent mother in nursing home—Employee of the Department of Energy was transferred incident to a permanent change of station from Colorado to Washington, D.C. Employee was authorized temporary quarters allowance for family including authorization for dependent mother to stay in Ada, Oklahoma, until she joined the family in Washington. Due to illness, dependent mother was placed in a nursing home in New Mexico until she joined the family in Washington a few months later. Since nursing home expenses incurred would not have been incurred absent the transfer, the occupancy of such quarters may be regarded as "reasonably related and incident to the transfer" and, therefore, may be paid pursuant to FTR para. 2-5.2(d). Lawrence R. Sanders, B-220288, February 19, 1986.

d. Children residing apart

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

(2) Children with relatives—The consecutive 30-day maximum period for temporary quarters subsistence expenses does not run during the period that an employee is on temporary duty travel and his minor son lives with relatives. For the purpose of subsistence expenses and the 30-day limitation, the son did not occupy temporary quarters while residing with relatives, since his stay with them was not incident to a transfer of permanent duty stations.

James E. Massey, B-207123, December 14, 1982. See also Part F, "Period interrupted" (6-39) of CPLM, Title IV.

(3) 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. TQSE 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. See FTR para. 2-5.2f. 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 and B-208302, September 27, 1982.

3. What constitutes temporary quarters

FTR para. 2-5.2d defines "temporary quarters" as any lodging obtained from private or commercial sources to be occupied temporarily by an 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. What constitutes temporary quarters is a determination that must be based upon the facts in each case. B-183829, January 2, 1976 and B-183239, June 25, 1975. When an employee, in connection with a PCS, assumes as a temporary residence permanent-type quarters, but ultimately occupies those quarters indefinitely, the determination of whether those quarters were initially temporary or permanent quarters. See B-192343, November 15, 1978. In determining whether the intent of the employee was to occupy the quarters on a permanent or temporary basis, we have considered such factors as the type of quarters, the duration of a lease, the movement of household effects into the quarters, efforts to secure a permanent residence, expressions of intent, and any other pertinent facts and circumstances surrounding the occupancy. If on the basis of these considerations it is objectively determined that at the time the employee moved into the residence, he clearly manifested the intent to occupy the quarters only on a temporary basis, we have allowed payment of TQSE, even though the quarters could be occupied permanently or did, in fact, become permanent. See B-205057, February 24, 1982. In the

absence of a finding of the requisite intent, the fact that the occupancy of permanent-type quarters results in savings to the government may not serve as a basis for the payment of TQSE. B-197958, March 31, 1980 and B-191626, November 20, 1978.

a. Pending retirement or transfer

An employee, who moved with his family and household goods from his old duty station in Detroit, Michigan, to an apartment in St. Louis, Missouri, pending either his disability retirement or transfer to Houston, Texas, is not entitled to temporary quarters subsistence expenses. When his application for disability retirement was denied, he reported for duty at Houston and established an apartment residence there for himself only, and did not provide any evidence that he had sought other permanent quarters. Neither the apartment in St. Louis or Houston constituted temporary quarters, and the expenses in St. Louis were not incident to the transfer as required by Federal Travel Regulations. Kim M. Ballentine, B-206508, March 9, 1987.

b. Quarters that are temporary

(1) Occupancy of leased quarters

(a) Month-to-month lease—In view of the fact that the apartment was rented on a month-to-month basis, that part of the HHG 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.

(b) 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 established that the employee intended to remain in the parsonage temporarily, it may be regarded as his temporary quarters. B-163893, May 9, 1968.

(c) Employee disestablished his residence at old station—A transferred employee may be deemed to have disestablished his residence at his old duty station effective the date he reported to his new duty station, even though his family did not disestablish their residence at the old station. Thus, under paragraph 2-5.2a of the Federal Travel Regulations (May 1973 ed.), he is entitled to TQSE for himself, not to exceed 30 days. George L. Daves, 65 Comp. Gen. 342 (1986).

(d) Long-term lease—Where the employee and his family moved into a furnished apartment incident to a 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 land on which to place a mobile home which he intended to purchase with proceeds from the sale of his former residence. B-183829, January 2, 1976.

(e) 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).

(f) 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 the occupancy of the first apartment. B-187834, June 21, 1977.

(g) Anticipating involuntary separation—Because he was on a surplus list, subject to separation by a RIF, 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 TQSE for his stay in the hotel. B-168924, March 10, 1970 and B-181549, January 27, 1975.

(h) Failure to vacate—Pursuant to a permanent change-of-station transfer, employee paid lessor of rented apartment 1 month's rent as required by terms of unexpired lease when employee terminates lease because of job transfer but is unable to give 30-day notice to lessor. Rent paid may not be reimbursed. An underlying premise upon which the lease termination expense benefit is grounded is that the leased quarters were actually vacated. This premise was unfulfilled here because employee continued to occupy the apartment for part of the month and her husband continued to occupy the apartment during the entire month. In any event, FTR para. 2-6.2h, providing the reimbursement of lease termination expenses, requires employee to make reasonable efforts to sublet apartment. Where facts reveal that employee's spouse rented apartment immediately after employee terminated lease, employee failed to make reasonable efforts to sublet. Patsy S. Ricard, 67 Comp. Gen. 285 (1988).

(2) Occupancy of government quarters—The description of temporary quarters in 2 JTR para. C13000 as "any lodging obtained from private or commercial sources" does not prohibit the payment of TQSE when permanent-type government quarters are occupied temporarily. Thus, an employee may be allowed TQSE 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 TQSE, 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.

(3) Occupancy of lodging by co-worker—Employee of the Department of Interior requests reimbursement of temporary quarters subsistence expenses incurred in connection with his occupancy of lodgings furnished by a co-worker. Although the employee claims that the lodgings were not furnished on the basis of a friendship between the two, applicability of the rules for reimbursement for temporary quarters does not depend upon the relationship between the employee and the person supplying the lodgings. When the lodgings are provided in a personal residence by a host who does not have a history or make a practice of renting out accommodations in his private home, the employee's claim should be supported by information indicating that the lodging charges reflect expenses incurred by the host. Jerome R. Serie, B-219477, February 11, 1986.

(4) Occupancy of condominium employee purchased—A transferred employee claims temporary quarters subsistence expenses associated with his occupancy of a furnished one-bedroom condominium he had purchased. The employee's claim may be allowed because the record shows that the employee intended to occupy the condominium on only a temporary basis pending his purchase of a suitable family residence. Specifically, the temporary character of the employee's occupancy of the condominium is evidenced by the fact that the one-bedroom unit would not accommodate his six-person family and by the fact that he kept his household goods in storage while residing there. Allan L. Franklin, B-222136, September 19, 1986.

(5) Occupancy of travel trailer—Upon his 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 TQSE therefor. B-178836, July 12, 1973 and B-114826, May 7, 1974. Although an employee certified that his travel trailer would be used as his residence at the new station, permitting him to be paid a trailer allowance, the certification did not specify that it was to be his permanent residence. Where the employee resided in the trailer only temporarily while actively seeking permanent residence

quarters, he may be reimbursed TQSE in connection with its occupancy. Because of the mistake in his travel orders, they may be retroactively corrected to authorize TQSE and to cancel the trailer allowance. B-191831, May 8, 1979.

(6) Occupancy of housing after TDY converted to permanent duty—Employee leased a house for the period of his temporary duty. At the end of his temporary duty he was converted to permanent duty but his lease required him to vacate the house. He may be paid temporary quarters subsistence expenses during the period he vacated the house and occupied an apartment where he reoccupied the house as soon as it became available since the record supports a determination that he intended to occupy the apartment only temporarily. Charles P. Ball, B-223407, June 18, 1987.

An employee was transferred to his temporary duty site and continued to reside in the same housing he had occupied while on temporary duty. He may not be allowed temporary quarters subsistence expense because, under paragraph 2-5.2c of the Federal Travel Regulations, those expenses are payable only if an employee has vacated the residence he was occupying at the time of his transfer. However, his indebtedness may be considered for waiver. William E. Gray, 66 Comp. Gen. 532 (1987).

(7) 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 TQSE 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.

Upon notification of proposed transfer, an employee purchased a mobile home for use as temporary quarters at the new location and claims costs incurred in obtaining a mortgage, electrical hook-ups, etc. Employee's transfer was canceled and he never vacated his residence at his old permanent duty station and never reported for duty at the new location. Therefore, employee is not entitled to reimbursement for any temporary quarters subsistence expenses. Further, even in the event of a canceled transfer, such items are reimbursable only if incurred in connection with the acquisition of

a permanent residence at the new location. John E. Robbins, B-215055, February 7, 1985.

(8) Occupancy of house purchased at new station—An employee may not be reimbursed TQSE after he occupies the residence in which he intends to remain. However, where an employee occupied his newly purchased, unfurnished house for 1 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 TQSE 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) and B-204185, December 15, 1981.

Employee of the Veterans Administration is not entitled to temporary quarters subsistence expenses while renting and occupying the house he intends to purchase as his family's residence at his new duty station. His intent during the period for which he claims temporary quarters subsistence expenses was to occupy the house permanently. The fact that its purchase was subject to approval of financing based upon his wife's obtaining employment does not change its character as the employee's permanent quarters. Savings to the government may not serve as a basis for holding otherwise. Walter E. Murphy, Jr., B-226362, November 23, 1987.

A transferred employee purchased a residence under construction. Pending its completion, he and his family lived in other quarters and were reimbursed temporary quarters subsistence expenses. Upon construction completion, the employee and his family moved into the new house on a rental basis pending settlement, and he claims a continuing right to temporary quarters based on fact that the temporary quarters authorization period which covered in part the new house rental period, was issued before he began that occupancy. The claim is denied. Under paragraph 2-5.2 of Federal Travel Regulations, the allowance is authorized only while the employee is in temporary quarters. Once an employee occupies a residence with the intention to make it his permanent residence, entitlement to temporary quarters terminates. Kent N. Rosenlof, 66 Comp. Gen. 701 (1987).

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 TQSE for occupancy of the rented house that 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.

An employee is entitled to TQSE where he occupied an empty room in the garage of the house he contracted to purchase as his permanent residence prior to the date he had a right to occupy the residence itself. Regardless of whether attached to or detached from the house, a garage is not generally intended as living quarters, and its occupancy does not constitute occupancy of permanent residence quarters under FTR para. 2-5.2. B-197958, March 31, 1980. However, see B-198026, June 11, 1980, holding in accordance with the general rule that eligibility for the temporary quarters allowance terminates at any time the employee or any member of his family first occupied new permanent quarters. See also B-196284, August 14, 1980.

(9) 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 his 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 TQSE. B-183403, June 20, 1975; and see B-191597, November 8, 1978.

c. Quarters that are not temporary

(1) 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. TQSE may not be paid for the period from October 6 to 21 during which the quarters were not occupied, nor may the employee be reimbursed for his rent on the second apartment since

he occupied the first apartment from November 15 to December 2. B-186435, October 13, 1977.

(2) No intent to vacate former residence—The FTR provides at para. 2-5.2c that in order to be eligible for the reimbursement of TQSE, the employee and his family must have "vacated the residence quarters in which they were residing at the time the transfer was authorized." See generally B-201418, September 22, 1981. There is no definition of the word "vacate" in the travel regulations. However, we generally consider a residence to be vacated when an employee or his family ceases to occupy it for the purpose intended. In determining whether an employee and his family have ceased to occupy a residence we examine their actions prior to, or after, departure from the former residence. If those actions support an inference that the employee or his family intended to cease occupancy of the residence, we generally have authorized reimbursement. See B-202243, August 14, 1981 and B-206169, June 16, 1982.

A transferred employee's immediate family joined him at his new duty station several months after he reported for duty, remained there for 26 days, and then returned to their residence at the old duty station. The employee's claim for family travel and temporary quarters subsistence expense is denied since the record does not provide any objective evidence that the family intended to vacate the residence at the old station so as to entitle the employee to be reimbursed. George L. Daves, 65 Comp. Gen. 342 (1986).

A transferred employee requests reimbursement for a fee he paid to a relocation company so that his family could remain in their former residence 23 days after the residence was purchased. The claim is denied since the employee's home was not vacated as required by the applicable provisions of the Federal Travel Regulations. Edward Carlin, B-229414, July 25, 1988. See also Patsy S. Ricard, 67 Comp. Gen. 285 (1988).

A transferred employee claimed temporary quarters subsistence expenses for her daughter who stayed in the employee's former residence at the old duty station in order to complete a school grading period. The agency disallowed the claim, noting that reimbursement of such expenses is allowable only where residence at the old duty station has been vacated. We concur since absent unforeseeable circumstances, an employee may not be paid temporary quarters subsistence expenses for a family member who remains in

the old duty station residence. Loretta M. Carter, B-229403, August 8, 1988.

(3) Wife's return to old station—An employee and his wife traveled to the new station on March 18. His wife returned to their residence at the old station on March 26, came back to the new station on April 5, returned to the old station on April 7, and moved to the new station permanently on May 22, 1974. TQSE 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 his entitlement to TQSE. B-185696, May 27, 1976 and B-199347, February 18, 1981.

(4) Family's return to old station—A transferred employee claims entitlement to temporary quarters subsistence expense reimbursement for himself and his immediate family at his new station even though the family returned to their former residence 2 months later and remained there for a protracted time. The claim for temporary quarters for the family at the new duty station may be allowed. At issue is whether there is objective evidence of intent to vacate the former residence. We find that the requisite intent to vacate the former residence has been manifested since their former residence had been put up for sale, their household goods shipped and placed in storage at the new duty station, and the events which compelled their return did not arise until after they traveled to the new duty station. John L. Reid, B-227193, October 16, 1987. Ernesto L. Montoya, B-228623, January 4, 1988.

(5) Re-occupancy of residence at old station—In B-195866, April 2, 1980, we denied the reimbursement of TQSE for an employee's family where the employee sent them home after one week at the new duty station in order to save furniture storage costs and to prevent potential vandalism at his former residence prior to settlement. We held that, since the family left a fully furnished residence unsure of when it would be sold or when they could move into a new residence, those facts did not support an inference that the family intended to cease occupancy. Rather, those facts created the inference that the claimant had taken steps to allow his family to continue their occupancy, if necessary. See also B-187519, January 26, 1977, where the house was not placed for sale and the record indicated that the family's return to the old station was to permit the employee's wife to pursue her teaching career.

(6) Intent evident when family rejoins employee—A transferred employee was denied reimbursement for his family's TQSE, because the circumstances of his family's return to their former residence showed a lack of intent to vacate. The employee is entitled to TQSE for himself and his family for the period after family rejoined the employee, since objective evidence shows the family's intent to vacate their former residence at that time. B-206169, June 16, 1982.

(7) Residence occupied on detail—A temporary quarters allowance may not be paid to an employee who, prior to his transfer, had been detailed to the area of his new duty station where he and his family continued to occupy a rental apartment in which they had resided during the detail. Neither the employee, nor his family, vacated the residence in which they were residing at the time the transfer was authorized. B-199525, May 6, 1981, B-176531, March 12, 1973; B-179583, July 31, 1974; and B-168041, November 13, 1969.

(8) Lack of intent to occupy temporarily—FTR para. 2-5.2d provides that temporary quarters are expedient to be "used only if or for as long as necessary until the employee can move into permanent residence quarters." Subsection f states that the entitlement to temporary quarters expense terminates "when the employee or any member of his immediate family occupies permanent residence quarters. . . ." Thus, an employee who rented an apartment, moved in his HHG and remained there for 1 year before buying a house, may not be paid TQSE while occupying the apartment, since there is no indication that he intended the apartment to be other than his permanent residence. B-194073, June 18, 1979. Where an employee moved into an apartment at his new station and, because he was dissatisfied with the management, moved to a second apartment, he may not be paid TQSE for his occupancy of the first apartment. B-189743, July 10, 1978. Similarly, TQSE was disallowed for the 11-day period an employee occupied, on a rental basis, a residence he had contracted to purchase at his new official station. Although the employee stated that he intended to occupy his residence only temporarily while he paid rent until his purchase became complete on the settlement day, the facts and circumstances of the matter indicate that while the rental arrangement was temporary, he intended to occupy the residence permanently from the date that he moved in. B-203222, January 5, 1982.

(9) Subsequent move due to marriage—Upon his transfer to Memphis, an 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. TQSE may not be paid in connection with the employee's occupancy of that apartment. B-182107, February 4, 1975.

(10) 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. TQSE may not be paid for the first 60 days after the 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; B-167632, August 20, 1969; and B-192343, November 15, 1978.

(11) 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.

(12) House subsequently purchased—An employee transferred to Iowa on March 3 rented a residence which he purchased 6 weeks later. He claimed TQSE 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 TQSE 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.

(13) 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 TQSE claim for the 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.

(14) Employee disestablished residence at old duty station—Transferred employee may disestablish residence at the old duty station even though the spouse did not disestablish residence there. Thus, the employee is entitled to temporary quarters subsistence expenses. However, the employee may not be reimbursed for the first 10-day period of lodging for which receipts for lodging before reimbursement is allowed. Federal Travel Regulations (FTR) para. 2-5.4b. Patsy S. Ricard, 67 Comp. Gen. 285 (1988).

d. Occupancy of residence at old station

(1) 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 rental basis. The employee rented a small apartment in Atlanta while looking for permanent quarters. TQSE may be allowed only if the employee or his family vacate the quarters in which they were residing at the date of his 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 TQSE may be paid in connection with their reoccupancy of the Columbia residence. B-177965, March 27, 1973 and B-168649, January 20, 1970.

(2) Rental of old permanent residence—Transferred federal employees are normally ineligible for subsistence expenses incurred while renting their permanent residence following its sale at their old duty station, but they may qualify for reimbursement if they

establish that an intent to vacate the home existed prior to rental. Hence, a transferred employee who provided information showing that he planned to move on the day before the sale of his home, but was delayed by the government's inability to locate a mover, established sufficient intent to vacate to qualify for reimbursement of subsistence expenses incurred during the temporary rental of his old residence after its sale. Quinea D. Minton, B-218886, March 24, 1986.

(3) TDY 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 TDY, the family may be regarded as having vacated the Tulsa residence and may be paid TQSE in connection with its reoccupancy. B-170597, November 23, 1970.

(4) Transfer delayed—Upon the oral notification of her transfer, an employee notified her landlord of the necessity to terminate her lease. After the landlord told her to vacate the relet apartment, her transfer was delayed and she was obliged to occupy temporary accommodations at the old duty station for 10 days. Although the employee may not be paid per diem for that period, she may be paid subsistence expenses for the days she was required to occupy temporary quarters. B-189580, March 31, 1978.

(5) Temporary return to old station—An employee vacated his old 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 TQSE 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 the occupancy of the temporary quarters. B-182617, February 4, 1975.

An employee's family joined him in temporary quarters at his new duty station for 10 days, but, due to the unexpected canceling of a contract for the purchase of a new home at his new duty station, returned to and occupied their former residence pending the purchase of another home. Since the record shows objective evidence of his family's intent to vacate their former residence when they joined him at his new duty station, the employee is entitled to TQSE for his family for the 10-day period. B-202243, August 14, 1981.

A transferred employee may be reimbursed for temporary quarters subsistence expense for himself and his family even though they returned to their old residence on weekends. The employee had for all intents and purposes vacated his residence at his old duty station since he had packed 90 percent of his household goods and had his family sleep on mattresses and eat their meals out. His return trips were merely for the purpose of preparing his house for sale and keeping his insurance in effect. John L. Reid, B-227193, October 16, 1987.

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

(7) 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.

(8) 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 the closing of the sale. His claim for TQSE for 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. And, in order for his children to finish the school term at the old duty station, an employee arranged in advance to rent his former residence after the date of sale. His claim for TQSE for the period of continued occupancy of his former residence may not be certified for payment, since record does not provide objective evidence of their intent to

vacate their former residence so as to entitle the employee to reimbursement under FTR para. 2-5.2c. B-198920, November 28, 1980.

(9) After removal of furnishings—An employee remained at his former residence at the old duty station for 1 day after his HHG were picked up. He claimed reimbursement for meals eaten out before departing for his new duty station. Notwithstanding that his HHG 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 TQSE claimed may not be paid. B-190108, February 13, 1978.

(10) 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 his transfer. The employee is not eligible for TQSE 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 the transfer was authorized. B-188650, October 18, 1977.

(11) Short-distance transfers—Employee, who was transferred to new duty station 36 miles from old duty station, claims subsistence expenses while occupying temporary quarters at old duty station. Employee is not entitled to payment of temporary quarters since the distance between his new official station and old residence is not more than 40 miles greater than the distance between his old official station, as required by paragraph 2-5.2h of the Federal Travel Regulations. Jack R. Valentine, B-207175, December 2, 1982.

e. Occupancy of residence at new station

Generally, the determination of whether quarters are in fact "temporary" within the meaning of the regulation is based on the intent of the employee at the time he moves into and occupies the quarters. FTR para. 2-5.2f; and see B-194880, January 9, 1980. The rule with regard to the period of eligibility for temporary quarters is that at the time the employee or any member of his immediate family occupies new permanent quarters, the eligibility terminates. B-192011, December 12, 1978.

When an employee and his family occupy the residence in which they intend to live, the allowance is terminated, even though the residence is not fully furnished at the time, and the utilities and appliances may not have been connected, and despite the fact that the residence still may be under construction and unsuitable for occupancy. B-198026, June 11, 1980. See also, B-161348, May 31, 1968. We held in B-174971, February 28, 1972, that upon the employee's rental and occupancy of the unfurnished and unfinished basement of the house that he intended to purchase, he was deemed to have moved into his permanent residence. It was irrelevent whether the portion of the residence occupied was suitable for occupancy. See also, B-185983, September 17, 1976 and B-178658, October 4, 1974. What was essential, however, was an initial factual determination that the employee had actually occupied and continued to occupy the quarters in question. Thus occupancy, not unrestricted use of the permanent residence, is controlling. For example, TQSE has been denied where:

- the employee occupies the residence, even though his furniture has not arrived, and cooking and eating facilities are lacking. B-194837, August 8, 1979.

- the employee rents the home that he intends to purchase as his permanent residence, even though final settlement of the purchase has not taken place, and even though the occupancy of the purchased quarters saved money for the government. B-202103, July 16, 1981.

- during the period for which he claimed TQSE, his furnishings had not arrived, and he had to eat meals in restaurants. B-191626, November 20, 1978; B-194065, June 8, 1979; B-192011, December 12, 1978; and B-194837, August 8, 1979.

- notwithstanding that the 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.

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. 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.

The new permanent residence was not completely furnished; 46 Comp. Gen. 709 (1967); and 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.

But see B-204185, December 15, 1981, where a transferred employee entered commercial lodgings at his new duty station on October 14, 1980, and continually resided in such temporary quarters, until he actually occupied a rented house with the intent to permanently reside there on November 12, 1980. The employee is entitled to TQSE, notwithstanding that during this period he rented an unfurnished house, moved in some personal possessions, and ate some meals there. The rule that eligibility for TQSE terminates at any time an employee first occupies new permanent quarters is not applicable here, since the facts demonstrate that during the period of the claim, the employee never "occupied" the rented house within the meaning of the rule.

(1) Leased quarters—A transferred employee rented an apartment at his new duty station under a 1-year lease with plans to buy a residence at the end of the lease term and when a house he owns is sold. The employee's claim for temporary quarters subsistence expenses for the first 30 days he occupied the apartment may not be paid. His execution of a 1-year lease indicates an initial intent to occupy the apartment on other than a temporary basis. His intent to purchase a home at some time in the future does not change the non-temporary character of his initial occupancy so as to permit reimbursement of temporary quarters subsistence expenses under the rule stated in FTR para. 2-5.2c. Johnny M. Jones, 63 Comp. Gen. 531 (1984).

(2) Short-distance transfers—In cases of short-distance transfers, FTR para. 2-5.2h provides for the payment of subsistence expenses while the employee occupies temporary quarters pending arrival of his HHG. Under that section, the expenses of temporary quarters may be reimbursed incident to short-distance transfers while awaiting the arrival of HHG, only while the employee and his family

occupy quarters other than the premises intended to be their permanent residence. Thus, TQSE 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.

(3) 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 TQSE 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.

F. Time Limitations

1. Time to begin occupancy

Under FTR para. 2-5.2c, 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.

Employee transferred to the Defense Contract Administration Services Region, Los Angeles, California, may not be reimbursed for temporary quarters and subsistence expenses incurred more than 6 months after he reported for duty at his new official station. Since the employee's family did not vacate the residence at his old duty station, his claim for reimbursement must begin within 30 days following his arrival at the new duty station. Robert C. Woolfork, B-220129, January 29, 1986.

A transferred employee stayed with a relative near his new duty station and delayed occupying temporary quarters pending the arrival of his family. The employee's family decided not to move to

his new duty station, and the employee then made a claim for temporary quarters subsistence expenses for a 30-day period which occurred nearly 2 years after his transfer. Paragraph 2-5.2e of the Federal Travel Regulations requires that in order to qualify for temporary quarters reimbursement, occupancy must begin no later than 30 days after reporting for duty or not later than 30 days after the family vacates the residence at the old station. Where there is no delayed travel by the family, temporary quarters may not be paid unless the occupancy of temporary quarters commences within 30 days after the employee reports for duty. Albert J. Ferraro, B-227497, October 30, 1987.

Thus, an employee may not be reimbursed TQSE 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.

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 7, 1973. 54 Comp. Gen. 13 (1974). See also B-195462, April 22, 1980, where an employee was transferred from Guam to the U.S. and authorized 60 days of TQSE. He moved into temporary quarters in Guam before traveling to the U.S. Upon arrival in the U.S., he went on annual leave before reporting to his official duty station in New York at which time he reentered temporary quarters. An employee is only allowed to receive TQSE for 60 consecutive days once the entitlement to TQSE starts. However, he may opt to claim TQSE beginning at the time he entered temporary quarters in Guam or when he reported to his official duty station in New York.

a. Staying with friends or relatives delay

The Federal Travel Regulations require that in order to qualify for expense reimbursement, occupancy of temporary quarters must begin no later than 30 days after the employee reports to his new duty station or not later than 30 days from the date the family vacates the residence at the old duty station. A transferred employee who timely vacated his residence at his old station, but who stayed with friends for more than 30 days after he and his family traveled to the new station may not be reimbursed for temporary quarters and subsistence expenses incurred when they stayed in a motel after time to qualify had expired. Mark W. Spaulding, B-214757, September 5, 1984.

b. Effect of early departure

An employee transferred from Colorado to Oregon, commenced PCS travel 3 days prior to the date he was scheduled to travel and arrived at his new duty station early. Early departure has no effect on the employee's entitlement to temporary quarters expenses, since the 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.

c. Dependents' early return from overseas

Although subsistence expenses while occupying temporary quarters may not be paid on the basis of dependents' early return from overseas, TQSE may be paid on their behalf, when the employee performs his PCS travel, provided that the dependents are required to occupy temporary quarters at the time of, and in connection with, the employee's transfer. 58 Comp. Gen. 606 (1979).

d. Effect of delay en route

Knowing that his HHG 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 the delay en route, the expenses he incurred while travel was delayed for one day may be reimbursed as TQSE. 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 HHG. B-161887, August 14, 1967. Where the employee did not occupy temporary quarters before he began his travel or following arrival at his new station, he may not be allowed TQSE for the period that he was in transit in excess of the 15 days authorized traveltime, even though he incurred personal delays while traveling. B-193393, April 17, 1979.

2. Beginning the period of claim

FTR para. 2-5.2f provides that in computing the period for which TQSE is 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. For example, a transferred employee who occupied temporary quarters by himself from March 1 to May 3 and who, except for periods of TDY away, occupied temporary quarters with his family from May 1 through mid-June, may be paid TQSE for the period from May 1 to May 30. The employee has the discretion to claim the allowable 30-day period of his choice and may opt to claim when he begins to occupy temporary quarters or when his family vacates its residence at the old station. B-193412, August 3, 1979. 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) and B-177842, March 27, 1973.

3. End of period of occupancy

FTR para. 2-5.2f 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.

a. Move to permanent quarters

An employee moved his HHG and his family to a permanent residence at his new duty station one month prior to the effective date of his transfer. He returned to his old duty station and claimed TQSE for the month that he occupied temporary quarters there before transferring to the new duty station. He may not be reimbursed TQSE, since his eligibility terminated at the time his family moved

into the permanent quarters at the new duty station. B-188005, May 19, 1977.

An employee, who transferred to a new duty station, occupied a motel room as temporary quarters for a 2-week period. The employee then executed a 1-year lease agreement on an apartment on July 12 and on the same date, moved her household goods into the apartment. The execution of a 1-year lease on the apartment and movement of her household effects into the dwelling manifest an intent on her part to occupy the apartment on other than a temporary basis. Therefore, the employee is not entitled to reimbursement of temporary quarters subsistence expenses after she occupied the apartment. Saundra J. Samuels, B-226015, April 25, 1988.

A claim for TQSE 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.

b. Death of employee

An employee died shortly after his 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 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.

4. Running of the period of occupancy

a. Runs concurrently for employee and family

Under FTR para. 2-5.2f, the 30- or 60-day period for which reimbursement of TQSE 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. For example, an employee was joined by his family during the second 10-day period of temporary quarters at his new station. He claims reimbursement for them based upon the higher rate applicable during the first 10-day period. The claim is denied, since the regulations governing TQSE provide for reimbursement based on 10-day periods beginning when either the employee or a family member first occupies temporary quarters, irrespective of when other family members begin to occupy temporary quarters. 60 Comp. Gen. 281 (1981).

An employee, pursuant to a PCS transfer, reported to duty on February 8, 1983. He was paid temporary quarters subsistence expenses for himself for the period February 8-26, 1983. Family members arrived at the new station on June 26, 1983, and remained in temporary quarters until July 6, 1983. The employee's claim for subsistence expenses for himself and his family during the second period, in addition to that claimed for the first period, not allowed. Entitlement to temporary quarters subsistence expenses under Chapter 2, Part 5 of the FTR, is for a consecutive day period only, not to exceed 30 days, and runs concurrently for all family members. However, under FTR, para. 2-5.2(2), the period of temporary quarters may be deferred until the family members arrive at the new station. Therefore, the employee has the option of claiming either the earlier period or the later period, whichever provides the greater benefits. Huai Su, B-215701, December 3, 1984.

b. Period not interrupted

Return to old station—An employee reported to her new duty station on only a 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 TQSE 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 her 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 when she returned to her old station. B-185338, February 19, 1976.

c. Absence for personal reasons

Since the employee's return to his family residence at his old duty station on weekends was a personal matter, and not attributable to official necessity, the period for claiming temporary quarters continues to run 30 consecutive days without interruption for those weekends. 57 Comp. Gen. 696 (1978) and B-166556, May 26, 1969. See also, 47 Comp. Gen. 322 (1967) and B-164251, June 26, 1968.

d. Annual leave

The taking of annual leave does not affect the granting of TQSE, 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 TQSE 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. 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 TQSE for the entire period of his claim, including the 3 days while on leave. B-184137, December 29, 1975 and B-195506, October 26, 1979.

Temporary quarters subsistence expenses may be reimbursed while the employee is taking annual leave on trips from temporary quarters established at the old or new duty station, provided the trip does not delay termination of temporary quarters and occupancy of a permanent residence at the new duty station. The fact that annual leave in excess of 240 hours might be forfeited if not taken before the end of the leave year should not be considered in making the determination as to whether use of the leave delayed the occupancy of permanent quarters. Any disallowance of the

expenses when temporary quarters are interrupted for trips during annual leave does not add to the maximum period of 60 consecutive days of temporary quarters subsistence expenses authorized by the Federal Travel Regulations. Harold R. Fine, B-224628, January 12, 1988.

e. TDY and annual leave

After reporting to his new duty station in Albuquerque, New Mexico, and beginning occupancy of temporary quarters, an employee and his family moved to Aberdeen, South Dakota for the balance of the authorized 30-day period. The employee was also on TDY and annual leave for several days during this period. The fact that the employee was away from both his old and new duty stations and that he was on annual leave is not determinative of his entitlement. He may be paid temporary quarters expenses for the days that he was on annual leave, provided that the agency determines that his taking leave did not cause an unwarranted extension of the period of his occupancy of temporary quarters. 61 Comp. Gen. 46 (1981). And see B-199347, February 18, 1981, where, after a period of TDY, the employee returned to his old duty station and remained there on annual leave for 2 weeks. We held that the employee may not be reimbursed for his own temporary quarters for the period after he returned to his new duty station. While the running of the 30 consecutive days entitlement to temporary quarters may be interrupted by TDY, it is not interrupted by a period of annual leave, and the employee's entitlement expired during the period of his annual leave, prior to the dates for which he claims reimbursement.

f. Period interrupted

TDY—An employee who was transferred to Spokane, claimed TQSE 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 TDY. 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 TDY after the employee begins to occupy temporary quarters, time spent on TDY 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. Further, while in temporary quarters, an employee performed travel during 3/4 of 2 days, for which he was paid per diem. Since the running of the period of consecutive days for the occupancy of temporary quarters may be interrupted for circumstances such as TDY, the employee may elect to extend his temporary quarters period by not claiming a TQSE allowance on the days of his departure and return from TDY, rather than be reimbursed for the interrupted days. Thus, if the employee chooses, he does not have to count the 2 days that he was on TDY as part of his 30-day entitlement and he may instead be paid TQSE for the 2 days following the date on which the temporary quarters entitlement would otherwise have expired. 57 Comp. Gen. 700 (1978). However, an employee may claim TQSE for his family, even though he is paid per diem while on TDY away from his official duty station. B-193412, August 3, 1979.

g. 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 his military duty. The running of the 30-day period for TQSE 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.

h. Extension of time because of failure to sell house

Agency properly exercised its discretion in denying request to extend temporary quarters subsistence expense eligibility for an additional 60-day period where the employee's need for further occupancy of temporary quarters was due to his inability to sell his former residence in a depressed housing market. Agency regulations provide that a poor housing market and inability to sell a former residence generally are not considered compelling reasons which justify granting an extension. Moreover, the Federal Travel

Regulations provide that an extension may be granted only when the need for additional time in temporary quarters is due to circumstances which have occurred during the initial 60-day period of temporary quarters occupancy. Michael F. Locke, B-221751, July 11, 1986.

i. Need for extension—construction of new house

To justify an extension of temporary quarters subsistence expenses, the employing agency's policy directive and the Federal Travel Regulations require a need for an extension due to circumstances occurring beyond the employee's control (short-term delay) within the first 60 days in temporary quarters. The employing agency's policy directive also requires scheduling of construction of a new home so that its occupancy can be expected within the first 60 days of temporary quarters. Since construction was not scheduled for completion under the employee's contract until after the first 60 days in temporary quarters, the employee is not entitled to an extension. Arthur P. Meister, B-224884, September 23, 1987.

A transferred employee purchased a yet-to-be constructed residence which was not scheduled for completion until a date beyond the 60-day period of temporary quarters for subsistence expenses (TQSE). The agency denied his request for an additional 15 days TQSE. Paragraph 2-5.2 of the Federal Travel Regulations permits an agency to grant an extension of time for TQSE purposes, but only if events arise during the initial TQSE period to cause permanent quarters occupancy delays and if the events are beyond the employee's control. Since there were no such delaying events in this case, the claim is denied. Paul E. Stover, 67 Comp. Gen. 567 (1988).

j. 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 the occupancy of temporary quarters. B-180286(1), July 2, 1975. Thus, an employee who occupies temporary quarters at his old duty station and interrupts his occupancy of his temporary quarters for a PCS as permitted by FTR para. 2-5.2a, may elect not to count the day of departure against his 30-day limit for temporary quarters. The principles established in 57 Comp. Gen. 696 (1978) and 57 Comp. Gen. 700 (1978) are applicable regardless of

whether the employee interrupts his occupancy of temporary quarters for purposes of TDY or change of station travel. 60 Comp Gen. 314 (1981).

k. Delay in en route travel

An employee who was authorized the use of his automobile incident to his transfer from Honolulu to Atlanta and who incurred 2 additional days of living expenses in Los Angeles while awaiting delivery of his automobile at port, may not receive per diem for those 2 days, since the delivery of the automobile was not delayed due to circumstances beyond his control. However, since the employee claimed TQSE at his old and new duty stations he may be paid for his temporary quarters occupied in Los Angeles, if no unwarranted extension of the temporary quarters allowance was involved. B-193935, June 18, 1979. Compare B-193393, April 17, 1979.

l. Approved sick leave

An injured employee on sick leave was transferred to Dallas, Texas. On arrival in Dallas he reported by telephone to his supervisor and was officially entered on duty on January 17, 1983, without physically appearing at the office. Following surgery and recuperation, he reported for duty on March 7, 1983. He claims temporary quarters expenses for January 11 through 14 and March 6 through 26, 1983. The claim is allowed. While that interruption of temporary quarters occupancy did not involve "official necessity" as that term is used in FTR, para. 2-5.2a, it is a proper basis to permit extension of the 30 consecutive days since the period of surgery and recuperation was covered by approved sick leave. Bobby L. Cook, 53 Comp. Gen. 222 (1984).

G. Location of Temporary Quarters

1. Not at old or new station

An employee is not required to stay in the vicinity of either his present or former duty station to be entitled to a TQSE allowance. B-191374, September 21, 1978. Therefore, an employee transferred from New York to Georgia may be reimbursed TQSE for his family while staying in Florida in the vicinity of the residence they ultimately purchased there, inasmuch as the record demonstrates that they necessarily occupied the temporary quarters. B-193885, June

8, 1979 and B-183588, August 20, 1975. And see B-169065, March 17, 1970, where, 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. See also B-175594, May 3, 1975.

Under the Federal Travel Regulations, temporary quarters subsistence expenses are ordinarily limited to temporary quarters in the vicinity of the old or new duty station and are justified elsewhere only for unique circumstances, if reasonably related to the transfer and not for vacation purposes. The employing agency properly denied the expenses for the employee's son living in an apartment and working in the city where the family formerly resided but which was not one of the employee's official stations involved in the transfer. Similarly, after another son left the new duty station to live at college for the regular school term, that son's expenses were unrelated to the transfer and not allowable. Harold R. Fine, B-224628, January 12, 1988.

a. Related to transfer and necessity to occupy temporary quarters

Incident to a 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 the renovations to their new residence were completed, they moved in. The family's TQSE 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.

b. At both old and new stations

Incident to a 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. The expenses may be reimbursed for the use of the temporary

quarters at both locations. The language of 2 JTR indicating that the employee will be eligible for reimbursement of TQSE 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.

c. 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 2 weeks. Thereafter, his dependents returned to the U.S. and the employee shared an apartment with another employee. TQSE 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.

d. 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 U.S. or specified nonforeign area. They do not require that the temporary quarters be located in the U.S. or a specified area. B-180286(2), July 2, 1975.

H. Reimbursable Expenses and Nonreimbursable Items

1. Reimbursable items of expense

a. 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 TQSE. B-168384, February 19, 1975. Similarly, a cable television rental fee incurred in authorized

temporary quarters may be reimbursed. B-192723, February 14, 1979. Since charges for telephone calls or service are ordinarily included in the cost of lodging, they may be reimbursed as part of the TQSE allowance. B-193935, June 18, 1979. However, only that portion of the employee's telephone bill that does not relate to installation or long-distance calls may be reimbursed as TQSE. B-168384, February 19, 1975. Laundry and dry cleaning expenses incident to the occupancy of temporary quarters may be reimbursed in reasonable amounts. B-188289, November 14, 1977. Also, the unrefunded portion of a cleaning deposit on leased temporary quarters is a fee incident to lodging and may be reimbursed as a TQSE. B-163107, January 30, 1968. For a general discussion of lodging costs, see 52 Comp. Gen. 730 (1973).

b. Use of portion of own household goods

Additional expenses to move a portion of household goods into temporary quarters for use as furniture, and from there to a permanent residence at the new duty station, may be considered for temporary quarters subsistence expenses purposes. Consequently, the employee is entitled to reimbursement within the maximum amount allowed for temporary quarters subsistence expenses. Moving expenses to furnish temporary quarters are distinguishable from costs incurred to move and store household goods in an uninhabited portion of temporary quarters. The latter is not reimbursable without a receipt showing expenses for a given weight of household goods within the maximum allowed for temporary storage and transportation in and out of storage. Aaron L. Howe, B-217435, August 29, 1985.

2. Nonreimbursable items of expense

a. 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 TQSE. B-180623, August 14, 1974.

b. Telephone installation and user fee

An employee in temporary quarters in not entitled to reimbursement for the cost of telephone installation. A telephone user fee is

reimbursable if ordinarily included in motel and hotel bills in the local area of temporary quarters. Harold R. Fine, B-224628, January 12, 1988.

c. Transportation expenses

An employee claimed $76.50 in TQSE 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 TQSE, since the allowance is intended to cover meals, lodging, and laundry expenses, and FTR para. 2-5.4b specifically provides that the expense of local transportation incurred for any purpose during the 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 TQSE in lieu of lodgings and food, even though the employee's stay with his relatives may have saved 2 days TQSE. B-172157, May 27, 1971. Similarly, where an employee temporarily lodged with a relative, his claim for TQSE based on transportation expenses incurred as a result of increased use of his host's automobile may not be reimbursed. FTR para. 2-5.4b excludes any expenses of local transportation. B-193331, April 25, 1979.

d. Security deposit

A relocated IRS employee is not entitled to reimbursement for a reletting fee incurred by the premature settlement of a lease when moving from temporary to permanent quarters at his new duty station since it is a security deposit, as distinguished from a subsistence expense in the nature of rent for lodging, and since it did not occur at the old duty station.

e. 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 TQSE. 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.

A transferred employee occupying temporary quarters rented by the month at his new duty station may not be reimbursed a parking

fee that is separate from the monthly rent. Robert E. Ackerman, B-223102, September 25, 1987.

f. 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 canceled the lease and moved into permanent quarters. He claimed reimbursement for the unrefunded $50 deposit as an item of TQSE. As distinguished from a subsistence expense in the nature of rent, a security deposit protects the lessor against a violation of the lease and may not be reimbursed as TQSE. 55 Comp. Gen. 779 (1976) and B-178343, December 26, 1973.

g. Expenses for visitors

An employee may not be reimbursed TQSE for his mother-in-law who was visiting him on a 3-month visa at the time of his transfer. Although dependent on the employee for her support during the visit, the mother-in-law resided in Central America with her husband and six children, and was not a member of his immediate family within the purview of 5 U.S.C. § 5724a(a)(3). B-194350, September 14, 1979.

h. Snacks

Expenditures for snacks in addition to regular meals may not be reimbursed, since they are not necessary expenses of subsistence. B-193331, April 25, 1979.

3. Evidence of lodging expenses

a. Requirement for receipts

FTR para. 2-5.4b requires receipts for lodging, 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; affirming February 5, 1975; and B-176882, November 14, 1972.

Similarly, an employee who at first refused to transfer to Puerto Rico was nonetheless ordered to effect the transfer and reported there on October 23, 1973. Paperwork evidencing his transfer to Puerto Rico was not received until December. Notwithstanding the employee's claim that he did not obtain lodging receipts because he did not know he had been transferred until December, his inadequately documented claim for temporary quarters may not be allowed. B-188575, May 3, 1978.

b. Stolen receipts

An employee's claim for reimbursement for TQSE for 5 days, including the 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.

c. 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.

d. Additional requirements under 2 JTR

Where 2 JTR imposes the additional requirements that the lodgings receipts show the locations and dates of the temporary quarters occupied and list the persons occupying such quarters, a DOD employee may not be reimbursed the 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 names of occupants, the FTR sets forth only minimum requirements and 2 JTR may impose additional requirements necessary to an adequate review of the claim. B-185514, September 2, 1976.

e. Staying with friends or relatives

A transferred employee claims entitlement to lodging and subsistence expense reimbursement at his new duty station while occupying temporary quarters provided by a relative. The claim was administratively disallowed on the basis of insufficient information to establish the reasonableness of the claimed expenses. The claim is denied, but on other grounds. While reasonableness of expenses is always in issue, under FTR para. 2-5.4(b), proof that the expenses were incurred is also required. Where a receipt given by a commercial establishment for lodging establishes both payment and reasonableness, a statement from a relative regarding the value of similar lodging does not. Since reimbursement is based on the incurrence of expenses which an employee is required to pay, unless proof of payment is submitted, the issue of reasonableness will not be considered. William J. Toth, B-215450, December 27, 1984.

4. Evidence of subsistence expenses

a. 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 the 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. Similarly, an employee claims TQSE incident to a PCS, but he has not submitted the required receipts and itemization for lodging, laundry or food while occupying temporary quarters. The employee may not be reimbursed for lodging and laundry expenses, since the regulations require receipts and itemization for such costs before reimbursement is allowed. However, he may be reimbursed for the expenses of coin-operated laundry facilities, since receipts are not required for such expenses by FTR para. 2-5.4b. He may also be reimbursed for food expenses for the days itemized, and for the remaining days, if he submits a daily itemization of food expenses and these expenses are reasonable as to amount. B-200841, November 19, 1981.

b. 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. See also Eric E. Shanholtz, 66 Comp. Gen. 515 (1987).

c. 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 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.

Voucher supporting Mine Safety and Health Administration employee's claim for temporary quarters subsistence expenses does not specify meals taken at restaurants or meals prepared in-quarters from groceries purchased in bulk. Although actual receipts are not required for meals or groceries consumed while occupying temporary quarters, such expenses are only allowable if reasonable in amount and properly itemized. Minimum itemization necessary to support voucher here requires a showing of whether meals were taken in quarters or in restaurants to support agency computation of reasonable costs of those meals. Eric E. Shanholtz, 66 Comp. Gen. 515 (1988).

A Veterans Administration employee transferred from Michigan to New York was authorized 60 days of temporary quarters subsistence expenses. He was allowed full payment in the amount of $3,256.81 on his claim for reimbursement of his meal costs based on his itemized listing of the actual cost of each meal and an agency determination that these costs were reasonable. Additional reimbursement is denied on a supplemental claim in the amount of $950 for groceries the employee later asserted had been transported from Michigan to New York and used in temporary quarters. The Federal Travel Regulations limit reimbursement to reasonable expenses, and the record provides no basis to disturb the agency's determination that his reasonable subsistence expenses had already been fully reimbursed. Furthermore, the record shows that the $950 claimed was an estimate. Such estimate is insufficient to

establish actual grocery costs, as the regulations require. Angelo N. Grandelli, 67 Comp. Gen. 451 (1988).

d. 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 the reimbursement of lump-sum amounts without reference to the 10-day computations 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. See also, B-207089, July 19, 1982.

5. 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, GAO 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. B-198523, October 6, 1980 and B-198093, November 10, 1980. However, GAO 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 living costs in the relevant location. 55 Comp. Gen. 1107 (1976); 56 Comp. Gen. 604 (1977); B-188289, November 14, 1977; and B-204185, December 15, 1981. See also the discussion of the evaluation of the reasonableness of

amounts claimed which must be made on the basis of the facts in each case in 52 Comp. Gen. 78 (1972) and B-205579, June 21, 1982.

An agency is responsible for determining the reasonableness of meal and miscellaneous expenses claimed during a temporary quarters subsistence expense period. The medical condition of a transferred employee's wife should be taken into account to the extent restaurant meals were required and criteria used to determine reasonableness of expenses based on restaurant meals rather than meals taken in the temporary lodging was appropriate. John L. Duffy, B-220941, June 11, 1986.

A transferred employee reclaims amount of disallowed meal expenses incurred while occupying temporary quarters. The agency relied on its internal guideline stating that meal costs up to 45 percent of the daily maximum will be considered reasonable without further explanation. The employing agency has the initial responsibility to determine the reasonableness of expenditures for expenses claimed by employees while occupying temporary quarters. Where the agency has exercised that responsibility, GAO will not substitute its judgment for that of the agency unless the agency's determination is clearly erroneous, arbitrary, or capricious. Here, agency's determination is sustained in the absence of adequate justification by the employee for additional meal costs. Harvey P. Wiley, 65 Comp. Gen. 409 (1986).

a. Agency's determination overruled

In B-199695, November 30, 1981, we considered the case of a transferred employee, who was authorized TQSE, and arranged for his wife and two children to stay with his mother-in-law. He claimed $8.15 per day for their meals and $1.67 per day for their laundry expense. His agency determined that the expenditures were unreasonable, since statistical data showed that a reasonable expenditure would be $4.75 per day for meals. The agency determination is reversed, since the agency failed to consider that the employee's mother-in-law prepared the meals and the reasonableness of the amounts paid. In the same case the employee agreed to pay his mother-in-law for lodging for his wife and two children. The agency determination that $6 per pay for lodging was unreasonable is reversed as arbitrary. We find that rate reasonable, since $6 was considerably less than the commercial rate, the mother-in-law experienced inconvenience in providing cleaning services for her house,

yard and linens, and there was significant increased use of the host's utilities.

An employee who occupied temporary quarters at his new duty station was disallowed reimbursement for the expenses of groceries on the basis that the Regional Office required receipts for all grocery expenses. FTR para. 2-5.4b, in effect, provides the head of the agency with discretion to require receipts for subsistence expenses other than for lodging, laundry and cleaning expenses, for which receipts are required by the FTR. As agency-wide regulations do not require receipts for groceries or delegate authority to require receipts, but require only that such claims be reasonable in amount, the claim may be allowed, if otherwise proper. B-196774, August 19, 1980. In addition, see B-196030, December 11, 1979 and B-193322, December 11, 1979.

b. Lodgings provided by friends and relatives

Upon change of station, an employee lodged temporarily with relatives and claimed reimbursement for TQSE 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 were 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 any extra work performed by the relative. 52 Comp. Gen. 78 (1972) and B-187419, June 1, 1977. An employee's claim may not be paid where the employee has not furnished information as to whether the friend or relative incurred additional expenses to furnish the employee lodgings. B-193130, May 3, 1979 and B-190716, May 9, 1978. The burden is on the employee to supply the necessary information, and it is not sufficient to show merely that the amount claimed is less than commercial rates or the maximum allowable. B-191673, December 5, 1978 and B-193331, April 25, 1979.

c. Compare these cases

An employee agreed to pay his mother-in-law $10.50 per day for lodgings for his three children. That rate, which was considerably less than commercial rates, was reasonable, since the employee's mother-in-law was inconvenienced by having to stay with neighbors, prepare meals, clean house and expend large amounts on utilities. 58 Comp. Gen. 177 (1978).

An employee's claim for $20 per day lodgings expenses while staying with relatives was disallowed for his failure to furnish sufficient information to prove the reasonableness of the amount claimed. However, he may be reimbursed and the aggregate $30 amount which he has stated represents the relative's increased utility costs attributable to his stay. His claim for $5 per day for the time and labors of his relatives in caring for his wife and child are not reimbursable. B-193331, April 25, 1979; also, B-201382, August 26, 1981 and B-198336, February 13, 1981.

d. Lodgings at second residence

Amounts claimed too speculative—Incident to a PCS, an employee and his dependents occupied a second residence owned by the employee which normally had been rented out for a 4-week period, but otherwise was used as a personal residence during the summer season. The employee may not be paid TQSE allowance for lodging costs where it is established that the lodging, though temporary, was at the employee's summer residence, and the only evidence that the employee lost rent is his own statement concerning his actions in the past and the rent that he feels is appropriate. In these circumstances, payment for the loss of rent would be too speculative. B-201574, August 24, 1981.

e. Shared lodgings

An employee shared a private residence leased by another government employee and the employee's daughter shared an apartment with a fellow college student during the period for which TQSE are claimed. The shared apartment arrangement involves considerations different from the rules which pertain to lodgings furnished by a friend or relative, where it is difficult to place a value on the services furnished. An employee who shares responsibility for private quarters with another individual generally shares expenses on

a pro rata basis at a fixed monthly amount. Therefore, he need not supply evidence that additional expense resulted from his lodging. B-207089, July 19, 1982.

f. 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 the evidence in an individual case. Based on 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 Labor statistics, reimbursement for the food for the period the employee's family occupied temporary quarters should be based on $413. 55 Comp. Gen. 1107 (1967), 56 Comp. Gen. 604 (1977); and B-190583, February 10, 1978.

Where an employee occupied temporary quarters in Louisiana while his dependents occupied temporary quarters in Texas, the employee may not be reimbursed for his dependents' meals on the basis of his itemized statement showing that their daily meal expenses were twice the meal expenses that he incurred. B-191597, November 8, 1978. Compare this with 58 Comp. Gen. 177 (1978), where, although NSA used statistical data in concluding that an employee's claim for $12 per day for meals for three children was unreasonable, his claim for TQSE based upon that amount may be paid, since it was arrived at by preparing a typical week's shopping list using local market prices and an amount for energy and labor costs associated with food preparation. 58 Comp. Gen. 117 (1978).

g. Fraudulent claim

A fraudulent claim for lodgings or meals taints entire claim for an actual subsistence expense allowance for any day on which a fraudulent claim is submitted. Therefore, employee's claim for temporary quarters subsistence expenses for 30 days is denied in its entirety since employee misrepresented his actual daily lodging expenses and his daily food expenses. See decisions cited. Fraudulent Travel Voucher, B-212354, August 31, 1983.

I. Computing Reimbursement

1. First day of entitlement

a. 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 TQSE 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).

A transferred employee traveled to Juneau, Alaska, by Alaska State Ferry. She occupied temporary quarters beginning at 12:45 a.m. on the day of arrival at the new PDY station and incurred two lodging expenses for the same calendar day. She was paid en route travel per diem through the first quarter of the day of arrival and temporary quarters expenses beginning with the second quarter at 6:00 a.m. on the day of arrival in accordance with the FTR. The employee's request for reimbursement for the first night's lodging in addition to the temporary quarters and per diem is denied. Her maximum daily temporary quarters reimbursement was $45 under FTR para. 2-5.4c. Therefore, since the employee was reimbursed the $45 maximum allowable for the calendar day in question, no authority exists for additional reimbursement. B-198357, March 12, 1981.

b. Whole-day concept

Notwithstanding that an employee is eligible for TQSE 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 TQSE constitutes 1 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).

Since TQSE may be reimbursed only in increments of calendar days, the occupancy of temporary quarters for even less than a full day constitutes one of the 30 calendar days. 57 Comp. Gen. 696 (1978). An employee began occupancy of temporary quarters at 6:45 p.m. after travel of less than 24 hours. Although he occupied quarters for only 1/4 day on the first day, that day is counted as a full day in computing the temporary quarters allowance. A calendar day is used to compute the number of days for which reimbursement may be made. Therefore, maximum reimbursement for the first 10 days is ten times the daily rate (not 9-1/4), since the FTR provides for a daily rate without proration. 56 Comp. Gen. 15 (1976); amplified by 57 Comp. Gen. 6 (1977).

2. Daily rate

a. 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 TQSE 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.

b. No rate set in orders

Where travel orders authorized "allowable expenses provided for in FPMR 101-7 for TQSE," 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.

c. Rates at different locations

An employee transferred from Guam to San Diego occupied temporary quarters at both locations. TQSE reimbursement is to be computed on the basis of two rates, $49 for Guam and $35 for San Diego. Since the regulations require TQSE 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.

3. Rental on monthly basis

d. A transferred employee who rented temporary quarters on a monthly basis should have the total monthly rent prorated to only the days that are counted as part of the temporary quarters period within the monthly rental period. The days that the employee performed temporary duty interrupted the temporary quarters period and are not counted as part of the temporary quarters period. Robert E. Ackerman, B-223102, September 25, 1987.

4. Applying the formula

FTR para. 2-5.4c sets forth the formula for computing the maximum amount an employee may be reimbursed for each of the 10-day periods of TQSE 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.

a. 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.

b. Effective date of changes

An agency questions whether the rate for temporary quarters reimbursement increased when the statute raised maximum per diem rates or when the regulations raised per diem rates for TDY travel. Since rates for temporary quarters reimbursement are pegged on the statutory maximum per diem rates, the increase is effective on the date the statute is amended. B-201321, June 10, 1981.

J. Relationship to Other Allowances

1. Temporary lodging allowances

FTR para. 2-5.2i provides that in no case shall a TQSE allowance be allowed that duplicates, in whole or in part, payments received under other laws or regulations covering similar costs. The TLA is discussed in CPLM Chapter 14 of this title.

2. Temporary quarters in the U.S.

During the last 30 days prior to his departure from a foreign area for which quarters allowances have been prescribed under the S.R. an employee may be paid a TLA. A TLA is in lieu of a permanent quarters allowance, whereas a TQSE allowance is associated with the employee's acquisition of a residence at his new station in the U.S. Since the two allowances are designed for different purposes and are not duplicative of one another, there is no restriction on the payment of subsistence expenses while occupying temporary quarters in the U.S. merely because the employee also received a TLA prior to his departure from his foreign post. B-165392, November 1, 1968.

3. Temporary quarters in a foreign area

TQSE 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 TLA is payable for a like period of occupancy in a foreign area prior to departure from a post, the two allowances are duplicative and reimbursement of the TQSE allowance must be reduced by the amount received as a TLA for the occupancy of the same temporary quarters during the same period. B-180286(1), July 2, 1975.

4. Quarters allowance

Where, for the same period that a transferred employee claims TQSE, the employee's military-member spouse receives a BAQ and BAS, the spouse's entitlement do not defeat the employee's entitlement to TQSE. Whereas the TQSE 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).

5. Spouse's TQSE allowance

FTR para. 2-1.5c provides that where members of the immediate family are entitled to allowances incident to a transfer, only one of the two is eligible. However, that restriction is applicable only to transfers which occur at the same time. Where a husband and wife, both employees, were given transfers between the same two duty stations, but the wife's transfer was delayed 2 weeks, she is entitled to TQSE as an employee in her own right—not as a dependent at a reduced rate—as of the date her husband departed their shared temporary quarters at the old duty station. 57 Comp. Gen. 389 (1978).

6. Per diem allowance

An employee cannot receive TQSE for himself for the days on which he receives a per diem payment incident to official travel, since the two allowances duplicate one another. B-175499, April 21, 1972. However, the employee may claim TQSE for his family while he is on TDY and receiving per diem. B-193412, August 3, 1979.

7. House-hunting trip

FTR para. 2-4.1c provides that if, in connection with a PCS, 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 CPLM Chapter 5 of this title.

8. Mileage

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

9. Employees transferred overseas

A civilian employee of the Army transferred overseas in August 1977, may not receive a TQSE allowance authorized by 5 U.S.C. § 5724a(a)(3) and the predeparture subsistence expense portion of the FTA authorized by 5 U.S.C. § 5924(2)(A). That statute prohibits the payment of a TQSE allowance to employees transferred overseas. B-196809, May 9, 1980.

Residence Transaction Expenses

Subchapter I—Entitlement

A. Authorities

1. Statutory authority

Under 5 U.S.C. § 5724a(a)(4), funds are made available for the reimbursement of real estate transaction expenses of the sale of the residence (or the settlement of an unexpired lease) of an employee at the old station and the 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 U.S., its territories or possessions, the Commonwealth of Puerto Rico, or certain areas in Panama. The statute limits expenses of residence sale at old official station to 10% of sale price, not to exceed $15,000, and expenses of residence purchase at new official station to 5% of purchase price; not to exceed $7,500. Additionally, maximum dollar amount may be increased effective October 1, of each year thereafter based on percentage change in the Consumer Price Index published for December of the preceding year over the Index published for December of the second preceding year. See Part E, "Maximum Amount of Reimbursement," of this chapter of CPLM, Title IV. 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.

2. Regulations

The regulations governing the 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, at 2 JTR Chapter 14. Allowances for real estate expenses under 5 U.S.C. § 5724a as implemented by the FTR are mandatory, and may not be limited by the agency. B-194196, November 14, 1979. Thus, for example, where an employee was transferred in the interest of the government, it was improper for the administrator of the agency to limit the amount of reimbursement for the sale of his residence at the old official duty station with no allowance for the purchase of a residence at the new duty station. B-196596, January 9, 1980.

The National Security Agency (NSA) questions whether a property rental management service may be included in the agency's relocation service contracts for its employees who are transferred within the continental United States. Although the statutory authority for relocation service contracts contained in 5 U.S.C. § 5724c (Supp. III, 1985) does not necessarily preclude this type of service, it has not been provided for by regulations implementing the statute. In the absence of such implementing regulations, there is no authority for NSA to include property rental management service in its relocation service contracts. Relocation Service Contracts, 66 Comp. Gen. 568 (1987).

B. Eligibility

1. Old and new stations in U.S.

a. Generally

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 U.S., the Commonwealth of Puerto Rico, or certain areas of Panama 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 U.S. 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 U.S. Fred L. Newhouse, B-222135, August 18, 1986. 54 Comp. Gen. 1006 (1975); 47 Comp Gen. 93 (1967); B-176452, February 21, 1973; and B-184987, May 28, 1976. This rule applies to lease transaction expenses as well. B-193138, April 3, 1979, and B-191135, March 14, 1978.

b. Funds from foreign government

Employees of the Corps of Engineers, Army, who transferred from an overseas post in Livorno, Italy, to Berryville, Virginia are not entitled to the reimbursement of their real estate expenses, since both stations are not in U.S., as required by 5 U.S.C. § 5724a(a)(4). These claimants, as federal employees, are not entitled to reimbursement of such expenses regardless of the fact that the agency has funds from a foreign government to make such payments. Also,

erroneous advice by government officials provides no basis for payment. B-194423, March 31, 1980. See also, B-204951, March 4, 1982.

c. Reemployment rights in U.S.

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 U.S. or another 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. See also B-203007, October 9, 1981 and B-204952, July 13, 1982.

d. 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 transferred 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 allowance. B-172594, March 27, 1974. The fact that an employee on duty overseas has return rights to his old official station in the U.S. does not entitle him to reimbursement of real estate expenses under FTR para. 2-6.1(a), upon his return from a foreign country to a different official station in the U.S. Rather, the actual change of duty stations is to be considered in deciding whether the exclusion in FTR para. 2-6.1(a) applies. B-203007, October 9, 1981; B-169490, October 9, 1975; B-130230, November 30, 1976.

e. Specific locations

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

(2) Saipan—An employee's claim for reimbursement of real estate expenses upon his return to the U.S. 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 possessions. Since Saipan is administered by the U.S. under a United Nations trusteeship, it is not a territory within the requirement of those regulations. B-163113, June 27, 1968.

(3) 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 U.S. did not obtain title. Guantanamo Bay is not a possession of the U.S. within the meaning of 5 U.S.C. § 5724a(a)(4). B-178396, June 18, 1973.

(4) Guam—An employee received change-of-station travel orders to Guam, where he purchased a residence. The residence purchase expenses are reimbursable, as the 14-month period that the employee was stationed in Guam may be considered as meeting the requirement of 5 U.S.C. § 5724 and FTR para. 2-1.2a(1) that the transfer be for PDY, even though a classification report categorized the position as a "temporary assignment." B-195563, April 7, 1980. See also B-198403, February 3, 1981.

(5) Panama—Employees who transferred to Panama for a period of 2 to 5 years chose not to sell their former residences in the U.S. in expectation of returning to their former positions. Where their function was transferred from Panama to Texas, the employees may not be reimbursed for the sales of former U.S. residences made more than 2 years from the date of their transfer to Panama. The transfer to Panama and the transfer from Panama to Texas are separate transfers with separate entitlements to relocation expenses, and may not be treated as one transfer. Also, such reimbursement is not provided for under the Panama Canal Treaty or Panama Canal Act of 1979, Pub. L. No. 96-70, 93 Stat. 452 (1979). B-199316, August 29, 1980.

2. Change of official station

a. Generally

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 canceled. 52 Comp. Gen. 8 (1972).

After his position was abolished, an employee stationed in Alaska returned to the continental U.S. for separation by retirement. His claim for the 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 PCS. 54 Comp. Gen. 991 (1975).

b. Reemployment after RIF

An employee separated involuntarily due to a RIF who, within 1 year, is reemployed by the government at another geographical location by a nontemporary appointment may be reimbursed 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).

c. Voluntary separation

An employee, transferred in the interest of the government, executed a 12-month service agreement. Pursuant to regulation, she had 2 years from the date she reported for duty at her new station (August 8, 1983) to sell her residence at her old duty station and purchase a residence at her new duty station. She voluntarily separated from government service 13 months after reporting to her new duty station. Subsequent to her separation but within 2 years of her reporting date, she sold her old residence and purchased a new one and claims expense reimbursement. Her voluntary separation did not alter her reimbursement rights. So long as an employee performs a minimum of 12 months continuous service following transfer, such conditional rights as she has to real estate expense reimbursement pursuant to a service agreement became vested 12 months later, subject only to the maximum time limitation within

which such expenses must be incurred. Lucy S. Tyler, B-222371, November 17, 1986.

d. Employees not eligible

(1) Moves to government quarters—An employee may not be reimbursed real estate transaction expenses where, incident to a promotion, he was required to move his family and HHG into a government-owned house. Relocation of the employee's residence may not be regarded as a transfer of official station. However, the expenses of moving his HHG 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 the discussion of transportation of HHG at Chapter 9 of this title of the CPLM.

(2) Transfers under the Foreign Service Act—An FAA employee who was transferred from Germany to the U.S., and paid allowances as authorized by the FAM, is not entitled to real estate expenses incident to his purchase of a new residence since FTR para. 2-1.2b(1) 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.

(3) 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 the reimbursement of his expenses incurred in selling his Boston residence in as much 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).

(4) New appointees—A new appointee, even though appointed to a manpower-shortage category position, is not entitled to the reimbursement of his 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. Since he is not entitled to residence transaction expenses under that section, erroneous administrative authorization of such expenses provides no basis for reimbursement. B-194341, May 22, 1979. Compare 60 Comp. Gen. 71 (1980).

(5) IPA assignments—An employee stationed in Kansas City, Missouri, was given an IPA assignment to 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). Similarly, an employee of HEW assigned to a state education agency under the Intergovernmental Personnel Act of 1970, Pub. L. No. 91-648, 84 Stat. 1909 (1971), may not be reimbursed for lease termination expenses, because 5 U.S.C. § 3375, enumerating authorized relocation expenses incident to IPA assignments, does not include such an expense. Since that authority is limited by statute, the fact that the agency terminated the assignment 1 year earlier than expected has no effect on the employee's entitlement. B-193443, June 7, 1979.

An employee sold his residence in Washington, D.C., prior to reporting to Olympia, Washington, for an Intergovernmental Personnel Act (IPA) assignment and bought a house in Seattle, Washington, 1 year into his 2-year IPA assignment. He may not be reimbursed for those real estate transaction expenses as being incident to his later transfer to Seattle at the completion of that assignment, since the employee incurred the expenses prior to the issuance of travel orders and there is no evidence of a clear administrative intention to transfer him at the time he incurred those expenses. Richard M. Morse, B-217301, June 4, 1985.

An employee assigned to a state government agency under the Intergovernmental Personnel Act may not be reimbursed real estate expenses for purchase of a home at the location of the assignment, since real estate expenses are not specifically allowed by the act and the assignment location is considered only a temporary duty station not qualifying the employee for relocation expenses. John S. Scull, B-226555, November 30, 1987.

(6) Return to U.S. for retirement or other separation—Title 5 U.S.C. § 5724a(a) authorized reimbursement for certain real estate expenses for "an employee for whom the Government pays

expenses of travel and transportation under section 5724(a) of this title." Such an employee under 5 U.S.C. § 5724(a) is defined as:

"(1) * * * an employee transferred in the interest of the Government from one official station or agency to another for permanent duty * * * "

It is important to realize that the above statutory authorization for real estate expenses is distinct from the authorization for travel and transportation expenses under 5 U.S.C. § 5724(d). There is, therefore, a statutory requirement that the transfer be for PDY. Return to the continental U.S. for separation by retirement or any other type of separation, however, cannot be considered PDY. The employees in such a situation would not satisfy one of the statutory criteria of 5 U.S.C. § 5724(a). Thus, they would not be entitled to reimbursement of real estate expenses. B-204467, June 8, 1982 and B-192486, December 12, 1978.

e. Canceled transfers

(1) Generally—Real estate expenses incurred in connection with the sale of an employee's residence in Ohio, incident to a PCS, 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; B-174505, December 21, 1971; and B-194448, December 11, 1979. Employee seeks reimbursement of real estate expenses incident to canceled transfer. Employee was reassigned from Buffalo, New York, to New York City, effective September 1, 1985, in connection with an agency determination that its Buffalo office would be closed. After the sale of his house in Buffalo, and completion of a house-hunting trip to New York City, the employee was notified on August 30, 1985, of an offer of a position with another government agency in Buffalo which employee accepted. Losing agency agreed to reassign and detail employee back to Buffalo District Office until September 22, 1985, predicated on employee's acceptance of new government position in Buffalo. Where cancellation of transfer was determined to be on the best interest of the government and employee remains in government service for 12 months following the cancellation date of the transfer, relocation

expenses may be paid. Since duty station has not changed, employee is treated as if transfer was completed and employee was retransferred to former duty station. William B. Storch, B-226282, July 20, 1987.

(2) Avoidable expenses—An employee incurred house-sale expenses at his old official station after his transfer was canceled 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 canceled the listing agreement at any time without obligation and without incurring any expenses. B-181321, November 19, 1974.

(3) Canceled transfer outside the U.S.—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 canceled transfer was to a location outside the U.S. and to other than an area designated by 5 U.S.C. § 5724a(a)(4). B-189900, January 3, 1978.

f. Position change at permanent station

An employee, transferred for training and reimbursed for those expenses, subsequently claimed expenses associated with a change of residence at his permanent duty station. The claim may not be allowed. An employee's eligibility for relocation expense authorized by 5 U.S.C. §§ 5724 and 5724a is conditioned on expense incurrence pursuant to a permanent change of station. The employee was reassigned to another position at the same duty station and, therefore, did not undergo a change of duty station. Although agency officials advised the employee that he could be reimbursed for expenses incurred in a local move, the government is not bound by such erroneous acts or advice. Stephen J. Musser, B-213164, February 22, 1984. Compare Edwin C. Hoffman, Jr., B-213085, January 16, 1984.

C. Procedural Requirements

1. Generally

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 a 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 CPLM Title IV, Chapter 2, is particularly significant in determining the entitlement to real estate sale expenses, because of the requirement that the residence sold be the employee's residence when he was notified of his transfer.

2. Clear administrative intent to transfer

In our decision B-202386, September 8, 1981, an HHS employee became legally obligated to sell his former residence and purchase a new residence in Virginia, prior to the issuance of travel orders or formal notice of his transfer. We held that the employee may not be reimbursed real estate expenses claimed, although his travel orders subsequently issued authorized reimbursement for real estate transaction expenses. For the employee to be entitled to reimbursement, there would have to have been a clear administrative intention to transfer the employee, and none existed when the employee became obligated to buy and sell the residences.

In the absence of evidence that the employing agency definitely intended to transfer the employee at the time he incurred real estate selling expenses, reimbursement of the expenses is denied. A summary of the employee's daily log shows that when the expenses were incurred there was only an indefinite proposal to transfer the employee. Any transfer was contingent on events which would not necessarily occur in the reasonably foreseeable future. Benjamin M. Johnson, B-229390, September 14, 1988. See also John Debo, B-219854, March 12, 1986.

An employee placed his residence at his old duty station on the market for sale before he received official notice of transfer. However, the employee did not accept an offer to purchase his residence until after official notice of transfer. Therefore, on the date of official notice of transfer, the employee held title to and lived in his

residence. The sale of the employee's residence at his old duty station was incident to his transfer, and the employee may be reimbursed for these real estate expenses. Ronald Defore, B-227662, October 23, 1987.

3. Authorization

a. Uniformity of allowances

Where a transferred employee's travel authorization did not expressly provide for the reimbursement of expenses in connection with the purchase of a residence at her new duty station, the orders may be amended to authorize the payment of residence transaction expenses. The provision for the 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. And, budgetary constraints is not an acceptable reason for denying expenses contemplated to be uniformly allowed by regulation. B-202200, August 18, 1981.

A transferred employee of the Peace Corps, was authorized transportation expenses, temporary lodging expenses, shipment of household effects and temporary storage, but he was not authorized real estate expenses. He is entitled to reimbursement of real estate expenses in accordance with part 6, chapter 2, of the Federal Travel Regulations since he was transferred in the interest of the government and the regulations contemplate that certain expenses will be uniformly allowed to all transferred employees. Budgetary constraints are not an acceptable reason for denying certain relocation expenses to a transferred employee. Ronald Defore, B-227663, October 23, 1987.

b. Incident to transfer determination

A transferred employee is under the same obligation to avoid unnecessary expenses as an employee whose transfer is canceled and is entitled to only those real estate expenses which he has incurred prior to notice of his retransfer and those which cannot be avoided. B-196908, May 28, 1980.

c. Short-distance transfer

An employee who lived in Salem, Utah, moved 1 and ½ 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 his 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. Pre-vacancy announcement sale

Employee anticipated transfer to a new position at a new duty station and offered his residence at old duty station for sale. This residence was sold before the new position vacancy was announced, before the employee was selected, and before he was first definitely informed of the transfer. In the absence of previously existing administrative intent to transfer the employee, the real estate sales expenses may not be paid. George S. McGowan, B-206246, August 29, 1984.

e. Pre-position selection sale

Employee entered into contract to sell his residence and vacated residence prior to his selection for position under competitive procedures and agency's formal notice of transfer. The real estate expenses claimed may not be reimbursed since the sale was not incident to his transfer, and the house for which he claims reimbursement was not his residence at the time he was officially notified of his change of station. James K. Marron, 63 Comp. Gen. 298 (1984).

f. Transfer not approved or effected

An employee was selected for a position away from his duty station. In anticipation of transfer, he put his residence up for sale. Shortly thereafter, he was selected for the same position at his current duty station. Employee seeks reimbursement for cost of selling old and purchase of new residence, claiming he was committed to

the sale before acceptance of the position at his old station. Employee's claim for reimbursement is denied. Anticipatory expenses may not be paid unless the transfer is authorized, or actually approved and effected. No such authorization was ever issued, and employee chose to remain at old duty station for personal reasons. Edwin C. Hoffman, Jr., B-213085, January 16, 1984.

g. Sale prior to reinstatement transfer

An air traffic controller in Ohio who was selected for a higher grade position in Illinois, was removed from his position prior to actual transfer. Upon reinstatement to his former position in Ohio as a result of an MSPB decision reversing his removal, the employee requests reimbursement of real estate expenses incurred. The employee may not receive reimbursement for real estate expenses where he entered into the sales agreement to sell his home after he had received notice of his imminent removal. George F. Ackley, B-214828, October 11, 1984.

D. Transactions Covered

1. 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 the 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.

Where an employee purchased two dwellings on 50 acres of land, agency should have prorated the real estate purchase expenses even though the second dwelling was not habitable. The proration requirement of paragraph 2-6.1f of the Federal Travel Regulations applies even in the case of a single dwelling where the employee purchases a parcel of land in excess of that reasonably related to the residence site. James W. Thomas, B-212326, November 29, 1983.

2. Purchase of garage space in conjunction with residence

A transferred employee entitled to reimbursement of expenses required to be paid by him in connection with the purchase of a

residence at his new duty station may be reimbursed under para. 2-6.1 of the FTR for his expenses incurred separately in obtaining a garage parking space in connection with the purchase of a condominium, since garage parking was reasonably necessary, and since it was obtained in conjunction with the condominium unit. 60 Comp. Gen. 677 (1981).

3. 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). And, a transferred employee's costs of assuming a loan on a house located at his old duty station, accepted as partial payment for his own residence from buyers unable to obtain sufficient financing, may not be reimbursed. Under the FTR, reimbursement is authorized only for expenses associated with one piece of real estate at the old and new duty stations, and is not authorized for unusual expenses incurred by an employee due to difficulties involved in his real estate transaction. B-199304, March 31, 1981.

4. 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 his retention of his legal title in the vendor as security for the payment. Although the employee did not hold legal title the sale of his interest under the land contract effected a "sale" permitting his 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.

5. Lease with option to purchase

An employee may not be reimbursed for his 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 FTR para. 2-6.1c, 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.

6. Gift of property

A transferred employee may be reimbursed for his expenses incurred in taking title to a residence as a gift from a relative. The word "purchase" as used in FTR para. 2-6.1c and 5 U.S.C. § 5724a(a), includes the situation in which an employee obtains title by a gift. B-173652, October 27, 1971.

7. 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 his expenses incurred in the transaction may be reimbursed under 5 U.S.C. § 5724a(a)(4). B-166419, April 22, 1969.

8. Lease of Land

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

9. 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 FTR para. 2-6.1 do not limit an employee to reimbursement for the expenses incurred incident to the purchase of a dwelling on land at his new duty station. 53 Comp. Gen. 626 (1974).

10. Mobile home

a. Generally

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. And, an employee may be reimbursed for recording fees, if they are customarily paid by the purchaser in the area and do not exceed the amounts customarily charged in the locality. FTR para. 2-6.2c. An employee's residence for the allowance of expenses incurred in connection with residence transactions may be a mobile home and/or the lot on which it is or will be located. FTR para. 2-6.1b and B-199193, April 22, 1981.

b. 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 CPLM Title IV, Chapter 8.

c. Used as downpayment on house

A transferred employee transported a house trailer 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 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.

d. Lease-breaking expense

A transferred employee sold a mobile home, which he had used as his residence at his old station, approximately 1 year after his transfer. He seeks reimbursement for the space rental charges during that 1-year period as a lease settlement expense on basis that his effort to sell constituted a bona fide attempt to terminate the lease. His claim is denied. The mobile home space rental was on a month-to-month tenancy and could have been terminated by moving his mobile home any time with 30-days notice. Since he took no action to terminate the lease, he did not incur any lease-breaking expense, and the continuing space rental charges are nonreimbursable. Daniel J. Price, B-210918, March 20, 1984.

e. Fee to establish collection account

A transferred employee sold a mobile home which he used as a residence at his old station. He personally financed the sale for a period not to exceed 2 years as an accommodation to the buyer. Because the employee still owed money on the mobile home, he established a collection account (similar to an escrow account) with his lender bank so that the buyer could make monthly payments to this collection account and the bank could apply the funds toward the employee's own mortgage payments. Since there is no showing that such an account was required by law or local practice, it must be regarded as being merely for the convenience of both parties and not directly related to the sale itself. The fee for establishing the collection account may not be reimbursed. Arthur L. Harding, B-211794, September 27, 1983.

11. Interest in cooperatively-owned building

An employee transferred from Cincinnati, Ohio, to Detroit, Michigan, in May 1981, claimed certain real estate transaction expenses in connection with the purchase of a cooperative apartment at the new duty station. Following the rule established in 61 Comp. Gen. 136 (1981), in the absence of evidence clearly establishing a different arrangement, an interest in a cooperatively-owned apartment building is considered to be a form of ownership in a residence for which real estate expenses may be reimbursed as provided under the FTR. See B-205614, April 13, 1982.

12. 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 the 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.

13. Marital property settlement

A transferred employee sold his interest in his residence to his estranged wife. The employee may be reimbursed the 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).

14. 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 expenses allowance incident to both transfers. 55 Comp. Gen. 628 (1976) and B-190764, April 14, 1978. See CPLM Title IV, Chapter 4.

An employee who contracted to buy a house and paid a $2,500 earnest money deposit, but who canceled the contract and forfeited the deposit to accept a promotion and transfer to another locality, may not be reimbursed for his loss as a residence transaction expense. However, a forfeited deposit may be partially reimbursed under 5 U.S.C. § 5724a(b) as a miscellaneous expense, notwithstanding the fact that he voluntarily applied for the transfer, where the reassignment was in the interest of the government. B-195920, June 30, 1980. See also B-205412, April 15, 1982.

Under a lease with an option to purchase agreement a transferred employee forfeited the $1,000 amount paid as consideration for the option because she had not exercised the option to purchase the

lease residence before she was transferred. A mere right to purchase under an option does not confer title to a residence so as to justify real estate sale expenses, which in any event would not include expenses in the nature of a forfeited deposit. Lillie L. Beaton, B-207420, February 1, 1983.

15. Expenses paid by third party

Transferred employee seeks reimbursement of real estate expenses incurred in sale of residence at old duty station. Expenses claimed were paid by wife's employer. Since the claimed expenses were actually paid by a third party, not by the transferred employee, no entitlement to reimbursement exists under para. 2-6.1f of Federal Travel Regulations. Lawrence F. Miller, B-208817, January 18, 1983.

E. Specific Conditions of Entitlement

1. Relationship of residence to duty station

An employee who was transferred from Washington, D.C., to Denver, Colorado, claimed reimbursement of his 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 residence in Staunton, because it bears no relationship to his new station. B-186185, November 15, 1976.

2. Residence in Canada

An employee transferred from St. Louis, Missouri, to Buffalo, New York, who purchased a residence in Canada—directly across the Niagara River—may be reimbursed for his real estate expenses, since the applicable regulations are not concerned with the location of the permanent quarters provided both "official stations" or "posts of duty," are located in the U.S. B-177930, March 27, 1973.

3. Remote duty station

An employee's claim for his 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.

4. Residence owned by new spouse

A transferred employee may not receive reimbursement for the expenses of selling a house owned by his wife where the house was not located at his old duty station; he did not reside there at the time he was notified of his transfer; he did not commute daily from the house to his duty station; and his marriage took place after he was notified of his transfer. Ellis Slater, B-216577, March 11, 1985.

5. Residence from which employee commutes daily

a. 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. FTR paras. 2-1.4i and 2-6.1 require that the residence which is sold be situated at the employee's old "official station," which is defined in FTR 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; B-191111, March 31, 1978; and B-190981, April 6, 1978. Where an employee returns to a residence only on weekends, such a residence does not constitute a residence from which the employee regularly commuted to and from work. B-191111, March 31, 1978; and B-189898, November 3, 1977. See also B-202758, February 22, 1982. For additional cases on the requirement that the residence be the one from which the employee commutes daily, see B-196298, April 23, 1980; B-196471, January 16, 1980; and B-197501, May 12, 1980.

b. FBI training cases

An FBI employee stationed in Philadelphia was appointed as a special agent and detailed to Washington, D.C., for 16 weeks' training at the FBI Academy, Quantico, Virginia, and upon completion of training was assigned to PDY in Baltimore. The employee may be reimbursed for the sale of his residence in Philadelphia upon his transfer to Baltimore, since employees are entitled to relocation expenses incident to a PCS interrupted by a temporary period of training. Washington, D.C., was a duty station for administrative

purposes only during the training period. Note that B-192614, March 7, 1979, held that an FBI special agent having his residence at his old PDY before 16 weeks' training at Quantico, Virginia, was entitled to reimbursement for the sale of his residence incident to a PCS. B-192614, March 7, 1979 applies retroactively, since it followed well-established precedent. Therefore, an FBI employee who was appointed as a special agent and who sold his house before B-192614, March 7, 1979 was decided, is entitled to his sales expenses incident to his transfer. B-195976, February 8, 1980. See also B-195974, February 8, 1980.

c. 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 his new residence. 54 Comp. Gen. 751 (1975) and B-181415, February 5, 1975.

An employee claims reimbursement for the expenses of selling his family residence in Connecticut, incident to his transfer from Westfield, Massachusetts, to Burlington, Massachusetts. He maintained living accommodations in the immediate vicinity of his Westfield duty station because the district from Westfield to his Connecticut residence was 77 miles. He asserts he commuted to and from the Connecticut residence 2 times and from the Connecticut residence 2 times and occasionally 3 times weekly. The claim is denied. He has not met his burden of showing that he commuted "regularly" to and from his Connecticut residence as required by paragraphs 2-4.1 and 2-6.1 of the Federal Travel Regulations for sales expense reimbursement purposes. William T. Cook, B-217518, July 23, 1985.

d. 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 commutes to and from work," under FTR para. 2-1.41, so as to confer an entitlement to the reimbursement of his real estate expenses incident to its sale.

B-176787, October 25, 1972; B-185584, June 30, 1976; B-173672, August 5, 1971; B-164958, August 26, 1968; and B-192898, January 25, 1979; Donald R. Stacy, 67 Comp. Gen. 395 (1988); Gary M. Sudhof, B-227786, March 10, 1988.

e. 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. B-171110, January 28, 1971; B-185669, September 29, 1976; B-176687, October 13, 1972; and B-200749, December 29, 1980.

Our decision B-201652, September 1, 1981, relates to where an employee was transferred from the Corps of Engineers' Smithland Project in western Kentucky, to Patoka Lake, near Jasper, Indiana, then subsequently transferred to the Laurel Lake project near Corbin, Kentucky. The residence he had for sale at his first duty station was sold after his second transfer. He is entitled to the residence sale expense reimbursement, since that residence was one from which he commuted to work prior to his first transfer, the sale was effected 5 months after his first transfer and the evidence shows that the sale was incident to the transfer.

6. Temporarily out of residence

a. Occupancy prevented by government action

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.

Under 5 U.S.C. § 5724c and its implementing regulations, in order to participate in the Guaranteed Homesale Program, an employee's

dwelling must be his actual residence at the time he was first definitely informed by appropriate authority of his transfer to a new duty station. An employee leased his dwelling and lived in rental housing as a result of overseas transfer orders that were later revoked. He seeks to participate in the Program incident to a subsequent transfer about 15 months later to a location within the United States. Since he had leased his house as a result of the government's action he was unable to occupy it at the time of the subsequent transfer. Thus, he comes within the exception to the rule requiring occupancy at the time of transfer and is eligible to participate in the Program. Jack H. Hiller, B-229427, August 4, 1988.

b. 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 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 his 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.

c. Extended TDY

An IRS employee who was notified of his transfer from Gary, Indiana, his PDY station, to Indianapolis, while on a 2-year temporary detail in Buffalo, New York, may be reimbursed his 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.

d. 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 his expenses of the sale of that residence, notwithstanding the fact that he was not occupying the premises on June 13 when he

was informed of his 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.

e. 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.

An employee who bought a house and resided there on weekends while remodeling it may be reimbursed for real estate expenses related to its sale even though he was not using it as a residence from which he commuted to and from work on a daily basis at the time he was notified of his transfer. The record shows the employee would have made the house his permanent home but for his transfer in the interest of the government. Timothy R. Glass, 67 Comp. Gen. 174 (1988).

f. No fixed duty station

When an employee who is in a travel status more than 90 percent of the time is transferred, he may be reimbursed for the real estate expenses incurred in selling his former residence which is located at a point convenient to the places where the employee is required to perform TDY, even though the home was not located at the place that was administratively designated as his duty station, and he did not commute daily from that residence. B-188706, December 14, 1978 and B-193885, June 8, 1979. And see B-184004, April 27, 1976 and B-167708, September 26, 1969.

g. 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.

7. Occupancy of residence when notified of transfer

a. Generally

An employee seeking the reimbursement of his 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; B-177643, April 9, 1973; and B-199042, March 3, 1981, reconsidered and sustained March 25, 1982.

b. Sale before date of orders

An employee sold his residence at his old duty station after receiving notice of a RIF coupled with an oral offer of assistance in relocating within his department. The employee may be reimbursed for the expenses of the sale, as a clearly evident administrative intent to transfer the employee existed at the time the expenses were incurred. B-202687, September 1, 1981 and B-165796, February 12, 1969. Compare our decision in B-201652, September 1, 1981, discussed under "Successive Transfers."

c. Residing at TDY 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.

d. 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 prevented from occupying the residence by the act of the government. 54 Comp. Gen. 67 (1974).

e. 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 his transfer. B-164043, May 28, 1968.

f. 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 official station pending his divorce. Since the employee would have resided in the house but for the court order, the reimbursement of his real estate expenses was proper. B-189122, November 7, 1977. However, in a similar case, we found that at the time the sale was consummated, the employee was divorced and his former wife was, therefore, no longer a member of his household within the meaning of the applicable regulations. Accordingly, the employee's reimbursement is limited to one-half of the real estate expenses—the extent of his interest in the home at the time of settlement. B-205891, July 19, 1982.

g. Occupancy of new spouse's home

Subsequent to receiving the notice of his proposed transfer, but prior to the actual date he was transferred, a newly married employee established his 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).

h. Successive transfers

While stationed in the Marshall Islands, an Army employee with reemployment rights to Huntsville, Alabama, was selected for a position with the DOE in Oak Ridge, Tennessee, but was not appointed pending receipt of a security clearance. He returned to Huntsville on reassignment with the Army and occupied his residence there. Upon subsequent appointment by DOE he transferred to Oak Ridge and sold his residence in Huntsville. Under the circumstances, the fact that the employee did not physically occupy his residence at Huntsville when he was first advised of his transfer, does not preclude the reimbursement of his real estate sales expenses. B-191478, December 7, 1978.

Employee transferred from Denver to Phoenix and then back to Denver and sold Denver residence within the 1 year from effective date of first transfer but subsequent to retransfer. Subsequent transfer does not extinguish the right to reimbursement created by the initial transfer and since real estate sale expenses were incurred prior to prospectively applicable holding in Matter of Shipp, 59 Comp. Gen. 502 (1980), reimbursement is not limited to expenses incurred prior to notice of retransfer or those which could not be avoided. Adolph V. Cordova, B-207728, January 13, 1983.

i. Illness of spouse

There was substantial compliance with the requirement that the residence sold be the employee's actual residence when he was first notified of the transfer, where the employee and his wife were living in a rented apartment because of the wife's illness, and had not entirely vacated the house before the transfer notice. 58 Comp. Gen. 208 (1979).

j. Intermediate duty stations for training

An employee received a permanent change of station (PCS), with long-term training at an intermediate location enroute. Employee was reimbursed for travel and location expenses under 5 U.S.C. §§ 5724 and 5724a from the training site to new PCS location, but not for expenses of sale of residence at old duty station. An employee away from his duty station for training has not effected a change of station during pendency of that assignment. Therefore, where an employee and family are not actually residing at the old duty station because of long-term training elsewhere, such residence nonoccupancy does not preclude reimbursement for expenses for the residence sale upon his move to his new permanent duty station, so long as all other conditions of entitlement are met. John E. Wright, 64 Comp. Gen. 268 (1985).

k. Return to former duty station

An employee was transferred back to a former duty station after a 12-year absence. He temporarily occupied a residence at that station which he had purchased 14 years before, but had rented out during most of that time. He then purchased another residence there and claims real estate expenses for this purpose. The agency disallowed his claim based on Warren L. Shipp, 59 Comp. Gen. 502 (1980), which held that, once an employee is officially notified of retransfer to a former duty station, reimbursement of real estate expenses is limited to those already incurred or which cannot be avoided. Shipp is hereby limited to situations where the employee is notified of retransfer to a former duty station before expiration of the time allowed for reimbursement of real estate expenses incident to the original transfer. Since this time period had expired years before the retransfer in the present case, Shipp does not apply and the claim is allowed. Robert T. Celso, 64 Comp. Gen. 476 (1985) and Dr. Mohamed M. Shanbaky, B-216401, April 22, 1985.

8. Title requirements

a. Generally

Under FTR para. 2-6.1c, an employee may not be reimbursed for expenses incurred in the purported sale of his former residence, which he occupied under a lease-purchase agreement. The record indicates that the employee never exercised his option to buy the

real estate, and, hence, did not hold title to the property he purported to sell. B-193004, April 10, 1979.

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.

b. Title in spouse's name only

An employee, between the time he received notice of his transfer and the date he reported to his new duty station, married the woman whose home had been his residence at the time he received notice of his transfer. He may not be reimbursed for real estate expenses associated with the sale of that residence since he did not acquire his interest in the residence prior to the date he was definitely informed of his transfer. At that time he had neither a direct nor a derivative interest in the property and, thus, did not satisfy the requirements of Federal Travel Regulations paragraph 2-6.1c. 53 Comp. Gen. 90 (1973) is overruled. Joel O. Brende, 65 Comp. Gen. 282 (1986).

c. Marriage prior to settlement

An employee, who was single when he transferred to a new duty station, later married and purchased a residence with his new wife. Although the employee was not married at the time he transferred, he was married before settlement on his residence.

The employee's claim for real estate expenses may be allowed without limitation since, at the time of settlement, he acquired title in the name of himself and a member of his immediate family. Matthew I. Chibbaro, B-223542, May 12, 1987.

d. Title held jointly with nondependent

A transferred employee, separated from his wife prior to his change of duty station, is not entitled to full reimbursement of

expenses incurred in the sale of a jointly-owned residence at his old duty station. For full reimbursement, title to the residence must be held by the employee alone or with a member of employee's immediate family. Since his wife was not a member of the employee's household at the time he reported to his new duty station, she was not a member of employee's immediate family. B-205869, June 8, 1982. The term "immediate family" is defined in FTR para. 2-1.4d as an employee's spouse, children and certain dependent relatives who are members of the employee's household at the time he reports to his new duty station. We have held that when family members are permanently separated from the employee, they are not in the same "household." See 44 Comp. Gen. 443, 445 (1965) and B-194350, September 14, 1979. For additional cases dealing with limiting reimbursement, based on the interest held in the dwelling and a dependency determination, see 61 Comp. Gen. 96 (1981); B-205891, July 14, 1982; and Mark D. Siipola, B-221434, August 26, 1986.

e. 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 the 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 and B-197929, March 25, 1981; and Patrick G. Collins, B-220289, February 28, 1986.

A transferred employee was purchasing a residence at his old station under a land contract at the time of his transfer. He "quit claimed" his interest under the contract to his seller (mother), who entered into a subsequent land contract for the sale of the property to a third party. Although the employee may be reimbursed for the expenses incurred incident to the reconveyance of his interest to his mother, the expenses of his mother's subsequent sale to a third party could not be paid, since the title requirements of FTR para. 2-6.1c were not met. B-189768, June 15, 1978.

f. 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 the 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.

g. Title held in name of trust

An employee of Interior who transferred from Reno, Nevada, to Anchorage, Alaska, claimed reimbursement of real estate expenses incurred in the sale and purchase of residences at his old and new duty stations. Title to both residences was held in the name of a trust established by the last will and testament of the deceased mother of the employee's spouse. Since title to the residences was held in the name of the trust which paid all the expenses of the real estate transactions, the title requirements of 5 U.S.C. § 5724a(a)(4) and FTR para. 2-6.1c were not met. Therefore, no entitlement to reimbursement existed. 60 Comp. Gen. 141 (1980), reconsidered and affirmed, B-197781, September 8, 1982.

h. Title in religious order

A transferred Bureau of Prisons employee (chaplain) may not be reimbursed for real estate expenses claimed on the sale and purchase of residences, since title to the residences was held by his religious order, which bore the expenses, and not by the employee (chaplain) or a member of his immediate family. B-192583, March 14, 1979.

i. 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, the 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.

j. Title in name of spouse and former husband

Transferred employee claims reimbursement for expenses incurred incident to the sale of a residence at his old duty station. Title to that residence was in the name of employee's wife and former husband, but employee and his wife resided in the house and she received all of the proceeds of the sale. Employee may be reimbursed for the expenses of sale to the extent of his wife's title interest in the residence, in this case 50 percent. Ferrel G. Camp, B-213861, May 21, 1984.

k. Divorce after reporting for duty

A transferred employee, who was divorced after reporting for duty at his new duty station but prior to the sale of his residence at his old duty station, may be reimbursed for only one-half of the real estate expenses incurred since his wife, with whom he held title to the residence, was not a member of his immediate family at the time of settlement. Alan Wood, 64 Comp. Gen. 299 (1985). See also Roger Peale, B-216264, February 22, 1985 and William L. Klockenteger, B-216835, February 22, 1985.

l. Interest determined at settlement date

An employee may be allowed full reimbursement of real estate transaction expenses incident to the sale of a residence if title is held exclusively by the employee and/or members of his immediate family at the time of the notice of transfer and the employee and/or members of his immediate family are liable for all such expenses. When at the time of settlement the employee holds title jointly with a person who is not a member of his immediate family, a rebuttable presumption arises that the employee's share of expenses is only proportional to his title interest. This is true even if the employee held sole title at the time of the transfer notice. Thomas A. Fournier, B-217825, August 2, 1985.

9. Settlement date limitation

a. Generally

Beginning October 1, 1982, the initial residence transaction period under FTR para. 2-6.1e was extended to 2 years. An additional year may be granted upon an employee's written request before the expiration of the initial 2-year period, if extenuating circumstances acceptable to the agency have prevented the transaction and the transaction is reasonably related to the transfer. This extension is applicable to employees whose time limitation will not have expired prior to August 23, 1982.

b. What qualifies as a contract of sale

(1) 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.

(2) 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.

(3) Original contract not consummated—Notwithstanding that a contract for the sale of a residence entered into within the 1-year time limit had been canceled, 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 the expiration of the initial year. 52 Comp. Gen. 43 (1972).

(4) 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.

(5) Extension for reasons relating to transfer—Under the former 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 one-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.

c. What is settlement

(1) Contract for deed—Incident to his transfer on August 18, 1975, an employee was reimbursed the expenses for the sale of his residence through a "contract for deed" executed February 27, 1976. He may be reimbursed expenses incurred within 2 years, at the time legal title was transferred, without extension of the time limit, since the "contract for deed" date, which was within 1 year of the employee's transfer, is the settlement date under FTR para. 2-6.1e, and since the additional expenses were incurred "within a reasonable amount of time." A reasonable time will be limited to the 2 years allowed for completion of real estate transactions. B-188300, August 29, 1977, amplified by 57 Comp. Gen. 770 (1978); and B-189824, September 7, 1978.

(2) 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 the "settlement" was held on January 4, 1968. The employee's claim for the 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 the construction was not completed, he was given a warranty deed that he could occupy the house on December 26, 1967, even though the loan closing was held on March 26, 1968. Settlement occurred when the employee obtained title to the real estate by the warranty deed on December 26, 1967. B-164638, August 13, 1968.

(a) 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.

(b) 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 the 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.

(3) Contract for sale—A transferred employee who reported for duty on May 1, 1967, may not be reimbursed for his 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.

A transferred employee whose settlement date for the purchase of a residence at his new duty station occurred after the maximum 3-year period had elapsed is not entitled to reimbursement of real estate purchase expenses, even though he signed a purchase contract before the 3-year period expired. Travel regulations require a settlement date within 2 years after reporting to new duty station, plus a maximum 1-year extension. Settlement date is the day the contract price is paid and the deed to title conveyed not the date of the contract agreeing to a future settlement date. Robert J. Jaske, B-227466, December 4, 1987.

(4) Costs placed in escrow—A transferred employee reported to his new duty station on April 17, 1967, 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 one year after he reported for duty at his new station. B-164457, December 12, 1968.

(5) Limitation not subject to waiver—An employee, who transferred to a new duty station effective November 16, 1982, may not be reimbursed for the sale of former residence since settlement did not occur until May 16, 1986, more than 3 years after the date he reported to his new duty station. The 3-year time limitation imposed by paragraph 2-6.1e of the Federal Travel Regulations has the force and effect of law and may not be waived in any individual case. Furthermore, the failure of the employing agency to exercise its discretion to provide private relocation services, including arrangement for the purchase of the employee's former residence, does not provide a basis to allow this claim. Gregory McGruder, B-227587, September 3, 1987. See also 49 Comp. Gen. 145 (1969).

Under paragraph 2-6.1e of the Federal Travel Regulations, a transferred employee has 3 years (including a 1-year extension) from the date of reporting at his new duty station in which to incur real estate transaction expenses in order to qualify for reimbursement of real estate purchase or sale expenses. Where closing on purchase of new residence was delayed pending outcome of lawsuit seeking rescission of purchase contract, employee exceeded 3-year period and may not be reimbursed since neither his agency nor the Comptroller General may waive the 3-year period provided for by this regulation. Michael W. Rolf, B-224906, November 17, 1986.

An employee stationed in New Orleans was transferred to Baltimore and was authorized the maximum 3-year period, including a 1-year extension, to purchase a residence in the Baltimore area, initiate the travel of his immediate family, and ship his household goods. Because of unusual circumstances, the employee seeks an unlimited extension period within which to complete all aspects of his permanent change-of-station move. His request is denied since the maximum time limit imposed by paragraph 2-6.1e of the Federal Travel Regulations has already been granted and there is no basis upon which an additional extension period may be allowed. Those regulations have the force and effect of law and may not be waived or modified by an agency. Donald R. Stacy, 67 Comp. Gen. 395 (1988).

d. Circumstances not warranting exception

(1) 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 the 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.

(2) Away from duty station—Although a transferred employee arrived late at his new official station on July 28, 1969, the date of the settlement for the purchase of his new dwelling was not until June 7, 1971. Notwithstanding that the employee was on an extended TDY assignment from January 1, 1970, to June 4, 1971, the expenses for the June 7, 1971 settlement may not be paid. B-174176, October 26, 1971.

(3) Error in travel orders—Where an employee's travel orders erroneously failed to authorize the reimbursement of his 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.

(4) 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.

(5) Incorrect advice from agency officials—A transferred employee reported to his new duty station on May 4, 1976. He purchased a residence there with settlement on May 5, 1978. He is not entitled to the reimbursement of his real estate expenses since the applicable regulations limit the maximum time for settlement to within 2 years of the effective date of the transfer. An error by the agency in extending the initial year to May 5, 1978, provides no authority to modify the statutory regulations. 58 Comp. Gen. 539 (1979).

(6) Delay caused by financing problems—An employee, who was unable to complete the settlement on the sale of his residence at the old duty station within 2 years of the effective date of his transfer, because his purchaser had difficulty in obtaining financing, may not be reimbursed his real estate expenses. The time limitation imposed by FTR para. 2-6.1e has the force and effect of law, and may not be waived or modified. B-191203, May 11, 1978 and B-193607, March 8, 1979. This applies to conditions within the housing market generally. See B-207730, July 7, 1982.

(7) 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 his military duty on March 30, 1972, and was reemployed on July 3, 1972. He is entitled to have the 1-year initial period for the settlement of real estate transactions extended to February 24, 1973, to compensate for his period of active military duty. 54 Comp. Gen. 427 (1974).

e. Procedural requirements for extension

(1) Agency discretion—A VA employee was denied the reimbursement of his real estate expenses based on the VA's refusal to grant the employee an extension. It had determined that the request for an extension was not related to the employee's transfer but to his subsequent marriage. The VA did not abuse its discretion in refusing to grant the extension. B-191087, February 28, 1979. 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.

(2) Extension vests when granted—A transferred employee, after 8 months at her new duty station, requested and was granted a 1-year extension of the 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 the reimbursement notwithstanding 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.

(3) Real estate extension—applies to HHG and family—An employee stationed in New Orleans was transferred to Baltimore. He was granted a 1-year extension to time of purchase a residence in the Baltimore area, but the agency denied an extension of time to initiate the travel of his immediate family and ship his household goods. That action was erroneous and has now been corrected. Under paragraph 2-1.5a(2) of the Federal Travel Regulations, an employee who has been granted an extension of time to complete approved real estate transactions is automatically entitled to an equal extension period to initiate family travel and ship household goods. Donald R. Stacy, 67 Comp. Gen. 395 (1988).

(4) 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. Former FTR para.

2-6.1e did not specify the time within which a request for an extension had to be filed. The employee's claim is allowed, since the purchase was made within 2 years. A request for an extension could have been made even after the 2 years had passed. 57 Comp. Gen. 28 (1977).

(5) 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 begun before his transfer was not complete. The extension is valid, even though it was approved more than 2 years after the effective date of the transfer. B-182564, November 26, 1975 and B-182988, November 26, 1975.

(6) 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 was sufficient under former FTR para. 2-6.1e. B-182988, November 26, 1975.

f. Computation of time period

(1) Generally—Under former FTR para. 2-6.1e, the settlement date must be not later than one year after the date the employee reported for duty at his new official station. 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. Also: the 2-year time limitation under former FTR para. 2-6.1(e), including a 1-year extension, for the settlement of a residence sale is on or before the second anniversary of the date the employee reports for duty at his new duty station. Since the settlement was 1 day after the second anniversary of the date the employee reported for duty, the reimbursement of his real estate expenses was denied. B-191018, December 26, 1978.

(2) Beginning of time period—An employee claimed the reimbursement of the expenses of selling his residence at his old duty station, where the settlement date was May 1, 1968, and his transfer was to begin on or about November 15, 1966. Because the employee was on a special assignment, he did not report to his new station until May 15, 1967. He may be reimbursed his 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. The date of an employee's permanent assignment should be used to compute the 2-year limitation for settlement. B-190891, October 2, 1978.

(3) FTR amendment inception date—Employee is not entitled to reimbursement for real estate expenses incurred in connection with his permanent change of station on May 19, 1980, since settlement date did not occur within 2 years of date on which employee reported to new duty station. The amendment to FTR para. 2-6.1e, allowing 1-year extension of 2-year time limitation for completion of residence transactions, is effective only for employees whose entitlement period had not expired prior to August 23, 1982. James H. Gordon, 62 Comp. Gen. 264 (1983); Richard J. Walsh, B-210862, June 9, 1983.

(4) Thirty-day grace period extension—The Federal Travel Regulations (FTR) were amended in 1982 to allow agencies to extend the 2-year period to complete residence transactions, provided the transferred employee requests an extension within 30 calendar days after the expiration of the 2-year period and the 30-day period is specifically extended by the agency. We conclude the amendment authorizes agencies to extend the 30-day period for requests on an individual basis. Hence, the Department of Health and Human Services may extend the 30-day period for an employee who was not informed of the FTR amendment or of the new time limit on requesting an extension. Sara B. Harris, B-212171, September 27, 1983.

(5) Equitable title refinancing—An employee purchased a residence at his new duty station through a real estate installment contract under which he obtained equitable title upon the execution of the contract. He may be reimbursed for additional expenses associated with refinancing the contract paid within 1 year of the transfer. John W. Pitts, B-215012, December 4, 1984.

(6) Successive transfers—An employee who 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 the reimbursement of his real estate expenses related to

that sale, because it occurred within 1 year of the first transfer. B-169155, June 30, 1970. However, the fact that an employee was transferred twice and selected for training, all within 39 months, provides no basis for extending the settlement date. An employee may not be reimbursed for the sale of his home at his first duty station under a travel order for his second transfer, because it was not the residence from which he commuted to work at the time of the second transfer. B-161795, December 18, 1978.

To be reimbursed real estate expenses for the sale of the residence at the old duty station, the Federal Travel Regulations provide that settlement must occur within 2 years after the employee's transfer, with an additional 1-year extension which may be authorized by the agency. The time limit may not be increased beyond the maximum 3-year period because the employee had additional transfers subsequent to his transfer from the duty station where the residence is located. Harold R. Fine, B-224628, January 12, 1988.

10. Expenses customarily paid

a. Generally

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, the 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 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.

Transferred employee sold his residence at his duty station to a buyer who obtained VA financing. Certain fees in excess of the amounts permitted as charges to the VA borrower/buyer were charges to and paid by the seller. When asked for a report on the custom in the area the local HUD office stated that more than 50 percent of the lenders were charging these fees to the sellers, and that this percentage was growing. While the phrase "customary in the area" is not susceptible of precise definition we conclude that, if the number of lenders charging a particular fee is "50 percent and growing," the requirement of the Federal Travel Regulations that the fees be customary in the area is met. Therefore, the employee may be reimbursed for the fees paid, provided that the amounts do not exceed the amounts customary for the area. Howard Crider, B-220889, June 2, 1986.

b. Seller pays buyer's closing costs

An employee transferred from Oxon Hill, Maryland, may not be reimbursed for "buyer's closing costs" which he paid on the sale of his old residence. Although a seller may assume a purchaser's closing costs in a "buyer's market," the buyer's closing costs are not customarily paid by the seller in the locality of the employee's residence. B-190715, March 24, 1978.

c. Incident to VA financing

An employee may be reimbursed for the buyer's closing costs he paid in connection with the sale of his residence at his old duty station. The HUD area office has advised that in that locality, the buyer's closing expenses are customarily paid by the seller incident to VA loan transactions. B-191402, November 22, 1978.

d. No clear local custom

Where there is no definite local custom as to whether a particular expense is paid by the buyer or seller, the item may be reimbursed, if the employee entered into a bona fide agreement for payment. B-194668, September 17, 1979. Thus, 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.

Employee who sold his residence in Sierra Vista, Arizona, incident to a permanent change of station may be reimbursed for all of 7 percent broker's commission. According to the evidence, including HUD's determination, there is no single prevailing rate for the locale and the 7 percent falls within the range generally charged. Bobby O. Allen, B-219925, June 10, 1986.

e. Fees paid to a lender

An employee may not be reimbursed for the messenger service and tax certificate fees paid if those fees were paid to the lender in connection with the sale of employee's home at his old duty station. When the facts and documentation presented with a claim are insufficient to establish the exact nature of these fees, in the absence of more specific information, the amounts may not be reimbursed. Patrick T. Schluck, B-202243, July 6, 1983.

11. 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).

A transferred employee may be reimbursed for similar or identical expenses with respect to real estate transactions at the new, as well as the old, official duty station, if otherwise allowable. In both instances, they must be expenses that are customarily paid by the seller at the old station and by the purchaser at the new station, not to exceed the amounts customarily paid in the locality of the residence being sold or purchased. B-163425, November 7, 1978.

12. Completed transaction

Legal fees for the preparation of a sales contract are not reimbursable where the sale is not consummated. 57 Comp. Gen. 669 (1978). 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 the 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.

13. Pro rata reimbursement rule

a. Use of land

Where employee sells a two-family house incident to a transfer and both sections are identical in area but only the employee had use of the land, otherwise allowable real estate expenses which are based upon the sale price of the house may be reimbursed to the employee on a pro rata basis calculated in accordance with a formula based on allocation of the total land value to the employee's residence area. Dikran Hazirjian, B-213385, March 23, 1984.

b. Flat fee real estate expense

Where employee sells a two-family house incident to a transfer, otherwise allowable real estate expenses which are based on a flat fee, without regard to purchase price, should, if reasonable be reimbursed in full. Dikran Hazirjian, B-213385, March 23, 1984.

c. Joint ownership of property

Transferred employee, who purchased a residence at his new duty station with his non-dependent brother, held title at settlement as a joint tenant and may be reimbursed only to the extent of his 50 percent interest in the residence. The fact that the deed referred to him as a married man did not serve to expand his right of ownership since the deed specifically listed him and his brother as joint tenants. Bernard Mowinski, B-228614, December 30, 1987. See also B-184478, May 13, 1976; B-177091, December 12, 1972; and B-180767, May 16, 1974 and Anthony Stampone III, B-223018, September 30, 1986.

d. 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.

e. 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 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. But see: 61 Comp. Gen. 136 (1981) and B-205614, April 13, 1982.

f. Multi-family dwellings

An employee who purchased a two-family dwelling is entitled to the pro rata reimbursement of his 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. 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 his 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 the full reimbursement of the allowable real estate expenses, since, due to the small size of his dwelling (five rooms) and the large size of his family (six persons), the employee used the second unit for the storage of his family's personal items. B-187884, February 22, 1977.

A transferred employee purchased as a residence at his new station a structure being extensively renovated. The employee is occupying the second and third floors as his residence, reserving the first floor for tenant occupancy, a commercial venture. Under FTR para. 2-6.1f, expenses of residence purchase shall be prorated for multiple occupancy dwellings which are only partially occupied by the employee. Since employee was not occupying one-third of the structure, expenses related to residence purchase which would be otherwise reimbursable to him are to be reduced by one-third. J. Dain Maddox, B-214164, July 9, 1984.

14. Property in excess of residential lot

a. Generally

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 the zoning laws, valuation by local real estate experts on the basis of the location and use of the land, percolation of soils, etc., 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.

Transferred employee sold single residence in two parcels to one purchaser. Although the second parcel not containing the residence was large enough to be used as a separate building site, the presumption that the second parcel was in excess of that reasonably related to the residence site within the meaning of Federal Travel Regulation para. 2-6.1 is successfully rebutted by the facts of this case. The subdivision of the property, which facilitated the sale to the buyer and protected the seller's interests, was done only to ensure the total integral sale of single residential property to sole buyer. Richard M. Poehling, B-223364, October 24, 1986.

b. Income-producing potential of excess land

Transferred employee sold 40-acre parcel of land which contained his residence in a sparsely populated, rural part of Montana. Proration of sales expense reimbursement is necessary due to income-producing potential of the excess land. Values contained in local tax assessment should be used in determining the percentage of proration where it is the best evidence of relative values available and it is shown to be more reliable than values shown in a real estate listing agreement. Monte W. Ausland, B-229368, September 20, 1988.

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 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.

In our decision B-200173, April 9, 1981, a transferred employee sold an 80-acre farm on which he resided at his old duty station in two parcels. One parcel was 66 acres of agriculture and swamp land, and the other was 14 acres containing a residence, garage, storage shed, machine shed and barn. The real estate expenses attributable to the sale of the 14-acre parcel are reimbursable to the

extent authorized by FTR para. 2-6.1f and to the extent it is determined that they are attributable to the sale of the real estate reasonably related to the residence site. This determination must initially be made by the agency in accordance with the guidelines prescribed by this Office. And see: B-204046, August 27, 1981, citing FTR para. 2-6.1f; 54 Comp. Gen. 597 (1975); B-199900, February 10, 1981; and B-199193, April 22, 1981.

c. More than one transaction

A transferred employee sold property at his old duty station in 2 parcels. Although reimbursement of the real estate expenses for a 3-1/2-acre parcel containing the house, barn, and garage is proper; the reimbursement of the expenses for the sale of an 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 FTR para. 2-6.1f. B-171493, February 2, 1971. And see, 60 Comp. Gen. 384 (1981).

15. Closing costs included in selling price

a. Generally

The 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; 56 Comp. Gen. 298 (1977); B-193665, June 27, 1979; and B-191235, October 25, 1978. Compare B-200257, August 18, 1981, where the seller declined to state that closing costs were paid by the buyer, and the buyer presented no evidence to rebut that statement. The claim was not allowed. See also B-202661, December 15, 1981. An agency asked whether the rule of our decision 56 Comp. Gen. 298 (1977), applies to a home purchased from private individuals in the resale market. Our decision in 56 Comp. Gen. 298 (1977) allowed reimbursement of closing costs nominally paid for by the seller, but, in actuality, added to the sales

price of the realty and paid for by the buyer. The rule in 56 Comp. Gen. 298 (1977) has been applied to transactions in the resale market to allow payment of such costs. See B-191235, October 25, 1978.

b. 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 the allowance of the employee's claim. B-174527, August 23, 1974. However, an employee must show that both the buyer and the seller regard the costs as having been paid by the buyer. B-202684, October 19, 1981.

c. 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 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.

d. Construction loan

The claim of a transferred employee for the 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 the realty. B-187123, February 9, 1977.

16. Death or separation after transfer

a. Death

An employee died 5 months after the effective date of his transfer. His widow thereafter sold their former residence more than the 1 year after his transfer provided for by the prior FTR para. 2-6.1e.

The widow is entitled to reimbursement for the 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 the provisions of the prior FTR para. 2-6.1e. B-183389, November 24, 1975 and B-164937, August 26, 1968.

b. Retirement

Although an employee voluntarily retired from government service 4 months prior to the settlement on the sale of his residence at his old official duty station, he is entitled to the reimbursement of his real estate expenses where the sale was completed within the 2-year extended time period provided for by the prior FTR para. 2-6.1e 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 his voluntary retirement, where all other conditions are met. 55 Comp. Gen. 645 (1976).

17. Maximum amount of reimbursement

The maximum amount of the reimbursement allowable for a house sale under FTR para. 2-6.2g, effective October 1, 1987 was 10 percent of the actual sale price or $17,177, whichever is the lesser amount. That paragraph also provides that on purchase of a house at the new official station, reimbursement shall not exceed 5 percent of the purchase price or $8,589, whichever is the lesser amount. The above limitations are subject to yearly change in event of increase in the Consumer Price Index.

Subchapter II—Reimbursable Expenses

A. Real Estate Brokers' Commissions

1. Generally

The statutory authority for reimbursing real estate expenses is found in 5 U.S.C. § 5724a(a)(4), which provides for the reimbursement of the expenses of the sale of the residence of an employee at

the old station, but limits reimbursement for brokerage fees to the amount customarily charged in the locality where the residence is located. This provision has been implemented by FTR para. 2-6.2a.

Where an employee sells a home incident to a PCS he may not be reimbursed for a real estate broker's commission above the general area rate determined by HUD, even where the higher commission was needed to expedite the sale. The statutory provisions of 5 U.S.C. § 5724a(a)(4) and the implementing regulations require that the applicable commission rate is the rate generally and customarily charged in the locality, and the information provided by HUD creates a rebuttable presumption regarding the prevailing commission rate. B-205550, March 11, 1982. The regulations require that the applicable commission rate is the rate generally charged by all of the real estate brokers in the area, not the rate charged by the particular broker used by the employee to sell his residence. B-188527, January 26, 1978 and B-181129, August 19, 1974. However, an area average rate is not rendered invalid by the fact that some brokers charge a higher or a lower commission rate. B-197908, April 21, 1980. Further, these provisions do not allow reimbursement for sales commissions above the general area rate, even where the higher commission rate was needed to expedite the sale. B-196517, February 19, 1980; B-190902, February 14, 1978; B-205584, August 2, 1982; and Julian W. Jacobson, B-222277, August 18, 1986.

2. Rate allowable

A transferred employee who paid a ten 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. A transferred employee may not be reimbursed real estate brokers' commission in excess of the prevailing real estate commission rate in that area as shown by HUD data. B-188527, January 26, 1978.

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.

3. Commission paid by purchaser

A transferred employee who was compelled to pay a $900 real estate commission "as required by local custom" when he purchased a home, may not be reimbursed for the commission, since FTR para. 2-6.2a provides that a broker's fee or commission is not 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.

The Federal Travel Regulations prohibits reimbursement of a broker's fee or real estate commission for services in purchasing a residence at the new duty station. Where under state law a "real estate broker" is defined to include a person negotiating a purchase, his fee for negotiating the price of a condominium at the new duty station, as well as for related services, was a broker's fee prohibited by the applicable regulations. Harold R. Fine, B-224628, January 12, 1988.

A transferred employee purchased a lot suitable for residence construction near his new duty station. His claim for reimbursement of a broker's commission for finding the lot is denied since FTR, para. 2-6.2a specifically prohibits such commission in connection with the purchase of a home. Although the commission reimbursement prohibition in FTR, para. 2-6.2a specifically relates to purchase of a home, by implication it includes the lot on which the home is to be situated. Edmund J. Koenke, B-214362, August 7, 1984.

4. Commission paid as seller

Employee claims reimbursement of real estate expenses for sale of an empty lot incident to his transfer. His claim is denied. Real estate expenses are payable only for the sale of a lot when the lot is integrated with a dwelling or used as a mobile home site in accordance with FTR para. 2-6.1, Donnie R. Sparks, B-213769, May 1, 1984.

5. 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 toward 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.

6. Open listing

In his official capacity, Farmers Home Administration employee engaged in agency business with only two realtors in Hardin, Montana. Upon transfer elsewhere he was required by his agency's standards of conduct to list his former residence for sale under open listing agreements with other realtors and he incurred a brokerage fee in excess of 6 percent fee customary in the area. The 6 percent fee is the fee customarily charged for an exclusive listing. Because the employee was precluded by his agency regulations from entering into an exclusive listing, he may be reimbursed the 7 percent fee customarily charged in the locality for open listings. A. Claud Hargrove, B-221062, April 15, 1986.

7. Who is a real estate broker

a. 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. Reimbursement would not be proper. New York law not only prohibits an unlicensed person from acting as real estate broker, 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-197893, June 4, 1980. See also Paul A. Pradia, B-219501, January 13, 1986 (California requirements).

b. Relative as the broker

A transferred employee may be reimbursed for the broker's commission that he paid to a realty firm which, in turn, paid the employee's wife a substantial part of the commission since she, as a

licensed real estate agent, was employed by the firm and actually performed services for the realtor in selling the residence. The employee incurred a legally enforceable debt for the payment of the commission. B-193201, June 19, 1979.

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 license. Her failure to possess a city license did not make her son's debt unenforceable. B-189375, October 12, 1977.

c. Unsuccessful broker

A transferred employee's father-in-law, a licensed real estate broker, unsuccessfully attempted to sell the employee's old 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 FTR paras. 2-6.2a and b authorize reimbursement of a broker's fee only when the sale is consummated. B-163709, April 19, 1968.

8. Transactions covered

a. Condominium

An employee who sold a condominium incident to his PCS may not be reimbursed a broker's selling bonus in addition to a 7 percent commission, where the commission alone was the prevailing real estate fee in the area. The statutory provisions of 5 U.S.C. § 5724a(a)(4) and the implementing regulations limit reimbursement to the fee customarily charged in the locality. B-197961, August 25, 1980. See also, B-196517, February 19, 1980.

b. Cooperatively-owned dwelling

A broker's fee, which did not exceed that generally charged in the locality involved, charged 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. See also, B-201172, December 15, 1981; and B-205614, April 13, 1982.

c. 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 his agent for the sale of the mobile home for the sum of $125, may be reimbursed for that expense, which is within the scope of FTR para. 2-6.2a relating to the payment of brokerage fees for the sale of a residence. B-175285, July 9, 1973. The amount claimed as a real estate commission for the sale of a mobile home may not be reimbursed where the claimant has not submitted a copy of the sales agreement, or established that he had title to the home at the time of the conveyance, and where the record suggests the amount claimed may have been charged for a different purpose. B-190979, July 7, 1978.

Transferred employee seeks payment of real estate commission to himself representing expenses he incurred in the purchase of a mobile home at his new duty station. FTR para. 2-6.2a expressly prohibits payment of such a commission in connection with the purchase of a home by an employee at his new official station, including a mobile home. Anthony J. Bugni, B-217784, September 3, 1985.

d. 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 while he lived there and the employee was required to pay the 10 percent commercial property commission is allowed. 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.

e. 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 the 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.

f. Exchange of residences

Employee exchanged residence at old duty station for another residence in the vicinity of the old duty station incident to a change of official station. Employee may be reimbursed under 5 U.S.C. § 5724a(a)(4) for real estate broker's commission and other allowable expenses incurred as "seller" in the exchange of residences, since the assumption of the balance of the employee's mortgage loan is tantamount to a cash payment. Amount of broker's commission which is reimbursable is governed by FTR para. 2-6.2a, as amended, and is limited by the amount generally charged for such services by the broker or by the brokers in the locality where the residence is located. Bonnie S. Petrucci, 64 Comp. Gen. 557 (1985).

9. Broker in multiple roles

a. 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 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 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.

b. 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.

10. Charges in addition to commissions

a. 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.

b. Penalty for late notice to mortgagee

A transferred employee paid the real estate commission on the sa 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 a reduction for the penalty reimbursement. B-171953, March 17, 1976.

c. Tax on services rendered

The real estate listing agreement signed by a transferred employee incident to the sale of his residence at his old duty station required the payment of a 6 percent commission on the selling price, plus the applicable gross receipts tax on the commission. The employee may be reimbursed for the tax paid to the broker under FTR para. 2-6.2a, if it is customary in the area for the tax to be passed through to the seller. The tax should be viewed as part of the cost of the services rendered by the real estate broker, since it is neither levied on the property, nor included in the purchase price. 58 Comp. Gen. 211 (1979); and B-201666, March 6, 1981.

d. 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 9, 1974; and B-197908, April 21, 1980. Compare: B-203413, April 13, 1982.

e. 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 ½ 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.

f. Incentive bonus

An employee who sold his residence in Madison, Wisconsin, incident to a PCS may not be reimbursed an incentive bonus of $500 charged by the realtor who sold his residence, in addition to a 7 percent sales commission customarily paid in the Madison area. The claimant has not rebutted the presumption created by information supplied by the HUD area office that payment of incentive bonuses is not usual or customary in the Madison area. Since the employee has been reimbursed $6,930, representing a sales commission of 7 percent, he is not entitled to the additional reimbursement of the $500 paid as an incentive bonus to the real estate company. B-205849, June 2, 1982.

g. Commission paid in installments

A claim by a transferred employee for the 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.

h. Commission as a finance charge

A brokerage fee paid for securing a loan commitment and processing of the loan papers incident to the purchase of a residence may not be reimbursed, since the fee amounts to a finance charge which is not reimbursable under FTR para. 2-6.2d. B-173814, October 21, 1971.

i. Customary locality charge

Transferred employee seeks reimbursement of 7 percent real estate broker's commission he paid in connection with the sale of his residence near former permanent duty station. The agency determined that 6 percent was the prevailing rate customarily charged in locality and reimbursed the employee at that rate. The Federal Travel Regulations in paragraph 2-6.2a require that the applicable rate is the rate generally charged by real estate brokers in the area, not the rate charged by the particular broker used by the employee. If employee, to expedite sale, pays commission greater than that usually charged, he cannot be reimbursed for the extra commission. Raymond L. Hipsher, B-214555, August 28, 1984; and Anthony J. Bugni, B-217784, September 3, 1985.

B. Advertising Expenses

1. Generally

When a transferred employee incurs expenses for 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

reimbursed for the advertising costs under FTR para. 2-6.2b. 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 his advertising costs as part of the realtor's fee or commission is not entitled to reimbursement for separate advertising. B-174692, February 14, 1972; B-178531, July 16, 1973; B-161560, January 22, 1971; and B-161320, April 12, 1968.

2. Multiple-listing fee

A transferred employee paid $10 to list his dwelling at his old official station with a Multiple-List Service. In that 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 the 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

1. Generally

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.

2. 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 the reimbursement of more than one appraisal fee. 47 Comp. Gen. 306 (1967); B-186009, October 12, 1976; and B-200744, September 18, 1981.

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.

A transferred employee incurred an expense to have his old residence appraised before trying to sell it himself. He later used the services of a relocation company under contract to his agency, and he claimed reimbursement for the cost of the earlier appraisal. Paragraph 2-12.5b of the Federal Travel Regulations prohibits reimbursement to an employee for any personally incurred real estate expenses that are similar or analogous to any expenses that agency is required to pay to a relocation company. Since the relocation company had the property appraised as part of their contract to purchase the residence from the employee, which service was paid for by the agency, the employee may not be reimbursed his appraisal costs. James T. Faith, 67 Comp. Gen. 453 (1988).

3. 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 the 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 may not be reimbursed for survey costs incurred in connection with the sale of his residence because the evidence demonstrates that survey costs are customarily incurred by the purchaser in this area in accordance with FTR para. 2-6.2(c). B-199900, February 10, 1981.

A transferred employee claimed reimbursement of the $443 fee paid to a surveyor for locating and mounting 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. While the employee has shown that the surveyor's charges were similar to charges made by other surveyors in

the area for similar services, he has not shown that such an extensive survey was necessary incident to 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

1. 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 Comp. Gen. 559 (1968); and B-161459, October 21, 1970. See also Brian McMahon, B-208767, April 12, 1983.

Transferred employee traded a former residence as downpayment on purchase of residence at new official station. He seeks reimbursement for title insurance fee on property traded as a downpayment. Since employee did not obtain the title insurance on his residence at his old duty station at time of transfer but on a former residence, he is not entitled to reimbursement. Roger L. Flint, 62 Comp. Gen. 426 (1983).

2. Paid for by purchaser

a. Examination in lieu of insurance

Where a transferred employee sells his residence at his old duty station through a "contract for deed," and incurs an expense for "title insurance" at the time the contract was signed and a charge for "abstract or title search," when the existing loan was finally assumed by the buyer, both charges may be reimbursed, if they are not duplicative. B-190547, September 8, 1978. A transferred employee claimed 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.

b. 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.

c. Recertification charge in favor of mortgagee

A recertification charge, which is in the nature of a fee for updating the title search prior to closing on a conventional loan, and which was required as a condition for obtaining financing, is reimbursable under FTR para. 2-6.2c as a legal or related expense customarily paid by the purchaser of a residence at the new duty station. B-194887, August 17, 1979.

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.

d. Mortgage insurance

Two transferred employees claim reimbursement for mortgage insurance they were required to pay at settlement to protect against default on FHA-insured loans. Reimbursement of this type of charge is specifically precluded by Federal Travel Regulations (FTR) para. 2-6.2d(2)(a). In addition, mortgage insurance, to the extent it is deemed a financing charge incident to the securing of a mortgage

loan, may not be reimbursed under FTR para. 2-6.2d(2)(e). Rosemary Pappas and Richard L. Grubaugh, B-226010, November 30, 1987.

e. Owner's title policy

(1) Policy required—A transferred employee purchased a house in Pennsylvania and incurred a lump-sum charge for title insurance for both the mortgage title policy and the owner's title policy in accordance with a Pennsylvania regulation. 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.

A transferred employee claims expenses for an escrow closing fee incident to his purchase of a residence. His agency denied the claim based on erroneous HUD information on the local customs. Based on independent inquiry to the local HUD office, we allow the claim as being consonant with the local custom and within the local customary amount. Guenther Moehrke, B-221059, August 18, 1986.

A transferred employee claims the cost of title insurance incident to his purchase of a residence. His agency denied the claim. While FTR para. 2-6.2d(2)(a) generally prohibits reimbursement of owners title insurance, FTR para. 2-6.2d(1)(i) allows reimbursement if it is a prerequisite to the financing or the transfer of property. Here, a portion of the expense was a prerequisite to the financing. Based on independent inquiry to the local HUD office, we allow this portion of the claim as being consonant with the local custom and within the customary amount. Guenther Moehrke, B-221059, August 18, 1986.

A transferred employee purchased a residence at his new official station. He received a reduced rate on his purchase of mortgagee's title insurance because it was purchased in conjunction with an owner's title insurance policy. The cost of the title insurance was equally divided between seller and buyer. The employee is entitled to reimbursement of an amount equal to one-half of the charge for the mortgagee's title insurance if purchased separately. James R. Hladik, Jr., 66 Comp. Gen. 206 (1987).

(2) Policy optional—A transferred employee who voluntarily purchased an "owners title policy" incident to the purchase of his residence at his new duty station, 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). The fact that a HUD publication cautions home buyers that an owner's title policy should be purchased to protect their interests does not dictate a contrary result. B-193750, August 28, 1976. See also, B-172742, November 24, 1980; and Anders E. Flodin, 64 Comp. Gen. 674 (1985).

(3) 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 $248, since the mortgage title policy is allowable under FTR para. 2-6.2d and would have cost $248, 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. See also B-197523, April 25, 1980; and B-197098, April 24, 1980. Cf. B-192593, January 16, 1979.

(4) 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.

(5) Split costs—A transferred employee purchased a residence at his new station and assumed the seller's mortgage. The cost of title search and examination were split equally between the employee and the seller. The employee seeks reimbursement on his share of that cost on the basis of local custom. Under FTR, para. 2-6.2c(1), the cost of the title search and examination is reimbursable, if it is customarily paid by the employee and if it does not exceed amount customarily charged in the area. These conditions are met in the present case. Dennis D. Gabel, B-215552, December 11, 1984.

A transferred employee who sold a residence at his old duty station may not be reimbursed for the portion of the loan assumption fee he paid incident to that sale since this expense is not customarily paid by the seller of a residence in the locality of the employee's old duty station. Jose De Luna, B-220741, April 3, 1986.

(6) 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 pay for the policy, the employee may not be reimbursed for it. 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 a fee is customarily paid by the 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 of the reimbursement of the real estate transaction expenses. B-173652, October 27, 1971.

F. Attorneys' Fees and Legal Expenses

1. Rule for settlements after April 27, 1977

The now-settled policy of this Office concerning the extent to which legal fees may be reimbursed was established in our decision 56 Comp. Gen. 561 (1977). We held in 56 Comp. Gen. 561 (1977) that for any settlement occurring after April 27, 1977, necessary and reasonable legal fees and costs, except for the fees and cost of litigation, incurred by reason of the purchase or sale of a residence incident to a PCS, may be reimbursed provided that the costs are within the customary range of charges for such services within the locality of the residence transaction. We based our opinion on the specific authority provided in 5 U.S.C. § 5724a(a)(4) and the implementing regulations promulgated by GSA and set out in FTR para. 2-6.2c. And, we pointed out that, in accordance with FTR para. 2-6.3c, technical assistance in determining the reasonableness of an expense, including the customary range of charges for legal fees and costs, may be obtained from the local or area office of HUD serving the area in which the expense occurred. See also B-200207, September 29, 1981; and B-205503, June 2, 1982. Thus, necessary and reasonable legal fees and costs, except for litigation, incurred by reason of the purchase or sale of a residence incident to a PCS 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. But see B-189381, December 15, 1977 when attorney's fees are part of finance charge computation.

2. More than one attorney

An employee incurred legal fees for both the lending institution's and his own attorney. He may be reimbursed for both legal fees, if it is customary in the locality for the purchaser to be represented by his own attorney and to pay for services by the mortgagee's attorney, provided the fees are within the customary range of charges in the locality of the residence. B-191792, September 25, 1978; and B-197504, May 5, 1980.

An employee incurred an attorney's fee for closing on a lot on which he built his residence, and another attorney's fee for a construction contract for that residence. The Federal Travel Regulations limit reimbursement to expenses comparable to those reimbursable in connection with the purchase of existing residences and does not include expenses which result from construction. Since the attorney's fee for the construction contract was incurred because he chose to build a residence as opposed to purchasing an existing one, and since he has already been reimbursed an attorney's fee for closing on the lot, he may not be reimbursed the fee for the construction contract. Robert W. Webster, 63 Comp. Gen. 68 (1983). See also Thomas A. Cardoza, B-218953, June 26, 1986.

3. Equitable title "land contracts"

An employee entered into a "land contract" for purchase of a residence and sought reimbursement for payment of related attorneys' fees. Paragraph 2-6.1c of the FTR sets out the title requirements that must be met before reimbursement of real estate expenses is authorized. A "land contract" providing for installment payments, for immediate legal possession and occupancy, and for conveyance of the deed upon payment of the full price vested the employee as purchaser with equitable title sufficient for reimbursement purposes. Joseph F. Rinozzi, B-206852, March 9, 1983.

4. Fee for lender's attorney

a. Condominium review fee

A transferred employee who purchased a condominium may be reimbursed the $200 condominium review fee paid to the mortgage company for its attorney's review of condominium documents required for financing purposes. Although there is no definite custom in the local area as to whether the purchaser or seller pays the fee, the record does not show that the payment agreement was other than bona fide, and the amount does not exceed the fee customarily paid in the locality. B-194668, September 17, 1979.

b. Fees not duplicative of other expenses

Where a transferred employee incurred costs for title insurance and attorneys' fees incident to the purchase of a home at his new duty station, the attorneys' fees are reimbursable to the extent that they do not include items included in the title insurance cost. B-192378, April 17, 1979; and B-193945, April 29, 1980.

c. Reimbursement within the customary range of fees

An agency denied an employee's claim for the reimbursement of attorney fees on the sale of his residence by a "land sale contract." We have held that expenses incurred incident to land sale contracts are reimbursable, as long as the fees are within the customary range for such services. B-200207, September 29, 1981.

An employee purchased residence in connection with official transfer and claims attorney fees incident to the purchase. Under applicable law and regulations, necessary and reasonable legal fees and costs incurred by reasons of the purchase or sale of a residence incident to a change of station may be reimbursed provided that the costs are within the customary range of charges for such services within the locality of the residence transaction. Fees may be reimbursed insofar as the number of hours billed is reasonable for the particular complications involved, and the hourly rate charged is within the customary range of charges for such services. David W. Eubank, B-219526, January 15, 1986.

5. Litigation

A transferred employee was unable to sell her residence at her old duty station. She defaulted on the mortgage payments and the mortgage holder initiated foreclosure proceedings. She hired an attorney who settled the foreclosure through an agreement in which the mortgage holder took title to the residence and canceled the mortgage in exchange for payment of overdue interest. The employee claims reimbursement of the attorney fees and the interest payment as real estate expenses necessarily incurred on account of her transfer. Her claim is denied, since the attorney fees were litigation costs for services to settle a court suit and the Federal Travel Regulations prohibit reimbursement of litigation costs, as well as interest on loans. Barbara H. Burr, B-223907, March 9, 1987.

6. Advisory services

The Federal Travel Regulations provide that transferred federal employees may be allowed reimbursement of legal expenses associated with the sale of their old residence, including the expenses of advisory and representational services not involving litigation before the courts. A transferred employee may therefore be reimbursed for legal fees reasonably and necessarily paid to obtain representational services to negotiate his release from a mortgage contract in exchange for his conveyance of his ownership of his old residence in a situation that did not involve foreclosure proceedings or other type of litigation. John C. Bisbee, 65 Comp. Gen. 473 (1986).

7. 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 the reimbursement of the cost of preparing conveyance, 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. Under the laws of Puerto Rico, the seller of a residence is required to pay a fee of 1/2 percent of the sale price for the enumerated services of preparing conveyances and related legal, notary, and recording fees. Since the fee is in the nature of a notary fee, and is required by law, it may be reimbursed under FTR para. 2-6.2c. B-189569, June 16, 1978.

8. 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.

9. 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 paras. 2-3.1 or 2-6.2c. B-163107, May 18, 1973.

10. Settlement date

A transferred employee sold a mobile home which he had been using as a residence at his old permanent station. Not all the legal and related expenses charged employee may be allowed, since some were incurred after the date of the closing. Only those expenses which were incurred by the employee through the designated date of the closing may be allowed. David J. Price, B-210918, June 12, 1984.

11. Title examination and title opinions

a. Generally

A transferred employee claims reimbursement of attorney's fees incident to the purchase of a residence at his new duty station. The portion of the claim for the 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; and B-174649, February 17, 1977.

b. Curing title defect

The reimbursement of an attorney's fee for curing a title defect in connection with the employee's sale of property is 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 the local custom to furnish a marketable title when selling a residence. B-160040, July 13, 1976 and B-183102, June 9, 1976.

12. Conducting settlement

An employee who sold his home at his old station without a realtor retained an attorney to prepare the documents and handle the settlement. Since the attorney actually conducted the settlement the attorney's fee for doing so may be reimbursed. B-188970, October 13, 1977; B-185739, June 3, 1976; B-188300, August 29, 1977; and B-186254, March 16, 1977.

13. 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 the 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. B-187698, December 11, 1975.

14. 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.

15. 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 the

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. And, 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.

16. 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 the review of documents by the bank's attorney. He is entitled to reimbursement because the documents were drawn by the bank's attorney, and the review of the documents was to insure the proper execution and recording, and, thus, related to the preparation of the documents. B-183807, August 30, 1976.

17. 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, the 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.

18. 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 any authority for the reimbursement of an

attorney's travel expenses under these circumstances. B-183694, November 24, 1975; and B-183102, June 9, 1976.

19. Lease transactions

Incident to a 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 the termination of his lease at his old duty station, a transferred employee hired an attorney because he was threatened with litigation, if rent and damages were not paid within 5 days. Under the circumstances, it was reasonable for the employee to hire an attorney to obtain the settlement of the matter, and the fee was reasonable. B-169526, May 22, 1970.

An agency questions whether an employee can be reimbursed attorney's fees and costs incident to litigation to settle an unexpired lease. The employee may be reimbursed the litigation costs since the Federal Travel Regulations do not preclude such expenses incurred incident to settling an unexpired lease, the amounts claimed are reasonable, and the potential liability of the government was considerably greater than the amount settled on. B-175381, April 25, 1972, is overruled in part. William H. Hutchinson, 64 Comp. Gen. 24 (1984).

G. Finance Charges

1. Current rule following Regulation Z

Under FTR para. 2-6.2d, reimbursement of expenses incurred in connection with the sale or purchase of a house depends on whether that expense is a finance charge as defined in the Truth in Lending Act, Title I, Public Law 90-321, May 29, 1968, 82 Stat. 146, as amended, 15 U.S.C. §§ 1601-1667. Therefore, the finance charge is defined so as to distinguish between charges imposed as part of the cost of obtaining credit and charges imposed for services rendered in connection with a purchase or sale, regardless of whether credit is sought or obtained. 60 Comp. Gen. 531 (1981); and 58 Comp. Gen. 786 (1979).

The finance charge is not limited to interest, and service charges imposed in connection with the extension of credit are specifically

listed as finance charges under the Truth in Lending Act and the implementing provisions of Regulation Z, 12 C.F.R. § 226.4. It is these provisions, rather than the lending institution's characterizations, which determine what fees are nonreimbursable finance charges. B-189639, March 24, 1978; and B-205267, June 15, 1982, reconsidered and affirmed September 28, 1982.

A transferred employee paid a loan/discount fee in connection with the sale of a residence at his old duty station, which is a "finance charge" within the definition of that term in section 106(a) of the Truth In Lending Act, codified at 15 U.S.C. § 1605(a). He claimed that he should have been reimbursed the loan fee in lieu of the realtor fees he saved by acting as his own realtor. Since such loan fees may not be reimbursed under FTR para. 2-6.2d, and since the employee incurred no selling expense, the claim is not payable. B-198468, October 17, 1980.

In connection with a Farmers Home Administration Guaranteed Rural Housing Loan, an employee was required to reimburse the lender for a fee equal to 1 percent of the portion of the loan which was guaranteed. The employee may not be reimbursed for such a fee, since it appears to fall within the definition of a finance charge contained in Regulation Z, and it is more in the nature of a charge for the hire of money, than a reimbursement of the administrative costs of processing the loan. B-201416, August 14, 1981.

2. Itemization requirement

An employee may not be reimbursed for a lump-sum payment to a third-party lending institution which prepared financial documents to finance the employee's purchase of a home. Since the fee paid to the third-party lending institution was stated as a lump sum payment for expenses and overhead, and is a finance charge within the meaning of Regulation Z, reimbursement is precluded absent itemization to show any items excluded by 12 C.F.R. § 226.4(e) from the definition of a finance charge. 60 Comp. Gen. 531 (1981).

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 the 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).

3. Exclusions from finance charge

a. Loan release and tax search fee

A transferred employee sold his old residence and the buyer assumed his mortgage. He arranged to purchase a new residence but his lender required the employee to obtain a release from liability on the old residence before the loan would be granted. Since the release was a prerequisite to obtaining financing on the new residence, customarily paid by the purchaser, he is entitled to reimbursement of the charge of $200 assessed for processing the release from liability. B-200083, September 29, 1981.

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. Cf. Raymond P. Keenan, 64 Comp. Gen. 296 (1985) (cost as a seller's expense).

An employee who purchased a residence incident to a transfer was charged a tax service fee which was not listed as a finance charge on the Truth-in-Lending Statement. The fee for a tax search, was to check for tax delinquencies and liens, was a finance charge and may not be reimbursed under FTR para. 2-6.2d, even though otherwise characterized by the lender. B-199944, April 16, 1981.

b. Survey and recording fees

Where the mortgage company provided a statement indicating that $35 of the amount initially characterized as a loan-origination fee was in fact a survey fee, that fee is reimbursable. Although assessed by the lending institution, the survey fee is expressly excluded from the definition of a finance charge by Regulation Z, 12 C.F.R. § 226.4(e)(1). 58 Comp. Gen. 786 (1979).

Although assessed by the lending institution as part of a charge initially characterized as a "loan-origination fee," an employee may be reimbursed for an itemized recording fee, if it is customarily paid by purchaser and does not exceed the amounts customarily charged

in the locality. While recording fees are not expressly excluded from the definition of a finance charge under Regulation Z, they are not a condition for the extension of credit, and, thus, are not part of the finance charge. 58 Comp. Gen. 786 (1979).

Under para. 2-6.2d of the Federal Travel Regulations, expenses which result from construction of a residence may not be reimbursed. Since the claimant has been reimbursed the recording fee for the purchase of the lot, he cannot also be reimbursed the recording fee for construction of his new residence as that fee results from construction. Robert W. Webster, 63 Comp. Gen. 68 (1983).

c. State VA loan fee

The fee charged by the Department of Veterans' Affairs of the state of Oregon to cover the costs of preparing closing documents, appraisal costs, credit checks, and similar services, is not a finance charge within the meaning of Regulation Z. Accordingly, it is reimbursable. B-191035, September 12, 1978.

d. 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. B-183958, April 14, 1976; and B-185706, December 17, 1976.

e. 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 4, 1975.

A transferred employee incurred an expense to have his old residence appraised before trying to sell it himself. He later used the services of a relocation company under contract to his agency, and claimed reimbursement for the cost of the earlier appraisal. Paragraph 2-12.5b of the Federal Travel Regulations prohibits reimbursement for any personally incurred real estate expenses that are similar or analogous to any expenses the agency is required to pay to a relocation company. Since the relocation company had the

property appraised as part of their contract to purchase the residence from the employee, the employee may not be reimbursed his appraisal costs. James T. Faith, 67 Comp. Gen. 453 (1988).

f. 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.

g. Revenue stamps

State revenue stamps are excluded from the definition of a finance charge under Regulation Z, and are reimbursable. B-187123, February 9, 1977.

A transferred employee, who obtained personal interim financing loans in order to purchase a new residence pending receipt of permanent financing by executing a mortgage against the newly purchased residence, may be reimbursed expenses in connection with that mortgage transaction as if the mortgage had been executed simultaneously with the earlier transfer of title in the residence to the employee. However, where charges for state revenue stamps at the time of the purchase of the residence are reimbursed, no additional reimbursement may be made for state revenue stamps in connection with the execution of a subsequent mortgage. Anibal L. Toboas, B-217474, July 19, 1985.

h. 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.

i. Loan assumption and warehouse fees

Where a creditor accepts a subsequent customer as an obligator 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.

A transferred employee reclaims an expense incurred in the sale of his residence at his old duty station which was previously disallowed by the agency. The disallowed expense was a warehouse fee, which is a finance charge under the Truth in Lending Act and Regulation Z. Reimbursement of any cost found to be a finance charge under Regulation Z, 12 C.F.R. § 226.4, is prohibited by FTR para. 2-6.2d. B-203345, July 7, 1982.

j. Commitment loan closing and loan transfer fee

A transferred employee paid a lump-sum origination fee of $525 that was described by the bank as including a $175 commitment fee to reserve the funds for the loan. The commitment fee, required as incident to the extension of credit, is part of the finance charge and not reimbursable. Leslie E. Russell, Jr., B-217189, May 6, 1985, and decisions cited.

Two transferred employees incurred finance charges in the form of loan closing fees. Although, in each instance, the lender states that the fee does not constitute a finance charge, the government is not bound by a lending institution's characterization of a payment, but must examine the charge against Regulation Z (12 C.F.R. § 226.4 (1982)). Since there is no itemization of specific expenses included in the loan closing fees, and lump-sum loan fees generally are regarded as nonreimbursable finance charges under Regulation Z, the employees' claims may not be paid. Taylor and Keyes, B-208837, December 6, 1982; and William R. Pierson, B-209691, May 9, 1983.

A transferred employee purchased a residence at his new duty station and was charged a loan transfer fee. FTR para. 2-6.2d(1), as amended, effective October 1, 1982, permits reimbursement of loan origination fees and similar fees and charges, but not items considered to be finance charges. The employee's loan transfer fee may be reimbursed since it is similar to and assessed in lieu of a loan origination fee. Keith E. Mullnix, April 22, 1985.

k. Tax service charge and underwriting fee

A tax service charge made by the lender incident to prorating the buyer's and seller's tax obligation for the year in which settlement is made is a finance charge under Regulation Z, and not reimbursable under FTR para. 2-6.2d. B-192851, May 11, 1979.

Employee who purchased a residence incident to transfer may not be reimbursed tax service and tax certificate fees paid to a title company. Such payments are service charges imposed incident to the extension of credit and are finance charges under the Truth in Lending Act and FTR, para. 2-6.2d(2)(e). John S. Derr, B-215709, October 24, 1984.

An employee who purchased a residence incident to transfer may not be reimbursed for underwriter's fee and tax service fee as such payments are considered finance charges under the Truth in Lending Act and Regulation Z and are not reimbursable under Federal Travel Regulations, para. 2-6.2d(2) (e). Kenneth R. Pedde, B-223797, April 20, 1987.

The underwriting fee charged by a financing institution to review each loan is a charge paid by the borrower incident to, and as a condition precedent to, obtaining a loan, and, thus, is a nonreimbursable finance charge. See B-192851, May 11, 1979.

l. Loan tie-in and settlement agent fees

The loan tie-in fee paid to the lender is in the nature of a service charge, and is not reimbursable. See B-192851, May 11, 1979.

Two transferred employees were denied reimbursement for settlement agent fees charged by the same lender who earlier charged them fees for originating their mortgage loans. The claims may be allowed. Each described activity is separate and distinct. Where a fee is charged a purchaser by an individual to act as settlement agent at a real estate closing, it may be allowed under FTR para. 2-6.2c and f, if it is customary in the locality for the purchaser to pay and does not exceed the usual amount charged in the area. Brock and Van Orden, 67 Comp. Gen. 503 (1988).

m. Points or loan discount fee

An employee, who was transferred incident to a RIF, claimed reimbursement of a loan discount fee incurred upon purchasing a residence at his new duty station. Even though the employee was reassigned again when the CSC determined that his transfer violated the RIF regulations, payment of the claim is prohibited by the FTR. B-192186, October 23, 1978. 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-174065, November 19, 1971.

Transferred employee who purchased a residence at his new duty station may be reimbursed for the full amount of a loan origination fee of 3 percent because he has demonstrated by a Federal Home Loan Bank's survey of local lenders that a fee of 3 percent was customary in the locality for the conventional financing involved, the "fees" reflected in the survey apply only to FHA loans, and included not only loan origination fees but also points and discounts which are not reimbursable expenses. Steven C. Krems, 65 Comp. Gen. 447 (1986), overruled in part by Constant B. Chevalier, 66 Comp. Gen. 627 (1987).

n. Loan application, adjustable rate mortgage and loan service fees

Employee who paid a loan application fee of $250 may be reimbursed for it, as well as a loan origination fee, since that $250 is the customary fee charged for loan applications in the locality of his new residence. Since a loan application fee is charged to all applicants, it is not a finance charge and it may be reimbursed under FTR para. 2-6.2d(1)(f) as a fee "similar" to an FHA or VA loan application fee. Constant B. Chevalier, 66 Comp. Gen. 627 (1987).

A transferred employee claims reimbursement for Federal Express charges incurred by him to speed delivery of his mortgage loan application. Paragraph 2-6.2d(1) of the Federal Travel Regulations lists specifically reimbursable expenses in clauses (a) through (e), and in clause (f) authorizes reimbursement for expenses "similar in nature to" the specifically listed items. Since none of the listed authorized expenses related to delivery fees, the Federal Express fee may not be allowed under any of those clauses, nor under FTR para. 2-6.2f which authorizes reimbursement for other unspecified

expenses since the expense was not for a "required service." Mark B. Gregory, B-229230, March 14, 1988.

A transferred employee claims reimbursement for an Adjustable Rate Mortgage (ARM) fee, which was charged him as an expense incident to documenting the lender's interest by endorsement to the title insurance policy. While under paragraph 2-6.2d(2) (e) of the Federal Travel Regulations, finance charges are nonreimbursable, the expense here may be reimbursed. The expense in question was not part of the chain of documentation required in order to obtain financing but was for additional work required by the lender after the loan was approved. Mark B. Gregory, B-229230, March 14, 1988. Cf. Ray F. Hunt, B-226271, Nov. 5, 1987.

A transferred employee incurred a 1 percent loan service fee when he purchased a residence at his new duty station. Paragraph 2-6.2d of the Federal Travel Regulations, in effect at the time, prohibited reimbursement for any fee constituting a finance charge under Regulation Z, 12 C.F.R. § 226.4(a). Since a loan service fee is a finance charge, the employee may not be reimbursed for any part of the fee unless shown to be excludable from the definition of a finance charge under 12 C.F.R. § 226.4(e). Ronald J. Walton, B-215699, October 2, 1984.

o. 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.

p. VA application and funding fees

A transferred employee who obtained a direct loan from the 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.

The prohibition in FTR para. 2-6.2d against the 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); and Anders E. Flodin, 64 Comp. Gen. 674 (1985).

q. FHA loans and application fee

A transferred employee sold his residence under contract which provided that a 1 percent loan placement fee was to be paid by the purchaser with an additional 2 percent chargeable to the seller. The employee is not entitled to the 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.

A transferred employee may be reimbursed for an FHA loan application fee incident to the 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.

r. 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 toward 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 can not 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.

s. Tax certification, messenger service, and association transfer fees

A transferred employee sold his residence at his old duty station. Among the expenses claimed incident to the sale was a tax certification fee imposed by the local taxing authority to certify that all real estate taxes on the property had been paid. FTR para. 2-6.2c authorizes reimbursement of the cost of title search and "similar

expenses." Since the purpose of a title search is to determine whether title in the seller is in any way encumbered by recorded liens, and since a claim by a taxing authority for real property taxes not paid runs against the property, a certification of taxes paid is an essential element in establishing clear title. Thus, the fee charged by a taxing authority qualifies as a reimbursable seller's cost as "similar expenses" under the cited FTR provision. Raymond P. Keenan, 64 Comp. Gen. 296 (1985).

A transferred employee purchased a residence at his new duty station and was charged an association transfer fee. Such fee may not be allowed since it is a maintenance cost for landscaping. Further, membership type fees are considered a part of the purchase price and not a part of the expenses associated with purchase. Keith E. Mullnix, B-216973, April 22, 1985.

Under the Federal Travel Regulations in effect when an employee reported at his new duty station in March 1982, a messenger service fee paid a lending institution in connection with home mortgage financing may not be reimbursed. Such a fee was an overhead expense of the lender which when passed to the borrower is considered a finance charge which is nonreimbursable. Anibal L. Toboas, B-217474, July 19, 1985.

t. Conflict with income tax laws

A transferred employee incurred a finance charge in the form of a "closing fee" of 1 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, since it is regarded as a nonreimbursable finance charge under the Truth in Lending Act and Regulation Z. B-187890, February 17, 1977.

u. Mortgage application rejection

A transferred employee incurred expenses for a credit report and appraisal in connection with his attempt to purchase a residence at his new duty station. The employee was unable to purchase the residence since the lending institution rejected his application for a mortgage loan. Claim for the cost of the credit report and appraisal are disallowed because only expenses incurred incident to complete

residence sale or purchase transactions are reimbursable real estate expenses. Paul M. Foote, B-210566, March 22, 1983.

v. Loan origination fee

Effective October 1, 1982, the Federal Travel Regulations authorize reimbursement of loan origination fees. Such a fee, however, may be reimbursed only if bona fide and only to the extent the fee does not exceed amounts customarily paid in the locality of the residence. Furthermore, the total reimbursable expense in connection with the purchase of a residence, including the loan origination fee, is subject to an overall limitation of 5 percent of the purchase price or $5,000, whichever is less. Patricia A. Grablin, B-211310, October 4, 1983. See Chapter 7, Subchapter I, Part A of CPLM, Title IV, regarding maximum dollar amount change.

Employee may be reimbursed the loan origination fee incurred incident to purchasing a house on December 1, 1982, since revised paragraph 2-6.2d of the Federal Travel Regulations, as amended, specifically authorizes reimbursement for such a fee. Robert E. Kigerl, 62 Comp. Gen. 534 (1983).

A transferred employee claimed a 3 percent loan origination fee but the agency limited reimbursement to 1 percent, based on HUD's advice that a 1 percent loan origination fee is customary nationwide. However, HUD's advice was limited to FHA-insured loans and did not apply to the employee's conventional mortgage. We hold that the employee is entitled to reimbursement for a 3 percent loan origination fee because he has demonstrated by a Federal Home Loan Bank's survey of local lenders that a 3 percent fee was customary in the locality for the particular type of conventional financing involved. Steven C. Krems, 65 Comp. Gen. 447 (1984).

Transferred employee who purchased a residence at his new duty station may not be reimbursed for the full amount of a loan origination fee of 3 percent. Although he has demonstrated by a Federal Home Loan Bank's survey of local lenders that a fee of 3 percent was customary in the locality for the conventional financing involved, the "fees" reflected in the survey include not only loan origination fees but also points and discounts which are not reimbursable expenses. Steven C. Krems, 65 Comp. Gen. 447 (1986), overruled in part. Constant B. Chevalier, 66 Comp. Gen. 627 (1987).

A transferred employee was reimbursed a 1 percent loan origination fee and claims an additional 1.5 percent fee in connection with the construction of a residence at her new duty station. The claim for the additional 1.5 percent is denied, since paragraph 2-6.2d(1)(j) of the Federal Travel Regulations limits reimbursement of expenses that result from the construction of a residence to those which are comparable to expenses that are reimbursable in connection with the purchase of an existing residence in the area, which in this case is 1 percent. Deborah L. Beatty, B-221010, May 6, 1986.

A transferred employee claims reimbursement for a loan origination fee he paid on behalf of the buyer of his old duty station residence. Federal Travel Regulations authorize reimbursement in such cases only where the seller customarily pays the fee. Since it was the local custom here for the buyer to pay the loan origination fee, the agency's disallowance of the claim is sustained. Nicholas Berg, B-229026, August 8, 1988.

A transferred employee claimed a loan origination fee of 3 percent, but the agency limited reimbursement to 1 percent. Absent a definitive showing that the customary charge in the area was greater, our decisions have limited reimbursement to 1 percent. Since the employee has not submitted sufficient evidence to satisfy this requirement, he may not be reimbursed for the additional 2 percent charged. R. Lawrence Heller, B-229352, August 22, 1988.

A transferred employee who purchased a residence claims reimbursement for a 3 percent loan origination fee. The employing agency disallowed the entire fee because it was a nonreimbursable finance charge. Since the loan origination fee includes points and a discount, we agree that the full 3 percent may not be reimbursed, but we allow a 1 percent fee as a customary charge in the area. Gary A. Ditch, B-228691, September 21, 1988.

Transferred employee paid a lump-sum, 1 percent investigating and processing fee of $794 on mortgage loan to lending institution in connection with purchase of residence at new duty station. While the fee was stated to be a loan origination fee, it is a finance charge within the meaning of Regulation Z (12 C.F.R. Part 226), reimbursement of which is precluded, absent itemization to show that items are excluded from the definition of a finance charge by 12 C.F.R. § 226.4(e). Harvey C. Varenhorst, B-208479, March 16, 1983; and James C. Troese, B-211107, June 10, 1983.

Transferred employee claimed 2.5 percent loan origination fee but agency limited reimbursement to 2 percent where HUD advised agency that 2 percent was the usual and customary rate. Information provided by HUD creates a rebuttable presumption as to the prevailing rate, and the employee has not provided information sufficient to rebut this presumption. Gary A. Clark, B-213740, February 15, 1984.

A transferred employee purchased a new residence and was charged 1 percent of his loan, plus $250, as a "loan origination fee." He was reimbursed the 1 percent and now claims the additional $250. Under FTR, para. 2-6.2d(1)(b), such fees are reimbursable not to exceed amounts customarily charged. Since HUD advised that the customary range of fee charged in the area is 1 to 1-1/2 percent of the loan, the maximum of the customary range may be used for FTR purposes and when reduced to a dollar amount, establishes the not-to-exceed amount which may be reimbursed in any one case. Thus, the employee may be reimbursed an additional amount up to the maximum of 1-1/2 percent. Mark Kroczynski, 64 Comp. Gen. 306 (1985).

w. Mortgage discount or "points"

A transferred employee who purchased a new residence incurred a 5 percent loan fee which was described in the loan agreement as a "loan origination fee." The agency allowed reimbursement for only 1 percent of the loan amount, based on HUD's advice that a 1 percent loan origination fee is customary in the local area. The employee has reclaimed the additional 4 percent. The employee's claim for the additional 4 percent is denied because that portion of the fee represents a nonreimbursable mortgage discount. Roger J. Salem, 63 Comp. Gen. 456 (1984); and Harvey B. Anderson, B-214277, June 25, 1984.

x. Loan assumption fee

Employee transferred to new duty station incurred a loan assumption fee upon purchasing a residence. Federal Travel Regulations, as amended in October 1982, permit reimbursement of loan origination fee and similar fees and charges, but not items which are considered to be finance charges. Loan assumption fee may be reimbursed where it is assessed instead of a loan origination fee,

and reflects charges for services similar to those covered by a loan origination fee. Edward W. Aitken, 63 Comp. Gen. 335 (1984).

H. Mortgage Prepayment Costs

1. Generally

Under FTR para. 2-6.2d, an employee may be reimbursed for a mortgage prepayment penalty, which is either imposed by contract or is not in excess of 3 months' interest incident to the sale of his old residence. B-175424, June 8, 1972.

2. Old mortgage refinanced—residence sale

A transferred employee refinanced his residence at the old duty station in order to obtain assumable financing for the purchaser. The expenses involved in refinancing are reimbursable to the extent such costs are reasonable and customary in the area and otherwise allowable under the Federal Travel Regulations. Marshall L. Dantzler, 64 Comp. Gen. 568 (1985) and Ivan Allen Correll, 66 Comp. Gen. 472 (1987).

3. 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.

4. Documentation

A transferred employee sold a residence at his old official station and incurred an expense for prepaying the mortgage. The prepayment expense is reimbursable to the extent provided in the mortgage. A copy of the original mortgage, a receipt to the employee's selling agent showing the payment of the prepayment penalty, and a copy of the settlement sheet showing the charge to the employee are sufficient evidence to document the payment. B-194298, August 10, 1979.

Although a prepayment penalty clause was not in the security instrument, an employee who incurred a mortgage prepayment penalty when he sold his residence may be reimbursed for 180 days' interest on the loan balance at the time of the sale. An oral agreement concerning the prepayment penalty, which was made at the time of the purchase, may be considered to be incorporated in

the security instrument even though it was inadvertently omitted from that instrument, since it was reduced to writing several months before the subsequent sale of the residence. B-194892, March 14, 1980.

5. Second mortgages

An employee sold his residence and incurred an expense for prepaying the second deed of trust which had been executed after the 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.

A transferred employee obtained money from a second mortgage on his old residence to make a downpayment on the purchase of a new residence. The second mortgage was on the employee's old residence, which he was unable to sell due to high interest rates, low availability of mortgage money, and high real estate prices. The transaction to obtain funds to make a downpayment was not an "interim personal financing loan," but a loan upon the employee's equity in his old residence. Such a transaction was, thus, essential to enable the employee to make a downpayment on his residence at his new duty station incident to his transfer. Hence, the expenses of the second mortgage are reimbursable, if otherwise proper. 60 Comp. Gen. 650 (1981).

Transferred employee sold his residence at old duty station, received $5,000 cash, and accepted a second mortgage from the purchaser. In order to obtain sufficient funds to purchase a residence at his new official station, employee later assigned his interest in the second mortgage and received the sum of $12,000. The transaction entered into by the employee was an "interim personal financing loan." Since it was not a loan secured by the employee's interest in his old residence, it was not a part of the total financial package incident to the purchase of a residence at his new duty station. Hence, the costs incurred in securing assignment of the second mortgage are not reimbursable. Kenneth C. Barnum, 65 Comp. Gen. 157 (1985).

6. Old mortgage refinanced—new residence purchase

Transferred employee obtained money from a new mortgage on his old residence to make downpayment on purchase of residence at new official station. Buyers of old residence assumed the new mortgage, and employee used proceeds to pay off existing land contract, pay closing costs, and make downpayment on residence purchased at new duty station. Transaction to primarily obtain funds to make downpayment was not an "interim personal financing loan" but a loan secured by employee's interest in old residence, and part of total financial package for purchase of new residence. Hence, expenses of mortgage determined by agency to be reasonable and customary are reimbursable. James R. Allerton, B-206618, March 8, 1983; and Charles A. Onions, B-210152, June 28, 1983.

I. Taxes

1. 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. See also B-196527, December 29, 1980 (Texas sales tax).

2. State income tax

Employee who sold his residence when transferred to a new duty station requests reimbursement for state income taxes incurred on the profit realized in the sale of his residence at his old duty station. Claim is denied. Under 5 U.S.C. § 5724a (1982), only taxes or expenses necessary for the completion of the real estate transaction itself are reimbursable, and this item is not reimbursable under 5 U.S.C. § 5724b (Supp. III 1985), or any other authority. Guerry G. Notte, B-223374, February 17, 1987.

3. Federal income tax consequences of purchase or sale of residence

An employee transferred in 1977 sold his residence at his old station for which he had received a federal income tax credit in 1975,

the year in which he had purchased the house as a newly constructed residence. The employee may not be reimbursed the amount of the income tax credit recaptured under 26 U.S.C. § 44(d) when his newly constructed residence was sold within 36 months of its purchase. Under 5 U.S.C. § 5724a, reimbursement is limited to reasonable expenditures necessary to the consummation of real estate transactions, and the applicable regulations preclude reimbursement of costs incident to a real estate sale as items of miscellaneous expense. B-202392, May 11, 1981.

A transferred employee is entitled by law only to reimbursement for brokerage fees and other expenditures reasonably necessary to consummate real estate transactions; hence, an Air Force employee who was allowed a federal income tax credit in 1975 for her purchase of a newly constructed residence, but was required to repay the credit when she was transferred less than 3 years later, may not properly claim the tax "loss" as a relocation expense. 5 U.S.C. § 5724a(a)(4). B-194860, October 15, 1979.

4. Transfer tax

An employee paid the full transfer tax on the purchase of real estate. Evidence was submitted by the employee indicating that it is customary for a purchaser to pay all of the transfer tax in the locality where the property was purchased, although in other areas of the county only 50 percent of the transfer tax is paid by the purchaser. The employee may be reimbursed for all of the transfer tax paid by him. B-195593, January 22, 1980.

Transferred employee may not be reimbursed a transaction privilege tax imposed by Arizona on construction of new houses even though the tax was passed on to the employee. Although the tax qualifies as a "transfer tax" within the meaning of Federal Travel Regulations, paragraph 2-6.2d, it was a charge imposed on construction of a new residence, and therefore may not be reimbursed in view of the specific prohibition contained in paragraph 2-6.2d. Carl Trueblood, 65 Comp. Gen. 557 (1986).

5. 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 tax that is reimbursable under FTR para. 2-6.2d. B-185487, August 3, 1976.

6. 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. See also B-178943, September 17, 1974 (Hawaii tax).

If sellers of mobile homes customarily collect sales or "gross receipts" tax from purchasers, an employee may be reimbursed the tax he paid for a mobile home at his new duty station, even though sellers are not required under state law to shift the tax to purchasers by collecting it from them. 54 Comp. Gen. 93 (1974), overruled by Irvin W. Wefenstette, 63 Comp. Gen. 474 (1984).

7. Tax on "deferred gain" from residence sale

An employee may not be reimbursed an Oregon state income tax on a "deferred gain" from the sale of his residence at his old duty station. Neither 5 U.S.C. § 5724a(a)(4), nor the FTR, authorize the reimbursement of income taxes arising from real estate transactions. B-197567, April 15, 1980.

8. Tax on services rendered

The real estate listing agreement signed by a transferred employee incident to the sale of his residence at his old duty station required the payment of a 6 percent commission on the selling price, plus the applicable gross receipts tax on the commission. The employee may be reimbursed for the tax paid to the broker under FTR para. 2-6.2a, if it is customary in the area for the tax to be passed through to the seller. The tax should be viewed as part of the cost of services rendered by the real estate broker, since it is neither levied on the property nor included in the purchase price. 54 Comp. Gen. 93 (1974), distinguished by 58 Comp. Gen. 211 (1979).

9. Intangible tax

A transferred employee who purchased a residence in Miami, Florida, may be reimbursed for the Florida surtax, since the surtax is a mortgage or transfer tax within the meaning of FTR para. 2-6.2d. 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 tax paid in connection with his purchase of a residence. B-178873, April 22, 1974; and B-182082, January 22, 1975.

10. State Grantor Tax

Transferred employee may not be reimbursed for a State Grantor's Tax paid by him on behalf of a seller in connection with the purchase of a new residence. Although it may be common for a buyer to pay the Grantor's tax, the local HUD office has determined that it is customary for the seller to pay such cost in that particular area. Christopher S. Werner, B-210351, May 10, 1983.

11. Resale waiver fee or "Flip Tax"

A transferred employee sold his residence interest in a cooperatively-owned apartment building. He seeks reimbursement for a $10 a share (798 shares) resale waiver fee or "Flip Tax" charged him by the cooperative, thereby granting him the right to dispose of his ownership interest on the open market in lieu of repurchase by the cooperative at a lower price. Real estate expense reimbursements are strictly governed by the Federal Travel Regulations (FTR), in which FTR para. 2-6.2d(1) authorizes reimbursements of fees which are "similar in nature to" the specific fees listed in FTR para. 2-6.2d(1) (a) through (e). Since none of the specifically listed authorized expenses related to the purchase of a right to sell, a resale waiver fee is not sufficiently similar to them to permit reimbursement. William D. Landau, B-226013, October 28, 1987; and Ethan F. Roberts, B-230741, September 19, 1988.

J. Construction of New Residence

1. Generally

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; B-184928, September 15, 1976; and B-206051, September 29, 1982.

A transferred employee constructed a residence at his new station. Although the reimbursable expenses authorized by FTR para. 2-6.2d are those usually incurred incident to the securing of permanent financing upon completion of the residence, other expenses incurred prior to permanent financing also may be reimbursed so long as they are not a duplication of an expense item already allowed incident to that permanent financing, an expense uniquely applicable to the construction process, or a nonreimbursable item listed under FTR para. 2-6.2d(2). Ray F. Hunt, B-226271, November 5, 1987.

Allowable costs involving a house constructed for a transferred employee are expressly limited by FTR para. 2-6.2d to costs comparable to those for the purchase of a residence. That subparagraph further provides that expenses which result from construction are not reimbursable. Reimbursable selling and purchase expenses, therefore, involve the costs for transacting the exchange of ownership of the residence but not building it. B-205510, February 8, 1982; and B-192420, August 27, 1979.

2. Construction costs

a. 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 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.

b. 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.

c. 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 FTR 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.

d. 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. See also Richard T. Bible, B-208302, July 17, 1984.

e. 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 not have incurred the tax in

purchasing an existing dwelling. B-164491, August 20, 1968; and B-178943, September 17, 1974.

3. Prior ownership of lot

An employee who purchased a lot 5 years before his PCS and who incurred expenses in connection with the construction of a house after his transfer, may be reimbursed for his expenses 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, the prior purchase of the lot does not preclude the payment of otherwise reimbursable expenses. B-168710, February 4, 1970.

4. Existing structure renovation

a. Progress inspection fee

A transferred employee agreed to purchase as a residence at his new duty station a structure being extensively renovated which required as a condition of financing, additional site inspections. Basic reimbursement for appraisal expense was allowed by the agency, but expense of additional inspections disallowed. On reclaim, disallowance is sustained. Under FTR para. 2-6.2d, only expense associated with existing residence purchase are allowed, and while renovation of an existing structure is not new residence construction, it is analogous so as to preclude reimbursement. J. Dain Maddox, B-214164, July 9, 1984.

K. Other Residence Transaction Expenses

1. Insurance

a. Mortgage guarantee

Mortgage guaranty insurance is not the type of insurance for which reimbursement is authorized under FTR para. 2-6.2d, even though mortgage guaranty insurance is different from ordinary mortgage insurance in that it is designed to make the mortgagee whole, if insufficient moneys 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.

A transferred employee claims reimbursement for a mortgage insurance premium required by the lender. Reimbursement of this type of charge is specifically precluded by FTR para. 2-6.2d(2)(a). In addition, mortgage insurance to protect the lender against default is a finance charge which may not be reimbursed under FTR para. 2-6.2d(2)(e). Daniel T. Mates, B-217822, June 20, 1985.

b. 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 one year. Even though the seller was required by the buyer to purchase the contract, its cost may not be reimbursed, because it was not essential 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 the consummation of the real estate transaction. B-189662, October 4, 1977; and B-190902, February 14, 1978. See also B-187493, April 1, 1977, modified by B-193578, August 20, 1979.

A transferred employee sold his residence at his old duty station and claims the cost of a Blue Ribbon Warranty which protects the purchaser against the expense of repair or replacement of major structural of operational defects in the house for a specified period following its sale. Although the claimant asserts that he was required by the purchaser as a condition of sale to secure such insurance, his claim is denied since FTR para. 2-6.2d(2) specifically excludes the cost of property loss and damage insurance, as well as operating and maintenance costs from reimbursement as miscellaneous real estate expenses. Alan R. Fetter, B-218955, October 30, 1985.

c. Flood insurance

An employee who purchased a residence in Miami, Florida, incident to a transfer may not be reimbursed the cost of a premium for flood insurance, since FTR para. 2-6.2d specifically precludes reimbursement of the cost of insurance against damage or loss of property. B-172742, November 24, 1980.

d. Hazard insurance

A transferred employee was required to purchase hazard insurance as a condition of obtaining a mortgage loan. He claims that since it was property insurance and required by the lender, it is reimbursable. The term "property insurance" is a term describing, generally, all types of real or personal property insurance and is not a term used in the FTR to describe such potentially reimbursable cost. Under FTR para. 2-6.2(d) (1), only the cost of one type of property insurance—title insurance--may be reimbursed and then only if it is required by lender. Hazard insurance is another type of property insurance which relates to financial protection against loss or damage to structure or improvements to real estate, occasioned by specific catastrophic events. Since FTR para. 2-6.2(d)(2)(a) specifically precludes reimbursement of the costs of loss and damage insurance, the claim may not be paid. Mark Kroczynski, 64 Comp. Gen. 306 (1985).

2. Incidental services

FTR Chapter 2, Part 6 sets forth the conditions and requirements under which expenses are allowable with respect to the purchase or sale of a residence. FTR para. 2-6.2f provides for the reimbursement of incidental expenses for services required in selling and purchasing residences paid according to custom and limited to the amounts customarily charged in the locality of the residence. However, FTR para. 2-6.2d provides that operating or maintenance costs are not reimbursable. B-204644, June 8, 1982.

a. Plumbing repairs

Although the employee would not have undertaken plumbing repairs if they had not been needed to pass a housing inspection required to sell his residence, he is not entitled to expense reimbursement for the repairs, since they were maintenance costs which may not be reimbursed under the Federal Travel Regulations. James Betts, B-217922, September 6, 1985. See also Robert C. Markgraf, B-215960, November 14, 1984 (Repairs by purchase).

b. Termite inspection

We have allowed reimbursement for termite inspection fees as a required service customarily paid by the seller or buyer of a residence, but we have denied reimbursement for termite extermination, since this is a cost of house maintenance. B-172151, May 18, 1971, affirmed on reconsideration, September 7, 1971; and B-163801, May 1, 1968. The nature of the work involved in extermination is not changed simply because the extermination is a prerequisite to the issuance of a termite certificate or because there is no visible infestation at the time the work is performed. B-189093, October 13, 1977.

Also, where the cost of a termite inspection is required as a condition to obtaining a conventional loan, such an expense is reimbursable as a required service customarily paid by the seller or buyer. B-194887, August 17, 1979.

In any event, only one set of residence sale expenses incurred incident to a completed sale is reimbursable under FTR para. 2-6.1. B-202297, July 24, 1981.

c. Photographs

A transferred employee is not entitled to the reimbursement of the 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 the 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.

d. Soil examination fee

A transferred employee's claim for reimbursement of the cost of a soil examination in connection with the construction of a residence at his new station may not be allowed because it resulted from the construction process and, therefore, may not be reimbursed in view of the specific prohibition contained in FTR para. 2-6.2d. Thomas A. Gibbens, B-226532, December 9, 1987.

e. Roof inspection

An employee who purchased a residence in Miami, Florida, incident to a transfer may be reimbursed the cost of a roof inspection. Where the inspection was required as a precondition for obtaining financing, the fee is viewed as a required service customarily paid by the purchaser as contemplated by FTR para. 2-6.2f. B-172742, November 24, 1980; and B-194887, August 17, 1979.

f. Purchase inspection fee

An employee is not entitled to reimbursement of a home inspection fee he paid incident to purchase of a residence at his new duty station, since he obtained the inspection to protect his own property interest, rather than to complete the sale by satisfying a customary obligation as purchaser. Ronald M. Pearson, B-230402, March 23, 1988.

g. Gas line inspection

The cost of a gas line inspection incurred in connection with the sale of a transferred employee's home may not be reimbursed, since the record does not show that the inspection was required for the sale of the residence. B-193578, August 20, 1979.

h. Pool and home inspection fee

A transferred employee claimed reimbursement for the costs of a home inspection and a pool inspection, both of which were recommended by his real estate agent. His claim for reimbursement for those fees, on the basis that once they were inserted in the contract they qualified as "required services," is denied. The term "required" as used in the applicable statute and regulations relates only to those services which are imposed on the employee by state or local law or by the lender as a precondition to the sale or purchase of a residence. Leonard L. Garofolo, 67 Comp. Gen. 449 (1988).

i. 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.

j. Engineering inspection

A claim for the 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.

k. 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. 53 Comp. Gen. 626 (1974).

l. Cashier's check

An employee may not be reimbursed the cost of a cashier's check to complete the downpayment and closing costs, since the cost of a cashier's check is not specifically enumerated, nor the type of expense that is reimbursable under FTR para. 2-6.2d. B-172742, November 24, 1980.

m. Maintenance expenses

A transferred employee requests reimbursement of a finder's fee in lieu of a real estate commission. The record shows that the services performed for the employee were not those of a "finder," but were those of a caretaker. Since FTR para. 2-6.2d precludes reimbursement for maintenance expenses, the claim was denied. B-200167, July 7, 1981; and Irvin W. Wefenstette, 63 Comp. Gen. 474 (1984).

n. Customarily paid by other party

A transferred employee reclaims expenses incurred in the sale of his residence previously disallowed by his agency. The disallowed expenses, including an FHA application fee, an appraisal fee, a tax service contract, and photo, inspection and document fees, are customarily paid by the purchaser, and, therefore, not for reimbursement under the FTR. B-199888, March 25, 1981.

o. Water testing and treatment charges

A transferred employee may not be reimbursed water testing and treatment charges paid to correct deficiencies in well water prior to the sale of his residence. Though the county health authority approval of the water supply was required as a condition of sale, the particular costs claimed were not for required certification, but were costs of maintenance, which are specifically disallowed by FTR para. 2-6.2d, and may not be paid as part of the miscellaneous expenses allowance. B-202297, July 24, 1981.

p. Damaged tree removal

The cost of removing a damaged tree from the site of a transferred employee's former residence is a cost of maintenance that cannot be reimbursed, either as a real estate expense or as a part of the miscellaneous expenses allowance. Joseph F. Kump, B-219546, November 29, 1985.

q. Escrow fees and related costs

(1) Generally—Costs associated with certain types of interim financing may be reimbursed incident to an employee's purchase of a residence at his new duty station. For example, where an employee, who had been unable to sell his residence at his old duty station, encumbered it with a second mortgage as a means of providing interim financing for the purchase of a house at his new duty station, we held that costs associated with the second mortgage were reimbursable. 60 Comp. Gen. 650 (1981). In holding that reasonable and customary costs associated with the second mortgage could be reimbursed to the same extent as expenses connected with a first mortgage, we viewed the second mortgage transaction as part of a "total financial package" essential to the purchase of the new residence.

(2) Personal convenience—We have denied reimbursement where interim financing of a home involved a purely personal loan not secured by a mortgage, since no real estate transactions expenses were incurred in obtaining the loan. See 55 Comp. Gen. 679 (1976). However, to the extent that statements in that decision suggested that the ruling applied to financing secured by a mortgage against an old or new residence, we generally concluded in Leland D.

Pemberton, 61 Comp. Gen. 607 (1982), that decision was overruled by 60 Comp. Gen. 650 (1981); and B-184703, April 30, 1976.

Because mortgage financing was unavailable, a transferred employee sold his house at his old duty station by a real estate contract. Under the contract, the purchaser agreed to make monthly payments, and the employee, as the seller, agreed to transfer title upon payment in full. To handle future payments, the employee entered into an escrow agreement whereby the buyer was to make monthly payments to the escrow agent, and the escrow agent was to make mortgage payments for which the employee remained liable. The employee may not be reimbursed for the cost of the escrow agreement, as the agreement is solely for the employee's convenience and not directly related to the sale itself. B-201009, April 16, 1981.

r. Foreclosure sale

A transferred employee sold his residence within one year of his transfer in a sheriff's sale under court order following foreclosure. The employee may not be reimbursed under 5 U.S.C. § 5724a(a)(4) for the costs assessed by the court in connection with the foreclosure and sale, since FTR para. 2-6.2c specifically precludes reimbursement for the costs of litigation. 61 Comp. Gen. 112 (1981).

s. Capital improvements

An employee was required to pay off a paving lien placed on his old residence when he sold his residence incident to his transfer. Since the paving lien was placed on the property because of improvements made to street adjacent to the property it may not be reimbursed under the Federal Travel Regulations. It is analogous to a capital improvement to the property itself, and will be treated in the same manner. V. Stephen Henderson, B-207304, April 15, 1983.

t. Sewer assessment lien

A transferred employee sold his residence and seeks reimbursement for a prepayment penalty incurred upon the payoff of a sewerage improvement lien on his residence required to be satisfied by the lender and FHA regulations. The claim may be allowed since the prepayment penalty was required by the municipal code and the recorded assessment which placed a lien on the property was an

"other security instrument" within the meaning of FTR para. 2-6.2d(1)(g). Orville D. Grossarth, B-216425, August 21, 1985.

u. Weatherization inspection and repairs

Transferred employee claims real estate expenses of $2,000 for weatherizing his residence prior to sale as required by lender consistent with state law. The claim is denied. While the cost of a weatherization inspection required by state law is reimbursable under FTR para. 2-6.2f, expenses claimed for weatherization itself are operating and maintenance costs specifically disallowed by FTR para. 2-6.2d. Robert J. Holscher, B-215410, November 14, 1984.

L. Losses Resulting From Market Conditions

A transferred employee had his old residence appraised to set a 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. 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.

A transferred employee was unable to sell his house at his old duty station and deeded it back to the mortgagee bank. The employee is not entitled to the broker's fee and legal expenses he would have incurred had he sold his house, nor may he be reimbursed for the difference between the purchase price and the amount of the outstanding mortgage loan. Reimbursement is authorized only for expenses which an employee actually incurs, and reimbursement for losses due to the failure to sell a residence are specifically prohibited by 5 U.S.C. § 5724a(a)(4). B-198940, July 29, 1980.

A transferred employee was unable to sell his residence at the old duty station and deeded the residence back to the mortgage holder and required to pay a $5,000 charge to the mortgage holder in connection with the transaction. Since the payment was essentially a loss sustained by the employee due to market conditions, it is not a reimbursable expense under the applicable statute and regulations. Louis L. Berthold, B-222121, September 19, 1986.

M. Lease Transactions

1. 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(a)(4) and FTR para. 2-6.2h clearly evidence an intent to provide reimbursement for the costs of lease termination expenses occurring only at an employee's old duty station. B-186435, February 23, 1979.

2. 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 the payment of a security deposit of $135 before July 10. The employee moved his HHG into the leased premises in June 1967, although he was occupying government quarters while on TDY. 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 HHG therein. B-163546, March 8, 1968.

A transferred employee may be reimbursed for a forfeited first month's 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 PDY 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.

An employee was transferred from Germany to the U.S. When he terminated his lease on his German residence, he was required to forfeit his security deposit. While the expense was a lease termination expense, it was not reimbursable, since both duty stations were

not in the U.S. or other specified areas. Nor is the expense reimbursable as a miscellaneous expense. The miscellaneous expense allowance cannot be used to cover expenses where reimbursement is specifically denied elsewhere in the regulations. B-195857, October 29, 1980. See also Eric J. Ransick, B-209217, November 16, 1982 (rent deposit at new duty station).

3. Pro rata reimbursement

A transferred employee claimed expenses incurred in settling an unexpired lease on property which included both his former residence and income-producing farmland. FTR para. 2-6.1 authorizes the agency to reimburse those expenses incurred for settling an unexpired lease involving the employee's residence. In an analogous situation, where a transferred employee buys or sells a large tract of land, we have held that FTR para. 2-6.1 limits reimbursement of real estate expenses to those associated with conveyance of the residence and the land which reasonably relates to the residence site. 54 Comp. Gen. 597 (1975). Accordingly, the pro rata reimbursement rule set forth in 54 Comp. Gen. 597 should be applied to the leased land in this case. B-201153, January 18, 1982.

4. Duty to minimize termination costs

An employee who enters into a 1-year lease when on notice that he will be transferred in 4 to 6 months may not be reimbursed lease termination expenses payable under a penalty clause of a lease. The authority to reimburse lease termination expenses is intended to compensate costs an employee did not intend to incur at the time he executed a lease and which he would not have incurred but for his transfer, not costs the employee could have avoided or costs incurred knowingly after being advised that his transfer would occur. 60 Comp. Gen. 528 (1981).

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 HHG from the apartment and relet the premises. The rent paid for the 5 months between the date of his 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. Compare B-194555, September 21, 1979, where a transferred employee who was forced to

break the lease on his apartment at his old duty station, could be reimbursed the $355 that he paid his landlord as the result of a negotiated settlement, since the employee acted reasonably in the circumstances and reduced his possible liability in the matter. See also, B-201153, January 18, 1982.

5. Reimbursement permitted

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.

A DEA policy requiring employees to obtain a no-penalty clause for breaking a lease may not be asserted as a bar to a transferred employee's reimbursement of expense incurred in terminating a lease. The FTR imposes no such requirement, and the authority of DEA to impose the requirement is questionable under the FTR. B-190677, July 6, 1978.

Where an employee was transferred with 11 months remaining on his lease, and made reasonable efforts to sub-lease his apartment, he may be reimbursed for the full cost of the lease settlement ($1,340 out of a 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. See also, B-200037, March 2, 1981.

Where an employee was prevented from giving the required 30-day notice for the 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.

To settle lease which did not contain termination clause, transferred employee paid rent for unexpired 2-1/2 month term of lease. Employee is entitled to full amount of lease settlement expenses paid in avoidance of potentially greater liability. Reimbursement is

not diminished by agency's finding that it is customary for landlord to refund rent when he has relet premises during unexpired term of lease since reimbursement is governed by terms of lease and not what is customary in locality. Norman B. Mikalac, 62 Comp. Gen. 319 (1983).

6. 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 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), could be paid, since the regulation provided for reimbursement where the lease obligations are shared with others. However, she could not be reimbursed for the additional payment of rent, unless she could demonstrate that she took steps to obtain a substitute tenant, or otherwise mitigate her damages. B-177413, January 22, 1973.

7. 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). But see William D. Landau, B-226013, October 28, 1987, and decisions cited.

An employee may not be reimbursed a cooperative home membership fee required on the purchase of a home at his new duty station. Such fees are personal and outside the scope of the costs or

expenses allowable as relocation expenses under the FTR. 60 Comp. Gen. 451 (1981).

8. Partial month's 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.

9. 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 station, terminates his apartment lease at his old 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 the reimbursement of expenses that result from the termination of an unexpired lease are reimbursable. 48 Comp. Gen. 409 (1969); B-166222, April 21, 1969; and B-182198, January 13, 1975.

10. Security deposit

An employee transferred to a new duty station who forfeits a $100 security deposit under a separate Security Deposit Agreement, can be reimbursed for this amount 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 had to break his lease which, by its terms, required the forfeiture of his security deposit. The claimant may be reimbursed for the loss of his security deposit and the interest accumulated thereon under FTR para. 2-6.2h. The withholding of interest represents a loss to the transferred employee resulting from the breach of the lease agreement. B-192135, January 24, 1979.

11. Pet deposit

A transferred employee who terminated an unexpired lease at his old duty station forfeited his security deposit of $250 consisting of a $100 premises deposit and a $150 pet deposit. The employee may be reimbursed for the full amount forfeited pursuant to FTR para. 2-6.2h, since the security deposit agreement permitted the landlord's use of the pet deposit portion for any breach of the lease and the forfeiture of the pet deposit was, in fact, incident to the termination of the unexpired lease, and in no way related to the possession of a pet. B-192129, March 8, 1979.

12. Litigation pending

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 the 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.

13. Documentation required

A transferred employee claimed reimbursement of the expenses for a lease cancellation at his old duty station, but he did not submit a copy of the lease or any other document for the claimed expense. The employee may not be reimbursed for the lease-breaking expenses, because the documentation required by FTR para. 2-6.2h and GAO decisions, was not submitted. B-200841, November 19, 1981. The submission of canceled checks does not satisfy the documentation requirement of FTR para. 2-6.2h. B-193452, July 10, 1979. See also B-181737, August 19, 1974; and B-184164, December 8, 1975.

14. Lease-purchase agreement

The execution of a lease with an option to purchase has been held not to constitute a purchase of a residence under the meaning of 5 U.S.C. § 5724a(a)(4). In B-185095, August 13, 1976, the employee entered into a lease/purchase agreement upon arrival at his new duty station, and, upon exercising his option 10 months later, sought reimbursement for the total expense. We have held that section 5724a(a)(4), does not apply to lease/purchase transactions, in which only an interest in property, rather than legal or equitable title, is passed. A purchase, for purposes of section 5724a(a)(4) and the implementing regulations, consists of the conveyance of some form of ownership. A mere interest, such as the opportunity to purchase the property, does not suffice. In fact, until the claimant exercised the option to purchase, he was under no obligation to purchase the residence at all. In such a case, the lease/purchase agreement did not pass title to the claimant. Therefore, payment is not authorized under 5 U.S.C. § 5724a(a)(4). B-204915, January 15, 1982.

As an alternative to reimbursement under 5 U.S.C. § 5724a(a)(4), employees may be paid in certain circumstances for miscellaneous expenses incurred due to the discontinuance of one residence and the establishment of a residence at a new location. FTR para. 2-3.1. The forfeiture of a deposit made on a residence is among the expenses that have been covered. 55 Comp. Gen. 628 (1976); and B-196002, March 18, 1980.

N. Relocation Services to Employee

1. Government purchase of residence

Transferred employee, unable to sell residence at old duty station for period in excess of 3 years, requests that government purchase it. Although provisions of 5 U.S.C. § 5724c and FTR paras. 2-12.1 et seq., (Supp. 11, November 14, 1983), provide each agency with discretionary authority to enter into contracts with private firms to provide relocation services to employees, including arranging for purchase of a transferred employee's residence, they do not authorize purchase of employee's residence by the government. George Boerings, 64 Comp. Gen. 847 (1985).

Transportation of Mobile Homes

A. Authorities

1. Statutory authority

Under 5 U.S.C. § 5724(b) an employee who is entitled to transportation of HHG under section 5724(a), may instead be paid for the commercial transportation of his house trailer or mobile dwelling or may receive a reasonable 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 U.S., inside Alaska, or between the continental U.S. 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 HHG. See generally, B-207122, August 24, 1982.

2. 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 CPLM Title IV, Chapters 1 and 2 for a general discussion of the conditions of eligibility for reimbursement of relocation expenses, including expenses for transportation of mobile homes.

1. Transportation of HHG

a. Employee reimbursed for transportation of HHG

A transferred employee who has been reimbursed for moving his HHG 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). See 55 Comp. Gen. 228 (1975), in which the issue was whether the employee could be reimbursed for the expenses of purchasing a mobile home at the new duty station. We held that he could be reimbursed for his miscellaneous expenses associated with setting up the mobile home as a new residence. In passing, we assumed that he had already used his transportation allowance to move his HHG, and, if so, we said he would not be eligible for further transportation expenses. The language of 5 U.S.C. § 5724(b) provides that the allowance for the transportation of a mobile dwelling is in lieu of reimbursement for the transportation of household effects. Interpreting this subsection, we held in 51 Comp. Gen. 27 (1971) that

"an employee may receive a payment in connection with the shipment and storage of his HHG or for the transportation of a house-trailer, but not for both." In that case, the employee claimed both $1,658 for HHG shipment and storage and $287 for mileage in moving his trailer. We ruled that allowance of the former would preclude the latter. On this basis, we have denied additional reimbursement to an employee for the expenses of the transportation of his mobile home, where he has already been reimbursed for the shipment of his HHG, because the employee previously has been paid on the more advantageous basis, that is, the reimbursement for shipment of his HHG was greater than he could have received for transporting his mobile home. See: B-177237, March 2, 1973; B-189566, December 29, 1977. Also, we have allowed an employee to revoke his election to be paid for the transportation of his mobile home, so that he could be reimbursed for the subsequent shipment of his HHG, where the latter amount of reimbursement exceeded the amount previously paid to him for the transportation of his mobile home. He was allowed the expenses of shipping HHG less the amount previously paid to move the house trailer. B-173257, December 9, 1971. And see generally, B-207122, August 24, 1982.

b. HHG moved in mobile home

An employee who transports HHG 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 HHG 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.

c. HHG 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 HHG transported separately to his new station. The employee may not be reimbursed for the cost incurred in shipping HHG 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 HHG are shipped separately to prevent structural damage to the mobile home while in transit.

B-184091, November 26, 1971. See also, B-207122, August 24, 1982.

C. Procedural Requirements

Refer to CPLM Title IV, Chapter 2 for a general discussion of the procedural requirements for reimbursement of relocation expenses, including expenses for transportation of mobile homes.

1. 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 HHG. Having been originally authorized payment of expenses for the shipment of his HHG, 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 to expenses for moving the trailer. B-172536, August 17, 1972.

2. 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 to subvert his certification of use of the trailer as a residence. B-168123, December 9, 1969.

D. Mobile Homes Subject to Shipment

1. New mobile home

a. Ownership requirement

(1) House trailer—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.

(2) Sailboat—An employee who purchased a sailboat to be occupied as his residence incident to permanent change of station is not entitled to freight charges in transporting the boat from the place of construction to the delivery site where it was launched since the employee was not the owner of the boat at the time it was transported. Adam W. Mink, 62 Comp. Gen. 289 (1983).

(3) Floathouse—Forest Service employee may be reimbursed for the cost of commercially towing his floathouse to his new permanent duty station in Alaska for use as his residence under the provisions of 5 U.S.C. § 5724(b)(2), which permits the transportation of a mobile dwelling at government expense. James H. McFarland, B-209998, April 22, 1983.

2. Replacement mobile home

An employee transferred from Fort Hood, Texas, 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.

3. Moving two mobile homes

Upon PCS 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 HHG. 54 Comp. Gen. 335 (1974), B-152429, November 8, 1963, and B-167758, September 27, 1969.

4. Shipment of boat as mobile dwelling to Virgin Islands

An employee wishes to have his boat transported from Florida, his old duty station, at government expense. Because 5 U.S.C. § 5724(b) (1982) and the Federal Travel Regulations do not authorize transportation of mobile dwellings outside the continental United States or Alaska, the employee may not be reimbursed for transportation of the boat to the Virgin Islands. Kevin P. Dooley, B-231785, August 3, 1988.

E. Determining Reimbursement

1. Mileage

a. 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 HHG. The employee may compute the allowance for movement of a trailer based on a distance greater than that shown in the mileage guide, if the distance does not involve a substantial deviation and the cost to be reimbursed is limited to the amount that would have been paid to move and store 11,000 pounds of HHG over the distance indicated in the guide. B-190044, November 21, 1977, and B-154949, January 5, 1965.

b. 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).

c. 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.

2. Reimbursement limitation

Under FTR para. 2-7.4, 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 weight of HHG between the old and new duty stations plus 60 days storage. 51 Comp. Gen. 27 (1971), and 54 Comp. Gen. 335 (1974).

a. Single method of reimbursement

Because of repeated breakdowns while enroute from California to Minnesota, with his trailer in tow, an employee was forced to turn

his HHG 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 HHG 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 HHG) 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 HHG 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).

An employee transferred from Montana to North Carolina elected to ship his mobile home by a government bill of lading but the mobile home was wrecked in Kansas. His HHG were placed in temporary storage and then shipped by a government bill of lading from Kansas to North Carolina. In accordance with 39 Comp. Gen. 40 (1959) and 55 Comp. Gen. 526 (1975) the employee may be reimbursed for both the transportation of his mobile home to the point where it was wrecked and the cost of shipping his HHG from there to his new duty station, but the total payment to the employee may not exceed the cost which would have been incurred by the government had either of the methods of transportation been used for the entire distance. In computing the constructive cost of the shipment of the HHG the 1,000 pound weight actually shipped plus storage for

the total distance should be used as compared to the actual cost to the government on the two government bills of lading. B-189270, March 14, 1978.

b. 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 HHG, where the mobile home was transported by the dealer. Even though not listed by the ICC 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

1. Pilot car services

Under state laws, an employee was required to pay for pilot cars and flagging in connection with the transportation of his house trailer from Arizona to Washington. FTR para. 2-7.3 a(3) prohibition on payment for "special services" is directed at those services which are necessary or desirable for the use of the mobile dwelling, unlike pilot cars required by state law and necessary to the 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. See generally, B-207122, August 24, 1982.

2. Extra equipment charges

In order to move his trailer onto the lot an employee was required to pay $40 for the 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. And, the computation of an employee's allowance for the transportation of his mobile home between duty stations in lieu of HHG may include a fuel surcharge,

as this is a part of the carrier's approved tariff and thus allowed by FTR para. 2-7.3a(1). B-203873, April 5, 1982.

3. Expenses necessary to relocate

An employee, who had his mobile home moved by commercial transportation incident to a PCS, is entitled to reimbursement of miscellaneous expenses under 2 JTR Chapter 9 for expenses necessary to the relocation of his mobile home including charges for connecting appliances to the utilities at the mobile home park; the purchase of blocks; connecting central heat and air conditioning systems; a utility fee; disconnecting an air conditioner; and the removal of anchors. Reimbursement is precluded for the installation of skirting as new equipment used in modifying a mobile home; "Act of God" insurance; and hitch and tire expenses as repairs to a mobile home en route. B-201645, December 4, 1981.

G. Nonreimbursable Expenses

1. 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.

2. 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 a repair to a mobile home is specifically excluded as an item of reimbursable expense. B-186711, January 23, 1978.

3. 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.

4. 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.

5. 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.

6. 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

1. Miscellaneous expenses allowance

a. Reimbursable

Subject to the statutory limitation on reimbursement, an employee who transported her double-wide mobile home to her new duty station is entitled to a miscellaneous expense allowance to cover costs of disassembling the mobile home in preparation for shipment and of reassembling and blocking the mobile home at the new residence site. The allowance also covers nonreimbursable deposits for propane gas service and fees for connecting that and other utilities. While the allowance covers state-imposed charges for titling and registration at the new duty station, it does not cover the cost of parts and labor to install wheels and axles necessary to prepare the mobile home for shipment since these were newly acquired items. Katherine I. Tang, 65 Comp. Gen. 749 (1986) overruled in part by Schilling below.

The Federal Travel Regulations currently authorize transferred federal employees only the costs directly related to the actual shipment of a mobile home as reimbursable "transportation" expenses. Their costs necessarily incurred in relocating the mobile home before and after shipment are instead classified as "miscellaneous" expense allowance. Hence, transferred employee's out-of-pocket costs for blocking, leveling, and connecting utilities for his mobile home at his new duty station are reimbursable only as miscellaneous expenses, notwithstanding that the maximum payable was inadequate to cover his costs.

The statute authorizing transferred employees reimbursement of "transportation" expenses in relocating a mobile home was designed by Congress to provide civilian employees with the "same entitlement" previously granted to military personnel. Regulations implementing the military statute apply the statutory term "cost of transportation" as generally covering all costs necessarily incurred by a service member in relocating a mobile home, including costs incurred before and after its actual shipment. The Comptroller General has no objection to this interpretation and recommends that the Federal Travel Regulations be amended to provide the same rule for civilian employees, in furtherance of the congressional policy. Katherine I. Tang, 65 Comp. Gen. 749 (1986), overruled in part. John Schilling, B-226304, May 22, 1987, 66 Comp. Gen. 480.

Although particular expenses may not be reimbursable as a part of the cost of transporting a mobile home under FTR Part 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 his transfer. See 55 Comp. Gen. 228 (1975) and the discussion of the miscellaneous expenses allowance contained at CPLM Title IV, Chapter 4.

b. Nonreimbursable

A transferred employee who transported her mobile home from her old to her new duty station and who used the mobile home as her residence at her new duty station is not entitled to any additional miscellaneous expenses above an amount equivalent to 2 weeks of her basic salary. Bonnie Zachary, 65 Comp. Gen. 613 (1986).

2. Transportation of HHG

Payment for the transportation of a mobile home for use as a residence is in lieu of any payment for storing and transporting HHG. 55 Comp. Gen. 228 (1975) and 51 Comp. Gen. 27 (1971). See CPLM Title IV, Chapter 8, Part B.

3. Temporary quarters subsistence

Incident to his PCS an employee was reimbursed for the transportation of his trailer after he signed the required certification that it would be used as his residence at destination. Subsequently, the employee stated that he only intended to use the trailer as his temporary residence and requested reimbursement for TQSE. When transportation of mobile homes is allowed, it is usually contemplated that the mobile home will be used as a permanent residence and subsistence expenses are allowed only when the mobile home, for some reason, cannot be used as a permanent residence. However, upon recovery of the amount paid for transportation of the trailer, the employee may be paid TQSE, since it is clear that the trailer was unsuitable as a permanent residence, the employee actively searched for a permanent home, the agency states that TQSE would have been authorized if requested, and the certification form was unclear that the term "residence" means permanent residence. In addition, the employee may submit claims for transportation and temporary storage of HHG, as well as expenses for

purchasing a residence at his new duty station. B-191831, May 8, 1979.

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.

J. Claims

A civilian employee of the Air Force shipped his mobile home incident to a PCS after receiving agency assurances that the total cost would be reimbursed. The cost of shipment exceeded the employee's maximum entitlement under 5 U.S.C. § 5724 which limits reimbursement to the amount the employee would have received for shipping and the temporary storage of 11,000 pounds of household effects. The employee may not receive in excess of this amount. An agency error does not bind the government to pay in excess of this amount.

Transportation of Household Goods

A. Authorities

Statutory Authorities

The authority for transportation of HHG at government expense is contained at 5 U.S.C. sections 5722-5729. 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 U.S. may be reimbursed for transportation of HHG on a commuted-rate basis in lieu of being paid for his actual expenses. Subsection 5723(a) authorizes payment for the transportation of HHG 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 HHG in the case of a former employee reemployed within 1 year after separation by RIF. The current statutory weight limitation is 18,000 pounds.

New appointees to posts of duty outside the continental U.S. are authorized transportation of HHG 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 U.S. shall be allowed to the same extent prescribed for new appointees under 5 U.S.C. § 5722. Specific authorities for transportation of the HHG of employees assigned to danger areas and for return of HHG before the employee has become eligible are contained at 5 U.S.C. §§ 5725 and 5729.

1. Regulations

The regulations governing transportation of HHG 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.

a. Application

Travel and transportation rights and liabilities vest at the time it is necessary to perform directed travel and transportation; therefore, laws and regulations in effect at the time an employee reports for duty have no applicability to return travel and transportation at a later date. 60 Comp. Gen. 30 (1980).

B. Eligibility

Refer to CPLM Title IV, Chapters 1 and 2 for a more general discussion of the conditions of eligibility for various relocation allowances, including reimbursement for transportation of HHG and personal effects.

1. Interest of the government

a. 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 HHG. 25 Comp. Gen. 597 (1946).

b. 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 HHG 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 employee relinquished all rights to transportation expenses under the first transfer order. 27 Comp. Gen. 748; B-154389, July 10, 1964.

2. 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 HHG moved within Uniondale, New York, on September 6, 1968, may not be reimbursed for transportation of HHG since the transportation of HHG 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 HHG to Bryan, Texas, may not be reimbursed for the cost of shipping his HHG 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.

a. 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.

3. Relocation actions

a. 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 upon transfer. Expenses of transporting HHG and personal effects, packing, crating, temporarily storing, draping 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).

b. IPA assignments

Although an employee assigned under the Intergovernmental Personnel Act is eligible to be reimbursed for transportation of HHG, an employee given an IPA assignment from July 1976 to July 1977 in Washington, D.C., may not be reimbursed for shipment of HHG in August 1977 from her place of permanent employment in Louisiana to Pennsylvania. Transportation of the HHG to a destination other than the IPA assignment location, after completion of the assignment, is not transportation incident to the assignment and its cost may not be reimbursed. B-191517, September 29, 1978.

c. Relocation upon death of employee

When an employee who is permanently assigned to duty at a post of duty outside the U.S. dies, 5 U.S.C. § 5742 authorizes transportation of the decedent's immediate family to his former home or an alternate location. See CPLM Title III, Chapter 11.

d. Assignments with international organizations

Transportation of HHG is not an allowance or benefit as those words are used in the Federal Employees International Organization Service Act, Pub. L. No. 85-795, 72 Stat. 959 (1958), codified at 5 U.S.C. §§ 3343 and 3581-3584. Thus, reimbursement for transportation of HHG by an employee transferring to an international organization or being reemployed by the federal government under section 4 of that act—codified at 5 U.S.C. § 3582—is not authorized. B-181853, August 23, 1976.

e. 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 duty abroad may not be authorized shipment of HHG. 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).

f. TDY assignments

Transportation of HHG is not authorized incident to assignments to TDY. B-176457, March 12, 1973.

g. Moves to government quarters locally

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 HHG 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, and when directed by the official responsible for administration of installation, expenses of moving HHG between quarters locally, may be reimbursed as an administrative expense of the installation. B-165713, January 27, 1969. See CPLM Title IV,-Chapter 9, Part K.

h. Civilian employees married to military personnel

Civilian employees of the government who have PCS's are entitled to allowances for the shipment of HHG even if they are married to a member of the uniformed services also making a PCS and they maintain a joint residence at both the new and old stations so long as payment is not made by the civilian agency and the military department for shipment of the same HHG. B-202023, December 4, 1981. See also B-200841, November 19, 1981.

i. Transfer to location of detail

When an employee's dependents had resided with an employee at the TDY site, but were living elsewhere at the date the employee was notified of his transfer to the TDY station, the employee may be reimbursed for the expenses of transportation of HHG from the place of storage in an amount not to exceed the cost of transporting the goods between the old and new duty stations. B-199525, May 6, 1981.

j. Incident to disability retirement

Incident to his disability retirement, the HHG of a civilian employee of the Army were shipped to Ocala, Florida, from his last duty station in Hawaii. The employee claimed his HHG should have been shipped to Copperas Cove, Texas, as he did not authorize shipment to Florida. Since travel orders and documents which the employee signed stated that Ocala was the destination of his HHG and in view of the fact that travel orders may not be retroactively modified to change the employee's benefits once travel is performed, he may not be reimbursed costs of shipment from Ocala to Copperas Cove. B-191143, January 3, 1979.

k. Death of employee while HHG in transit

There is no indication in the statutes or regulations governing the relocation of federal appointees of any intent to deprive reimbursement of expenses incurred in undertaking an authorized move that is interrupted by the appointee's death, and those expenses are allowable to the extent that they do not exceed the reimbursement that would have been payable if the appointee had not died. Hence, reimbursement may be allowed for the expenses of a household goods shipment initiated by a physician newly appointed to a position with the Veterans Administration in furtherance of an authorized move, notwithstanding that he died while the goods were in transit, and the shipment was then recalled. Michael Longo, M.D., 65 Comp. Gen. 237 (1986).

4. Canceled transfers

a. 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 canceled after he had shipped his HHG from San Diego to Los Angeles. The employee was reimbursed for transportation of HHG under decisions holding that where a transfer has been canceled 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 canceled 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. But: An employee reimbursed under the provisions of FTR para. 2-8.2d for expenses of the shipment of his HHG upon transfer to a new official station where he lived in temporary quarters for nearly 2 years after being advised he would subsequently be relocated, may not be reimbursed expenses incurred in shipping these HHG to his permanent quarters within the area after the relocation was canceled. B-196054, June 27, 1980.

b. Cancellation prior to shipment

An employee was given transfer orders with an intended reporting date of November 22, 1965. The orders were canceled 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 canceled, the employee shipped his HHG. Since the order was canceled prior to the beginning of shipment, there is no legal basis upon which to reimburse the employee for transportation of his HHG. B-159315, July 21, 1966.

5. Successive transfers

An employee transferred from Denver, Colorado, to Los Angeles, California, and subsequently retransferred to Sacramento, California, before most of his HHG were shipped to Los Angeles, may be reimbursed for shipment of HHG 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).

6. Transfer to TDY location

An employee was transferred from Chicago, Illinois, to Washington, D.C., following 6-month temporary duty assignment in Washington. The employee's claim for moving expenses may be allowed if otherwise proper, since the change of an employee's official station to the location of his temporary duty assignment will not defeat his entitlement to the relocation expenses authorized by 5 U.S.C. §§ 5724 and 5724a. Bertram C. Drouin, 64 Comp. Gen. 205 (1985).

C. Procedural Requirements

Refer to CPLM Title IV, Chapter 2, for a more general discussion of the procedural requirements for reimbursement of relocation expenses, including reimbursement for transportation of HHG and personal effects.

1. Authorization

a. Shipment prior to orders

An employee shipped his HHG 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 HHG prior to issuance of orders. B-187107, October 7, 1976.

b. 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 HHG, only if payment of such expenses has been properly authorized or approved. Thus, an employee newly appointed to a position with the Army in Texas is not entitled to reimbursement for transportation of his HHG 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 HHG upon appointment to manpower-shortage category positions, see B-187173, October 4, 1976; B-186975, March 16, 1977; and B-183053, March 12, 1975.

An employee who receives an appointment to a manpower shortage position with the Nuclear Regulatory Commission contemporaneously with his discharge from the military service has a dual entitlement to the transportation of his HHG. The government will bear the expense of the employee's move up to the larger of the two entitlements. Note however, that where the employee (a former Army member) has a dual entitlement to the transportation of HHG because of his accession to a manpower-shortage position with a government agency contemporaneous with his military discharge,

the cost factors involved in the shipment of the HHG by the Army on a government bill of lading and the cost factors which compose the commuted rate payable by civilian agencies may not be interchanged to increase or decrease an employee's entitlement. B-196535, April 22, 1980.

c. Temporary appointment

An employee given a temporary appointment to a manpower-shortage category position may be reimbursed for transportation of his HHG 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.

d. Shortage-category determination

Several employees were appointed to positions in Washington, D.C., in 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 1967. Travel and transportation expenses, including expenses for the movement of HHG, may be paid since the CSC had 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, 1967.

e. 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 HHG, 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. Similarly a new appointee to a government position was advised in a confirmation of appointment letter that the movement of his HHG had been authorized. However, travel and transportation expenses for a new appointee to the federal service are not authorized by law and the

FTR unless the person is appointed to a manpower-shortage position. The fact that agency officials erroneously authorized reimbursement of expenses for an appointee to a position which was not designated a manpower-shortage position provides no basis for payment since a payment not authorized by statute or regulation will not form the basis for estoppel against the government. B-206447, July 27, 1982.

f. 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.

2. Service agreement

a. Effect of actual service

Employees who incurred expenses for the transportation of HHG 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.

b. Failure to fulfill agreement—canceled transfer

An employee given a transfer to Washington, D.C., whose HHG were transported to the D.C. area before the transfer was canceled 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 canceled 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 all personal property associated with the home which may be transported legally accepted and transported as household goods by an authorized commercial carrier 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. Snowmobiles, motorcycles, mopeds and golf carts may be shipped as household goods. 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, trucks, vans, and similar motor vehicles, airplanes, mobile homes, camper trailers, farming vehicles, 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). A swimming pool, which is in the nature of recreation equipment, may be included within the term "household goods" and the cost of its transportation may be reimbursed on the commuted-rate basis if its weight is determined. B-191724, March 29, 1979. The definition of HHG may be revised in the regulations to include small boats and canoes. 67 Comp. Gen. 230 (1988).

1. Items included

a. Bicycle trailer

Employee who was transferred to a new duty station claims reimbursement for the cost of transporting a bicycle trailer to his new residence and for temporary storage of the trailer prior to shipment. The costs of transporting and storing a bicycle trailer may properly be categorized as a "household good" as defined in paragraph 2-1.4h of the Federal Travel Regulations (FTR). Moreover, the FTR does not specifically prohibit the shipment of a bicycle trailer as a household good. Guy T. Easter, 62 Comp. Gen. 45 (1982).

2. Items excluded

a. 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 HHG and there is no authority to ship them at government expense. B-190330, February 23, 1978.

b. Automobiles

An employee who shipped his automobile to his new duty station as part of his HHG is entitled only to reimbursement for shipment of his HHG 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 HHG is specifically precluded. 54 Comp. Gen. 301 (1974), and B-187233, January 28, 1977.

c. Boats

An employee who ships a boat and its trailer as part of a household goods shipment incident to a transfer of duty station must beat the expense since boats are expressly excluded by regulations from the definition of "household goods" that may be shipped at government expenses, even though a government transportation officer mistakenly authorized shipment of the boat and the trailer at government expense. John E. Penhallurick, 66 Comp. Gen 166 (1986).

A transferred employee who ships a canoe as part of his household goods must bear the expense, since boats are expressly excluded by regulations from the definition of "household goods" that may be shipped at government expense, even though a government travel officer mistakenly advised that a canoe was not considered a boat under the regulation. Jay Johnson, B-215629, November 27, 1984.

A transferred employee who included a canoe in his shipment of household goods by a government bill of lading must bear the expense of that shipment since boats are expressly excluded by the Federal Travel Regulations from the definition of "household goods" which may be shipped at government expense. There is no authority to base the employee's liability on the actual weight of the canoe rather than on the carrier's weight additive prescribed by the applicable rate tender. Robert F. Stott, B-226589, June 7, 1988.

d. Farm type tractor

A transferred employee included a "farm type tractor" in his shipment of household goods on a government bill of lading. Since farming vehicles are excluded by the Federal Travel Regulations from the types of household goods that may be shipped at government expense. If the tractor does not qualify as household goods, the employee should be assessed for its shipment in the same manner as for the canoe. Robert F. Stott, B-226589, June 7, 1988.

e. 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.

3. After-acquired household goods

a. Generally

Claims for reimbursement for the transportation of HHG will be denied where the property was acquired after the employee reported to his or her new duty station. The rule is well established that the responsibility of the government for the transportation of HHG is limited to those owned by the employee on effective date of the travel authorization. See 52 Comp. Gen. 765 (1973); B-189358, February 8, 1978; and B-203381, July 7, 1982 citing FTR para. 2-8.2d.

b. 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 the 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 the commencement of travel to the new duty station, the employee is entitled to reimbursement for the transportation of his HHG. B-159832, August 26, 1966. See also, B-166913, August 7, 1969.

c. 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 HHG 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 HHG 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; and B-166028, April 22, 1969.

E. Weight Limitation

1. Applicable weight limitation

a. Limitation in effect at date of transfer

After his transfer to Germany, an employee purchased goods believing he could later ship them home at government expense when reassigned to the U.S. because a weight limitation of 2,750 pounds had been removed from the JTR effective July 1, 1972. However, the employee is indebted for the shipment of HHG in excess of that weight limitation which was reimposed by the JTR effective January 1, 1973. The employee's shipment of his HHG under travel orders dated in April of 1975 for transfer back to the U.S. was subject to the 1973 change. B-193780, August 16, 1979.

When the maximum weight allowance for the transportation or nontemporary storage of HHG for transferred employees without immediate family is increased during an overseas employee's tour of duty, an employee who enters into a renewal agreement at the same post may be authorized an increased weight allowance at the time of the renewal for the nontemporary storage or shipment of HHG up to the new maximum less the initial shipment. Regarding service agreements: when an employee fulfills his period of service

at an overseas post or is excused from this by his agency, he is entitled to ship the weight of his HHG up to the maximum weight under the laws and regulations at the time he separates. Travel and transportation rights and liabilities vest at the time it is necessary to perform directed travel and transportation; therefore, the laws and regulations in effect at the time an employee reports for duty have no applicability to return travel and transportation at a later date. 60 Comp. Gen. 30 (1980).

b. Drayage between local quarters

A civilian employee of the Air Force was authorized local drayage of HHG incident to his moving from the local economy to government quarters. The maximum weight which may be drayed at government expense and charged as an operating expense of the installation concerned should not exceed 11,000 pounds consistent with 5 U.S.C. § 5724(a)(2). Where the HHG shipment of the employee exceeds the maximum limitation as determined by an appropriate official, then the employee is liable for the excess costs. 60 Comp. Gen. 336 (1981).

c. Exception for professional books

In accordance with the applicable provisions of the FTR and absent contrary agency regulations, an employee's shipment of professional books can be treated as an administrative expense of the agency, provided that an appropriate agency official certifies that shipment was necessary and that similar materials would have had to be obtained at government expense. B-199780, February 17, 1981, reconsidered and confirmed, April 8, 1982. Professional books and equipment should be separately packed, marked or weighed when required by agency regulations. B-182648, December 8, 1975.

d. Determining weight

An employee who shipped 10,400 pounds excess weight of HHG contends that 4,000 pounds of excess weight were professional books to be shipped at agency's expense. Determination of the weight of professional books is for the agency to make, and will not be disturbed by GAO unless it is clearly in error. The agency should first ascertain whether certifications required by FTR para. 2-8.2a-1 can be made. If it is decided that an allowance for professional books

may be made, the amount of the allowance should be calculated by the same formula, FTR para. 2-8.3b(5), used to determine the amount due from an excess weight of HHG. B-202906, September 15, 1982.

e. Application regardless of mode of shipment

An employee transferred from Washington to California shipped 13,520 pounds of HHG by a government bill of lading and was assessed charges of $433.44 for the shipment of those HHG 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 HHG if he had known he would be liable for the excess. The 11,000-pound weight limitation applies regardless of whether HHG are shipped under the commuted-rate system or under the actual-expense method by a government bill of lading. B-174755, January 18, 1972.

Employee who made his own arrangements and shipped his own household goods on October 1, 1981, should not have his entitlement limited to the low-cost available carrier on the basis of a GSA rate comparison made 2 months after the fact. GSA regulations require that cost comparisons be made as far in advance of the moving date as possible, and that employees be counseled as to their responsibility for weight costs in the move; rather, a constructive shipment weight should be obtained under paragraph 2-4.2b(4) of the Federal Travel Regulations. James C. Wilson, 62 Comp Gen. 19 (1982), affirmed on reconsideration, B-206704, August 8, 1983.

Transferred employee was assessed weight charges for 3,300 pounds over the statutory maximum household goods shipment of 11,000 pounds. The employee argues that the weight certificates were invalid because of the discrepancy between the trailer license numbers on the tare and gross weight certificates, and thus the agency was in error in paying the carrier. The discrepancy in trailer numbers, without additional evidence, does not indicate that the weight certificates were clearly in error so as to overrule the agency's determination of correctness. Claim for reimbursement of excess weight costs is denied. Norman Subotnik, B-206698, November 30, 1982.

2. Liability for excess weight

a. Generally

5 U.S.C. § 5724(a) authorizes the transportation of HHG of transferred employees at government expense and specifically limits the maximum weight of goods authorized to be transported to 18,000 pounds. The same limitation is found in FTR para. 2-8.2a. Paragraph 2-8.4e(2) provides that the employee is responsible for the payment of the cost arising from the shipment of the excess weight. As the weight limitation is statutory, no government agency or employee has the authority to permit transportation in excess of the weight limitation at government expense. Therefore, the law requires the employee to pay the government the charges incurred incident to shipment of the excess weight. B-200795, May 26, 1981; B-198367, March 26, 1981.

A civilian employee may not have his HHG shipment evaluated under provisions of Volume 1 of the Joint Travel Regulations which implement 37 U.S.C. § 406, and apply to members of the uniformed services. In addition, each agency is responsible for determining whether the commuted rate systems or actual expense method will be used for transportation of the employee's HHG. Where the actual expense method is used, the applicable regulation requires that computation of the employee's charges for excess weight be based on its ratio to total weight shipped. And, the question as to whether and to what extent authorized weights have been exceeded in the shipment of household effects is a question of fact primarily for administrative determination and ordinarily will not be questioned. The amount allowable for shipment of all effects cannot exceed the cost of a one-lot shipment. B-197635, June 6, 1980.

b. Weight certificates

The record contains two official weight certificates. The lack of an official stamp and weigh station's record of weighing 9 months later does not clearly indicate one of the certificates is in error where the certificate contains the GBL number, employee's name, stamped name of carrier, and initials of weighing station employee. The burden of proof is on the claimant to establish the liability of the U.S. and the claimant's right to payment. B-198561, December 24, 1980.

The weight of shipment was established at the origin by a weight certificate and no sufficient evidence has been presented to show that the weight is incorrect. Weight of a prior or subsequent move is not indicative of the weight of the move in question, because of the possibility of inclusion or exclusion of items which would vary the prior or subsequent weights. B-198367, March 26, 1981, affirmed June 17, 1982.

Absent other sufficient evidence that the agency's reliance on a valid weight certificate in determining excess weight was clearly in error, the fact that the scales used were found to be inaccurate 15 months after the employee's shipment is of insufficient probative value to relieve the employee of liability for the excess weight charges. B-199780, February 17, 1981.

An employee may not be relieved of liability for excess weight charges even if his request for a reweigh was not honored. The regulations which provide for a reweigh at the employee's request are procedural or instructional and do not provide a basis for relieving an employee from excess weight charges when the weight was properly established at the origin by the weight certificates. B-198576, June 10, 1981.

c. Collection from employee

An employee authorized to ship HHG 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 the adjustment would not inure to the benefit of the U.S., 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.

Employee who moved his household goods incident to a transfer, knew he would be liable for excess weight charges. He claims the difference between the overweight charges as represented to him based on rates effective in May and the overweight charges actually charges under new rates effective in June when the shipment was made. The overweight charges the mover billed were correct

and the mover was required by the Interstate Commerce Act to collect them. Since the Federal Travel Regulation required collecting from the employee any excess weight charges it paid, there is no basis for allowance of the claim. Theron M. Bradley, Jr., B-210561, September 13, 1983.

Employee who was transferred incident to a reduction in force may not be relieved of cost of shipping household goods in excess of his authorized weight. Although reduction-in-force action that resulted in transfer was cancelled, the government may not incur charges for the cost of shipping goods in excess of weight authorized by 5 U.S.C. § 5724(a). Henry R. Rodoski, B-209953, May 18, 1983.

To reduce his indebtedness for travel funds that his agency had advanced him, the employee submitted a claim for expenses he had incurred 11 years previously to ship his household goods incident to a permanent change of station. Even though his previous claim was time barred by 31 U.S.C. § 3702(b)(1), the employee's debt for the advance may be reduced to the extent of the allowable transportation expenses of the previous claim since both expenses involve the same type of the transportation so that the employee had the defense of recoupment, which is never time-barred. Cullen P. Keough, 63 Comp. Gen. 462 (1984).

d. Waiver

Based on erroneous agency information an employee, expecting to pay $150, placed insurance on his household effects being transported at government expense from Puerto Rico to New York. The insurance actually cost $900, and the employee requests waiver of the $750 the agency paid the carrier for the employee's insurance in excess of the $150. Since the employee's debt resulted from the erroneous advice of his agency, it is considered to have arisen out of an erroneous payment and is subject to consideration under the waiver statute. We concur with the agency's recommendation to waive the $750. Paul Rodriguez, 67 Comp. Gen. 589 (1988).

An appointee to a manpower-shortage position was given erroneous advice that he could include his automobile as part of his household goods shipment for which he was to be reimbursed under the commuted rate system. Accordingly, he included the weight of the automobile in the estimated weight of his shipment resulting in his receiving an excessive travel advance. Following a review of the

employee's voucher, the agency determined that the employee's allowance expenses of relocation, which by law could not include the cost of shipping an automobile, were less than the amount of his travel advance resulting in his being indebted for the outstanding balance of the travel advance. Partial waiver is granted under 5 U.S.C. § 5584 to the extent that the employee incurred actual expenses for shipping his vehicle over and above what the agency allowed him for shipping his household goods under the commuted-rate system. Kenneth T. Sands, B-229102, December 5, 1988.

A long-standing practice of the government in arranging transportation of employees' and service members' household goods incident to transfers of duty stations is for the government to contract with commercial carriers using government bills of lading (GBLs). Upon completion of the shipment the government pays the carrier and collects any excess charges from the member or employee for exceeding his or her authorized weight allowance or for extra services. Employees' or members' resulting debts do not arise out of "erroneous" payments, and therefore are not subject to consideration for waiver under 10 U.S.C. § 2774, 32 U.S.C. § 716, or 5 U.S.C. § 5584. Exceptional cases where there was some government error, such as erroneous orders, will be considered on a case-by-case basis. 67 Comp. Gen. 484 (1988).

e. Agency failure to notify employee

An employee whose HHG shipped by a GBL 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 HHG exceeded the weight limitation. The employee is liable for the cost of transporting the excess weight of HHG notwithstanding that 2 JTR para. C7052-2a (change 81, July 1, 1972; now 2 JTR para. C8002-2a (change 89, July 1, 1981)) provided 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 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. As a result, an employee who shipped HHG weighing 11,646 pounds may not be relieved of his liability for the cost of shipping the excess 646 pounds notwithstanding his claim that he did not receive his travel orders setting forth the maximum weight limitation until the

day before he began his change of station travel. B-194441, September 18, 1979.

f. Carrier failed to provide estimate

An employee who was transferred in May 1983 shipped 16,700 pounds of household goods by a government bill of lading. He was assessed charges for the weight in excess of the 11,000-pound statutory maximum then in effect. The employee may not be relieved of his liability for the excess of 11,000 pounds even though he was not given an estimate of the weight of his household goods in advance of shipment. Rayburn C. Robinson, B-215221, September 5, 1984.

3. Computing employee's cost for excess weight

In computing an employee's cost for the excess weight of HHG, the government's share of the cost may not be based on the higher rate for the 11,000 pounds maximum rather than the lower rate for the billed weight of 16,000 pounds. Further, offset for not incurring unpacking charges may not be deducted from the employee's cost for the excess weight. The FTR prescribes a procedure for determining the charges payable by the employee for excess weight. These regulations have the force and effect of law and may not be modified by the employing agency or the GAO regardless of the existence of any extenuating circumstances. Computation must be based on the total charges multiplied by the ratio of excess weight to the total weight of the shipment. B-198336, June 9, 1981. See also B-191518, October 10, 1978.

The carrier's method of assessing transportation charges (billing 11,720 pounds as 12,000 pounds at a lower rate) does not provide a basis for permitting payment by the government for a shipment of household goods in excess of an employee's authorized weight allowance where the statutory regulations prescribe the specific method of assessing charges for excess weight. This method is based on a ratio of the excess weight to the total weight of the shipment applied to the total charges for the shipment. Gustavo R. Martinez, B-227581, February 16, 1988.

In B-199780, February 17, 1981, reconsidered and affirmed, April 8, 1982, we held two employees of Energy liable for the excess costs incurred in the transportation of HHG under the actual

expense method where the total weight exceeded the statutory maximum limit of 11,000 pounds. We noted that the FTR prescribed a procedure for determining the charges payable by the employees for excess weight when the actual expense method of shipment is used, and these regulations have the force and effect of law and may not be waived or modified by the employing agency or the GAO regardless of the existence of any extenuating circumstances. Our conclusion emphasized that the excess weight charge computation provided in FTR para. 2-8.3b(5) is predicated on the actual net excess weight as a percentage of the total charges of the shipment.

A civilian employee of the Army had HHG shipped from McLean, Virginia, to the Canal Zone (now Republic of Panama) incident to an official change of duty station in 1975. The employee was authorized shipment of the maximum HHG at a net weight of 3,750 pounds, but he exceeded that weight and now owes the government the difference between the authorized net weight and the actual net weight. The issue considered was how to determine actual net weight under FTR para. 2-8.2b(3). We conclude that net weight under FTR para. 2-8.2b(3) is determined by subtracting the container weight from the gross weight of the goods shipped and multiplying the resulting figure by 0.85. Stated as an equation n=.85(g-c). The computational method applied in our decision Wayne I. Tucker, 60 Comp. Gen. 300 (1981) will no longer be followed. Wayne I. Tucker, 61 Comp. Gen. 452 (1982). See also, B-200795, May 26, 1981.

4. Determining weight

a. Generally

The question of whether and to what extent authorized weights have been exceeded in a shipment of household effects is a question of fact primarily for administrative determination and ordinarily will not be questioned in the absence of evidence showing it to be clearly in error. Thus a civilian employee of the Army is liable for excess costs incurred in the shipment of HHG where the weight of shipment was established at origin by the certificate of a public weighmaster and there was no showing that the weight was incorrect. Furthermore, absent other sufficient evidence that the Army's weight determination was in error, the carrier's failure to satisfy an appropriate request for a reweigh of the effects at the destination

cannot increase the employee's household effects shipment entitlement. Failure to follow procedural or instructional regulations standing alone is not sufficient to relieve the employee of charges for excess weight. B-195256, November 15, 1979. See also: B-197008, February 20, 1980; B-193397, February 22, 1980; and B-197046, February 19, 1980.

b. Weight of packing materials

Generally, with respect to the exclusion of the weight of packing material in determining the weight of shipment, see FTR para. 2-8.2b(1). An employee whose HHG weighed 11,980 pounds claimed reimbursement for the sum of $68.50 paid for 80 pounds of excess weight representing 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 HHG 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 HHG shipped uncrated in a van. B-187924, June 30, 1977.

c. Weight of containers

An employee claims that a mistake was made in weighing his HHG because the number for one of four van containers listed on the weight certificate differed from one van container listed on the GBL. In these circumstances, the employee has met the burden of proof and shown that an error was made in weighing part of his shipment. To correct this error, the constructive weight of the misweighed portion of the shipment should be computed and substituted for the incorrect actual weight. B-198576, June 10, 1981.

d. Evidence of weight

Under the actual-expense method (now the GBL method), the carrier transporting the HHG is responsible for furnishing weight documentation in support of its claim for payment under the GBL. Under the commuted-rate system, claims for reimbursement are to be supported by a copy of the bill of lading and an attached weight certificate, or, if none was issued, by other evidence showing the points of origin and destination, and the weight of the HHG. FTR para. 2-8.3a(3).

e. Bill of lading

Under the requirement of FTR para. 2-8.3a(3) 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, and B-191539, July 5, 1978.

f. Weight certificates

As a minimum, to be a proper weight certificate within the regulations it must be obtained from a certified weighmaster or from a certified scale identifying the vehicle and showing its gross and tare weights. A receipt from a private wrecking company which fails to certify the identity of the vehicle by its tare and gross weights is not a proper weight certificate to support payment of the commuted rate. B-193133, April 24, 1979.

g. 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.

h. Certification

In support of his claim for shipment of HHG under the commuted-rate system, an employee submitted five weight slips. Although only one of the weight slips was certified by the weighmaster 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.

i. Certificate from subsequent move

An employee transferred to San Francisco in July of 1970 transported his own personal effects by POV, but failed to get weight certificates, although scales were available. Four months later, upon retransfer to Atlanta, he again transported his HHG 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 HHG incident to a transfer in 1972 based on evidence of weight obtained in connection with a transfer in 1974.

j. Certificate obtained subsequently

On May 30, 1969, an employee rented a truck and moved his HHG to his new duty station but failed to obtain evidence of the weight. On February 14, 1970, he rented a second truck, removed his HHG from his home, had them weighed and returned the goods to his home. In as much as the employee has stated that no additional HHG were acquired between May 30, 1969, and February 14, 1970, the employee may be reimbursed for transportation of his HHG under the commuted-rate system based on weight certificates obtained in February. B-169117, March 16, 1970.

k. Scale weight of items

An employee who transported his HHG 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 HHG 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.

l. 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 HHG transported together with the estimated weights of the individual items.

m. Local transportation

In cases involving local transportation of HHG 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.

5. Constructive weight

a. Generally

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 HHG, 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 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); and 48 Comp. Gen. 574 (1969).

b. Regulation

FTR para. 2-8.3a(3) provides the following requirement for documentation relating to shipment of HHG:

"Documentation. Claims for reimbursement under the commuted rate system shall be supported by a receipted copy of the bill of lading (a reproduced copy may be accepted) including any attached weight certificate copies if such a bill was issued. If no bill of lading was involved, other evidence showing points of origin and destination and the weight of the goods must be submitted. Employees who transport their own household goods are cautioned to establish the weight of such goods by obtaining proper weight certificates showing gross weight (weight of vehicle and goods) and tare weight (weight of vehicle alone) because compliance with the requirements for payment at commuted rates on the basis of constructive weight (2-8.2b(4)) usually is not possible."

The constructive weight system described above provides:

"Constructive weight. If no adequate scale is available at point of origin, at any point enroute, or at destination, a constructive weight, based on 7 pounds per cubic foot of properly loaded van space, may be used. Such constructive weight also may be used for a part-load when its weight could not be obtained at origin, en-route, or at destination, without first unloading it or other part-loads being carried in the same vehicle, or when the household goods are not weighed because the carrier's charges for a local or metropolitan area move are properly computed on a basis other than the weight or volume of the shipment (as when payment is based on an hourly rate and the distance involved). However, in such instances the employee should obtain a statement from the carrier showing the amount of properly loaded van space required for the shipment. (See also 2-8.3a(3) with respect to proof of entitlement to a commuted rate payment when net weight cannot be shown.)"

For purposes of these authorities, we have held that as a minimum to be a proper weight certificate within the regulation, there must be a certificate obtained from a certified weighmaster or a certificate from a certified scale identifying the vehicle and showing its gross weight (weight of vehicle and goods) and tare weight (weight of vehicle alone). B-193133, April 24, 1979, affirmed, August 13, 1979. Documentation that does not do that, does not support payment under the commuted-rate system based upon a showing of the scale weight of the goods transported.

c. Properly loaded space

(1) Generally—Moreover, in accordance with the constructive weight system described above and as we indicated in the above case, where an employee has failed to obtain the actual weight of his HHG at the time of transportation, he may be paid at the commuted rate only if he is able to show the amount of space occupied by the HHG and that the goods were properly loaded in the space available. In establishing the amount of space which would have been occupied by his household effects if properly loaded, an employee may submit a list of items transported together with the volume occupied by each based on actual measurement or a uniform table, preferably prepared by a commercial carrier. See 60 Comp. Gen. 148 (1980), citing 48 Comp. Gen. 115 (1968); and B-199803, March 25, 1981. Consider these examples:

(2) Determined by carrier—As evidence of the weight of HHG 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.

To correct error resulting from invalidation of weight certificates the constructive weight of the household goods shipment should be computed and substituted for the incorrect actual weight. Where the constructive weight under paragraph 2-8.2b(4) is unobtainable the weight of the shipment must be determined by other reasonable means. Here mover's evidence supporting revised constructive weight determination is unrebutted by employee, is the only evidence of record on the correct weight of the shipment, and is not unreasonable. Excess weight charges should be computed on the revised constructive weight. James C. Wilson, 62 Comp. Gen. 19 (1982), affirmed on reconsideration, B-206704, August 8, 1983.

(3) Employee's assignment of volume—Where scales were unavailable, an employee who transported his HHG 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 HHG transported and a statement that the HHG were properly loaded in the space available. The volume of HHG, 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.

(4) Determined by agency—The Air Force correctly made the necessary liability determination based on regulations which provide for a constructive weight based on 7 pounds per cubic foot of properly loaded van space. A lower cubic foot measurement of 5.7 pounds within Germany pertains only to military members and is not applicable to the claimant. 60 Comp. Gen. 336 (1981).

6. Estimated proximate of actual weight—actual expenses allowable

a. 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 HHG 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 HHG 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 HHG transported. B-186452, December 22, 1976.

Because the carrier who moved the employee's HHG 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 HHG 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.

Where evidence to support a claim for shipping household effects does not establish the cubic feet of properly loaded van space, the employee is not entitled to reimbursement at the commuted rate but may be reimbursed actual expenses incurred if evidence submitted reasonably supports the shipment of the claimed weight of HHG. B-198398, October 17, 1980. Thus, 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 HHG. Reimbursement for actual expenses may not exceed the amount that would have been payable to him based on the applicable commuted rate. See 48 Comp. Gen. 115 (1968), cited above. Reimbursement at a fixed rate based on accumulated mileage over multiple trips is neither contemplated by the FTR, nor compatible with the agency guidelines' provision for reimbursement of expenses actually incurred. Where the agency guidelines provide for reimbursement of gas, oil, tolls, and other expenses actually incurred and individually itemized, the agency's adoption of an auxiliary reimbursement formula is arbitrary and impermissible. B-204285, December 15, 1981.

b. Documentation 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. See also, 60 Comp. Gen. 148 (1980).

F. Time Limitiation

1. Generally

FTR para. 2-1.5a(2) prescribes the time limitation for the shipment of HHG as follows:

"All travel, including that for the immediate family, and transportation, including that for household goods allowed under these regulations, shall be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment..."

The effective date of an employee's transfer or appointment is defined by FTR para. 2-1.4j as "The date on which an employee or new appointee reports for duty at his/her new or first official station." In accordance with this definition, the cases discussed below have general application to claims involving the regulatory limitations period.

Under this authority, and 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. B-204443, April 5, 1982; B-188292, July 8, 1977. See also: B-181360, January 22, 1975. However, the 2-year period is not controlling where, incident to a separation, an agency has established a shorter period, such as 6 months, within which transportation must begin. 52 Comp. Gen. 407 (1973). See also in regard to separation actions, B-184676, November 17, 1975; and B-195556, February 19, 1980.

2. Effect of storage

Incident to her retirement, an employee's household goods were shipped from Germany to California, and placed in storage without her designating a final destination of the shipment. After more than 2 years, she directed that her household goods be shipped from storage to her new residence. The employee may not be reimbursed for the cost of shipping the household goods from storage to her residence because placing the goods in storage does not operate to bring the shipment within the 2-year time period for beginning shipment to final destination set by statutory regulation. Helen M. Lopez, B-217987, June 21, 1985.

3. Two-year limit not waivable

We have consistently held that the time limitation established by FTR para. 2-1.5a(2) may not be waived or modified by either our Office or by an agency. B-188292, July 8, 1977; 49 Comp. Gen. 147 (1969). See also B-205187, December 23, 1981. This rule applies equally to shortage-category employees. See B-190202, August 14, 1978.

Under applicable Department of Defense regulations, an employee separated from an overseas position is entitled to onward transportation of household goods stored in the United States provided shipment to a final destination is begun within 2 years from the date of separation. Where the employee was unable to provide a delivery date or destination within 2 years from the date of separation, contacts with government transportation officers concerning shipment did not meet the requirement to begin shipment within the requisite period. Erroneous advice that the 2-year period began to run from the date the employee's goods reached the continental U.S. does not provide a basis to have them delivered at government expense. Elizabeth A. Varrelman, 65 Comp. Gen. 392 (1986).

4. 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 HHG 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.

5. Computing the 2-year period

An employee transferred effective September 9, 1963, who shipped his HHG on September 9, 1965, is entitled to reimbursement for expenses of his 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.

A transferred employee whose claim for shipment of HHG was denied by the agency because the shipment took place more than 2 years after the effective date of the transfer, may not be reimbursed. The employee reported to his new duty station before his travel authorization was signed. A later date may not be used for the computation of the 2-year period because the regulations define the effective date of transfer as the date the employee reports to his new duty station and the agency's clear intent was to transfer the employee on the earlier date. 61 Comp. Gen. 164 (1981).

6. Beginning of shipment

It is proper to consider the beginning of the transportation of HHG 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 HHG over to a common carrier on September 16, 1975. The HHG 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 HHG from the former residence to local storage may not be regarded as the beginning of shipment, the employee directed the shipment of his HHG 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.

7. Effect of storage within 2 years

a. Storage at new duty station

An employee transferred to Milwaukee effective April 28, 1974, consigned his HHG to a carrier for shipment to Milwaukee for temporary storage on April 27, 1976. The HHG 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 HHG to storage in the locality of the new duty station will not operate to satisfy the requirements of FTR para. 2-1.5a(2) 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.

b. Storage at old duty station

An employee who retired from a position in Hawaii in 1973, placed his HHG in storage in 1974 but did not ship them to California until 1976. He is not entitled to reimbursement for transportation of HHG since transportation did not begin within the 2-year time limitation. B-188534, October 13, 1977. The mere movement of HHG 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.

8. 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 HHG shipped more than 2 years from the effective date of transfer. The movement of a portion of the employee's HHG within the limitation period does not satisfy the requirement of FTR para. 2-1.5a(2) with regard to transportation of those HHG which is not begun until after the 2-year time period has expired. B-188292, July 8, 1977, and B-156472, June 1, 1965.

9. Date on bill of lading

The dates on the bill of lading and freight bill were within the 2-year limitation period but the HHG 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 HHG 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

1. Generally

Transportation costs may be paid whether the shipment originates at the employee's last official duty station or 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 HHG). FTR para. 2-8.2d.

2. To other than new duty station

An employee entitled to ship HHG to an overseas duty post may ship goods from or to any locations he wishes but the maximum expense borne by the government is limited to the cost of a single shipment by the most economical route from employee's last official station to his new official station. 60 Comp. Gen. 30 (1980).

For example, where the dependents of an employee transferred to San Francisco established their residence in San Diego, the employee may be reimbursed for transportation of HHG 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). See also, B-185514, September 2, 1976; and B-186338, December 7, 1978. Compare, B-191517, September 29, 1978.

Employee who was transferred to new official duty station did not transport his household goods from the old station until nearly 1 year after his transfer, when he accepted a private sector position in another location. Employee is entitled to transportation expenses since he remained in government service for 12 months after the effective date of his transfer, and transportation of his goods was begun within the 2-year limitation period specified by paragraph 2-1.5a(2) of the Federal Travel Regulations. Reimbursement of transportation expenses to a place other than the new duty station

is authorized by FTR para. 2-8.2d, with the cost limited to the constructive cost of shipping the employee's goods to the new station. William O. Simon, Jr., B-207263, April 14, 1983.

3. To other than place of residence

FTR para. 2-1.5g(4), implementing 5 U.S.C. § 5722, provides that return transportation upon an employee's separation from a position outside the continental U.S. may 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 HHG 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.

Incident to his disability retirement an employee's HHG were shipped to Ocala, Florida, from his last duty station in Hawaii. The employee claimed that the goods should have been shipped to Texas, his last place of a residence before being assigned to Hawaii, and that he did not authorize shipment to Florida. Since the travel orders and documents the employee signed stated that Ocala was the destination of his HHG and in view of the fact that travel orders may not be retroactively modified to change the employee's benefits once travel is performed the HHG were correctly shipped to Ocala and he may not be reimbursed the additional cost of shipping the goods from Florida to Texas. B-191143, January 3, 1979.

4. 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 HHG 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 HHG 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.

5. From point of storage

a. From temporary storage

In general, where HHG are placed in temporary storage enroute to the employee's new duty station, the cost of transporting HHG 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.

b. From nontemporary storage

An employee recruited in Vermont shipped some items of household effects to Guam and placed 3,320 pounds of HHG 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 HHG 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.

6. 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 HHG 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 HHG 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 HHG 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

1. Generally

An employee is responsible for excess transportation costs where additional shipments of personal effects from Australia exceeded the cost of a one-lot shipment from England. The limitation in the FTR has the force and effect of law and agents of the U.S. government do not have the authority of discretion to waive such provisions regardless of extenuating circumstances. Certain items of immediate necessity for the employee can be shipped by air freight; however, the total amount allowable for the shipment of all effects cannot exceed the cost of a one-lot shipment. B-197635, June 6, 1980.

An employee transferred from San Francisco to Los Angeles moved 1,340 pounds of HHG from San Francisco and moved an additional lot of goods from New York. Notwithstanding the shipment of his HHG in two 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.

2. Determining commuted rate

An employee moved 2,950 pounds of HHG 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 (for the employee) 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 amount plus the amount reimbursed for the earlier move does not exceed $232.78. B-162065, August 10, 1967.

3. Determining excess weight

When HHG 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.

4. Mode of transportation

Although his travel orders allowed air shipment of unaccompanied baggage up to 250 pounds and surface transportation of HHG up to 5,000 pounds from Seattle to Bangkok incident to a transfer of official station, an employee air shipped 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 air shipped 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 U.S.

1. Commuted-rate system

a. Statute and regulations

5 U.S.C. § 5724(c) provides that under such regulations as the President may prescribe, an employee who transfers between points inside the continental U.S. instead of being paid for the actual expenses of transporting his HHG and personal effects, shall be reimbursed on a commuted rate basis unless the head of the agency determines that payment of actual expenses is more economical. The Centralized Household Goods Traffic Management program was established to assist agencies in making the determination as to the most economical method (e.g., commuted rate or actual expense for the shipment of the employee's HHG within the context (now GBL

less than the actual costs, while at others it will be more. B-186351, May 10, 1977, and B-189577, November 2, 1977. In this connection we have held that once an administrative decision is made to reimburse the employee by the commuted-rate system, it becomes mandatory that the employee be reimbursed in that manner. B-196532, July 7, 1980. See also, B-200479, April 16, 1981; and B-204939, April 5, 1982.

f. 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).

g. 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 $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. Consider these other specific examples:

(1) Fuel surcharge—An employee transferred to a new station was entitled to reimbursement for transportation of household effects at the commuted rate. The employee may not be reimbursed a fuel surcharge and an additional transportation charge he paid, since under the commuted-rate system, there is no provision for reimbursing an employee for actual costs in excess of the commuted rate. B-204939, April 5, 1982.

(2) Expedited service—Although the actual-expense method of moving household effects may be used where a predetermination is made that method is likely to be less costly than reimbursement under the commuted-rate system, a transferred employee who is

not authorized to ship his household effects under the actual-expense method must be reimbursed under the commuted-rate system. An employee's claim for a charge by a mover for expedited or special service which exceeds the commuted rate may not be allowed, since there is no authority to pay transportation charges in excess of those provided under that system. B-201632, October 8, 1981.

(3) Costs due to carrier strike—An employee transferred from California to Florida had to ship his HHG by a local express and transfer company because there was a Teamsters 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).

(4) Insurance costs—A claim by a civilian employee of the Navy for reimbursement of an insurance charge incurred incident to the movement of his HHG from China Lake, California, to Honolulu, Hawaii, is denied because the declaration of excess valuation and resulting insurance charge was a voluntary act on the part of the employee and not required by or authorized to be paid by the government. See FTR para. 2-8.4e(3). B-195953, June 5, 1980.

h. 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).

A transferred employee was authorized shipment and storage of his household goods on a commuted-rate basis, and he claims reimbursement for the difference between the higher actual published tariff costs on the storage portion and the lower commuted rate published in GSA Bulletin FPMR A-2. The claim is denied since an administrative determination has been made to use the commuted-

rate basis, and payment can only be authorized on that basis. Michael A. Weedman, B-226666, November 23, 1987.

i. Effective date of rate changes

Upon a PCS, an employee was authorized the shipment of his HHG and filed a claim based on the commuted rate. A change in the commuted rate had occurred before the shipment, but had not been communicated to the employee or to the responsible officials at his old duty station who quoted a higher commuted rate previously in effect. No basis exists for the allowance of the higher commuted rate for the shipment of the HHG after the effective date of the lower rate. B-195808, April 7, 1980.

j. Determining distance

The distance to be used in determining the employee's reimbursement under the commuted-rate system is determined in accordance with the mileage guides filed with the ICC. 48 Comp. Gen. 276 (1968), and B-166069, March 13, 1969. However, where an employee was transferred from Avery, Idaho, to Silverton, Idaho, which are 38 miles apart by a direct route that is not open year-round and that is unsafe because of steep slopes, narrowness and an unsafe bridge, he is entitled to reimbursement for transportation of his HHG based on the 106-mile distance determined in accordance with ICC mileage regulations. B-192142, March 21, 1979.

(1) Greater than shown in mileage guide—An employee who rented a U-Haul truck to transport his HHG 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 HHG mileage guides filed with the ICC. B-185577, April 28, 1976.

(2) Less than shown in mileage guides—Notwithstanding that the commercial carrier's bill showed a distance of 227 miles, the employee is entitled to the commuted rate applicable for the shipment for the 252-mile distance between Huntington, New York, and Wheaton, Maryland, shown by the Household Goods Carrier's Bureau Mileage Guide. B-166619, May 7, 1969.

k. Determining weight

In general, see Part E of this Chapter.

(1) Reserved-space charges—In order to minimize the stay of his pregnant wife and four small children in a hotel, an employee reserved space for the shipment of 4,900 pounds of his HHG 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.

l. Determining commuted rate

(1) Rate in effect at date of shipment—Where HHG were moved to storage on April 24, 1970, and were not moved to the employee's new residence until June, the 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 HHG 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.

(2) Area rates and surcharge allowances—An employee who moved his HHG from Allegheny County, Pennsylvania, to Montgomery County, Maryland, in his POV 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 HHG. 50 Comp. Gen. 827 (1971).

There is no entitlement to the additional allowance to the commuted rate for shipments of HHG originating in or terminating in

certain metropolitan areas prescribed in GSA Bulletin FPMR A-2, Attachment A of the Supplement, where the employee moves his HHG himself. The additional allowance applies only when the shipment moves by common carrier. 57 Comp. Gen. 700 (1978).

m. Determining method of reimbursement

Employee of Department of Energy made his own arrangements and shipped his household goods on October 1, 1981, under travel orders which stated that the "method of reimbursing household goods costs to be determined." Agency obtained a cost comparison from GSA after the fact in December 1981, and reimbursed employee for his actual expenses rather than the higher commuted rate. Under GSA regulation effective December 30, 1980, agency's action was proper since its determination was consistent with the purpose of the new regulations; to limit reimbursement to cost that would have been incurred by the government if the shipment had been made in the one lot from one origin to one destination by the available low-cost carrier on a GBL. Decisions of this Office allowing commuted rate prior to effective date of GSA regulation will no longer be followed. John S. Phillips, 62 Comp. Gen. 375 (1983).

Employee who was authorized shipment of household goods incident to a permanent change of station is limited to the actual expenses of that shipment in this case. Since transportation by government bill of lading would have been less costly than reimbursement under the commuted-rate system, 41 C.F.R. § 101-40.206 requires that reimbursement be limited to the low-cost government mover. However, where agency failed to comply with requirement to make cost determination before shipment of household goods, employee may be reimbursed actual expenses not to exceed the amount that would be allowable under the commuted-rate system. Donald F. Daly, B-209873, July 6, 1983.

n. Erroneous shipment by GBL

Where there had been no determination to authorize actual expenses for the transportation of his HHG and a GBL 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.

2. Actual-expense method (now GBL method)

a. Generally

Under the actual-expense method, the property is shipped on a GBL, 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.

b. Liability for excess costs

Where the agency authorized shipment on an actual-expense basis and shipped HHG weighing 2,820 pounds more than the 11,000-pound limit by a GBL, 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 shipping the 13,820 pounds did not exceed the commuted rate payable for shipping 11,000 pounds. B-169407, September 15, 1970.

c. Ancillary charges

Employee whose household goods were shipped incident to transfer within the continental United States under the actual-expense method must repay government for charge by carrier for snow removal. It is the employee's responsibility to provide the carrier access to his household goods and thus to see that his driveway is passable. Albert L. Kemp, Jr., B-209250, April 12, 1983.

d. Cost-reimbursement limitation

(1) 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 GBL. 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 HHG, the employee may be reimbursed at the commuted rate for the shipment of 11,000 pounds for a distance of 187 miles. B-181156, November 19, 1979; and B-196532, July 7, 1980.

Although an employee's travel orders authorized actual-expense shipment by a GBL, the employee is not entitled to actual expenses in excess of the commuted rate where he makes his own arrangements for transportation of his HHG. The determination to ship by a GBL is required to be made on basis of potential savings to the government over the cost of commuted-rate reimbursement. Since cost savings can only be realized where goods are in fact shipped by a GBL, the employee who made his own shipping arrangements by commercial bill of lading is entitled to reimbursement under the commuted-rate system, even though the reimbursement is less than his actual cost. B-201615, September 1, 1981.

(2) Collateral movement to storage—A transferred employee who moved his own household goods was reimbursed for actual expenses since there was insufficient documentation to pay him under the commuted-rate method. He may be reimbursed the additional expense he incurred in hiring a moving company to move certain items of furniture into a loft area of his house. That expense may be reimbursed as part of the actual cost of transporting his household goods. See 48 Comp. Gen. 115 (1968). Robert D. Maxwell, B-207500, October 20, 1982.

(3) Partial shipment under GBL—Where an employee who is authorized actual expenses ships only part of the authorized weight by a GBL and transports the remainder of his HHG by U-Haul trailer, the employee cannot be paid or reimbursed more than the cost to ship the total weight in one lot by a GBL. B-187904, November 29, 1977, B-187736, May 31, 1977; and B-173557, August 30, 1971.

(4) Rental truck—The transportation of an employee's household goods was authorized by a method to be determined by the employing agency, either at the commuted rate or by a government bill of lading. Before the agency determined the method, the employee transported the household goods in a rented truck, and is therefore limited to reimbursement of his actual out-of-pocket costs attributable to the transportation of the household goods.

Reimbursement of the out-of-pocket costs an employee incurred in transporting his household goods prior to the agency's determination of the method to be used may include a one-way trip rental of a truck. The reimbursement may not include any charge at a daily rate for a stopover enroute, a gasoline charge, unless it is shown that it was not included in the one-way trip rental, rental of a tow

bar for towing the employee's privately-owned automobile, nor insurance for the household goods because it was not necessarily a cost attributable to the transportation.

Mileage is allowable only for use of a privately owned vehicle in traveling to a new duty station. Consequently mileage is not payable for towing an automobile by a rental truck used to haul household goods. Mark A. Smith, B-228813, September 14, 1988.

(5) Use of privately owned vehicle—The Army may not reimburse an employee under the commuted-rate system for the costs of storage and transportation of household goods by privately owned vehicle from the continental United States to Alaska incident to a permanent change of station. The employee's travel order erroneously authorized storage and transportation under the commuted-rate system; the commuted-rate system is applicable only to transfers where both old and new stations are within the conterminous 48 states and the District of Columbia. However, the employee may be reimbursed his actual moving expenses (such as gasoline, oil, truck rental and tolls) and temporary storage costs not to exceed what the constructive cost would have been to the government under the government bill of lading method. Dale Conn, B-229259, July 25, 1988.

Employee of the Internal Revenue Service chose to move his own household goods by private conveyance after agency advised employee that cost comparison between commuted-rate and actual-expense methods of transporting household goods showed that actual-expense method using a government bill of lading (GBL) would be the most economical and, therefore, reimbursement would be limited to the GBL amount. Since the employee chose to use a method other than the authorized method, he can only be reimbursed for the costs he actually incurred in moving his household goods. He may not be reimbursed the GBL amount authorized unless his actual costs are equal to or exceed the GBL amount authorized under the actual-expense method. Timothy Shaffer, B-223607, December 24, 1986.

(6) Packing services—Where an employee, whose HHG were shipped under a GBL, purchased packing materials and packed 41 cartons of HHG, 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. See also B-196774, August 19, 1980; and B-199780, February 17, 1981.

A transferred federal employee performed most of the unpacking of his household goods when the carrier delivered them to his new duty station, under a government bill of lading, because the carrier's unpacking services were being performed unsatisfactorily to him. He contends that his liability for excess weight charges should be reduced in an amount equal to the value of the unpacking services that he performed. The provision in the Federal Travel Regulations requiring application of a specific formula to compute excess weight charges cannot be waived regardless of extenuating circumstances. Accordingly, the employee's liability cannot be reduced as a credit for his unpacking services. William J. Caspary, B-223600, August 18, 1986.

J. Transfers to and From Outside the U.S.

a. Generally

Transportation of HHG to, from, and between points outside the conterminous U.S. is on an actual-expense basis. When commercial shipments cannot be made on a GBL or purchase order the employee may be reimbursed for transportation expenses actually and necessarily incurred. The considerations and procedures applicable to transportation of HHG outside the conterminous U.S. are set forth at FTR para. 2-8.4.

2. Actual-expense method (now GBL method)

An employee who transports 1,800 pounds of HHG by POV 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 U.S. For this purpose "continental United States" was defined as the former 48 states plus the District of Columbia and, hence, excludes Alaska. Transportation of goods outside the continental U.S. is allowed at government expense on the basis of actual costs. 46 Comp. Gen. 439 (1966). 5 U.S.C. § 5721 currently defines "continental United States" as the several states and the District of Columbia, but not including Alaska or Hawaii.

3. Points of shipment within the continental U.S.

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 HHG between Ohio and Washington on a commuted-rate basis, the employee may not be reimbursed for moving his HHG under the commuted-rate system. When a transfer is to a point outside the continental U.S. all shipments of HHG are to be on an actual-expense basis even though some goods are shipped between points within the continental U.S. The employee may be reimbursed for shipment of his HHG 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 a GBL. B-185514, September 2, 1976, and B-154224, July 10, 1964.

4. Mode of shipment

a. 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 effects involved, it was advantageous to ship them 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.

b. 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 HHG by commercial bill of lading rather than by a GBL. 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 had 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 a GBL 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 HHG are reimbursable. B-183053, March 12, 1975.

5. Advance shipment of HHG

Under 5 U.S.C. § 5729(a) expenses of transporting an employee's family and shipping his HHG 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 HHG 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 HHG incident to renewal agreement travel may return his HHG to the U.S. 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. See also, B-202401, November 24, 1981.

An employee of the Army serving in Korea returned 5,189 pounds of his HHG to his place of actual residence in New York prior to his transfer from Korea. Upon a subsequent PCS he shipped 350 pounds of unaccompanied baggage from Korea to the new duty station in Virginia and requested reimbursement for shipment of 10,860 pounds from New York to the new duty station. His prior shipment of HHG from Korea to his place of actual residence is authorized under 5 U.S.C. § 5729(a) and the FTR but was in lieu of, not in addition to, his later entitlement upon his transfer to Virginia. The shipment of unaccompanied baggage from Korea and HHG from New York to his new duty station on a subsequent change of station is authorized by 5 U.S.C. § 5724 and the FTR but may not exceed the cost of direct shipment from Korea to the new duty station less the amount previously paid for the prior shipment from Korea to the actual residence in New York state under 5 U.S.C. § 5729. 60 Comp. Gen. 517 (1981).

6. Excess weight charges

a. Uniform container weights

An employee of the Army is liable for the excess costs incurred in the transportation of his HHG under a GBL where the total weight shipped exceeded the statutory maximum of 11,000 pounds, regardless of the existence of extenuating circumstances. However, in view of the uniform tare weights of the containers holding the HHG, consideration should be given to applying the 85 percent rule contained in FTR para. 2-8.2b(3). B-200795, May 26, 1981. As to the formula for computing excess weight charges, see B-202502, June 14, 1982.

7. Reimbursable expenses

a. Insurance

The claim of an employee for reimbursement of an excess insurance charge incurred incident to the movement of HHG from Zaire to Nevada, is denied since the employee's purchase of insurance was in addition to the actual expense of the 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.

b. Packing by family members

Upon a transfer within Alaska, an employee hired a woman at a cost of $124 to pack his HHG at his old station and paid his two daughters $360 to pack and unpack HHG 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 HHG 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 therefore is considered gratuitous. B-183951, February 9, 1976.

Employee had an acquaintance fly from the new duty station to the old duty station and drive the employee's rental vehicle to his new duty station. The employee requested reimbursement for the acquaintance's meals and airfare. Such reimbursement may not be made. There are no provisions in the regulations which allow reimbursement for moving assistance of this kind. Michael L. Smiley, B-226189, December 9, 1988.

c. Trailer hitch

Incident to a transfer between Montreal, Canada, and Virginia, an employee transported his HHG by U-Haul trailer. Because of the particular 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.

d. 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 U.S. purchased replacement furnishings at the duty station. His claim for the costs of the new furnishings was disallowed. There is no legal authority for the payment of this type of expense. B-179635, March 20, 1974.

8. Use of U.S. flag vessels

Section 901 of the Merchant Marine Act of 1936, ch. 858, June 29, 1936, 49 Stat. 2015; codified at 46 U.S.C. § 1241(a), 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, GAO. 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 HHG between local residences as an administrative cost of operating the installation. B-163088, February 28, 1968, and B-165713, January 27, 1969.

1. Between government quarters

Drayage expenses for moving an employee's HHG 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.

2. Between overseas commercial quarters

Overseas, where there are no government quarters and employees obtain rental housing in 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 HHG are not payable. 52 Comp. Gen. 293 (1972).

3. 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 the nature of their work, were required to occupy government quarters on Academy grounds, the cost of moving their HHG may be paid as an administrative expense of the Academy, since the employees' occupancy of government quarters was solely for the convenience of the government. B-165713, January 27, 1969; B-172276, July 13, 1971; and B-163088, February 28, 1968.

Storage of Household Goods

Subchapter I—Temporary Storage

A. Authorities

1. Statutory authorities

Under 5 U.S.C. § 5724(a)(2) a transferred employee is entitled to the expense of temporarily storing his HHG 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 U.S. may be reimbursed expenses of transporting his household goods to the extent authorized under 5 U.S.C. § 5724 and, hence, for temporary storage. The current statutory weight limitation is 18,000 pounds.

2. 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 paras. 2-8.2c and 2-8.5. As further implemented and applicable specifically to civilian employees of the DOD, additional regulations are set forth at 2 JTR paras. C8001-2b, C8002-1e and 3b, and C8003-5. The current maximum period is 90 days with an extension permitted of an additional 90 days in certain circumstances.

B. Eligibility

Refer to CPLM Title IV, Chapters 1 and 2 for a more general discussion of the conditions of eligibility for relocation expenses, including reimbursement for temporary storage.

1. Eligible employees

a. New appointees

There is no authority to reimburse a new appointee for the temporary storage costs incurred in reporting to his first duty station in the U.S. unless the appointment is to a shortage-category position. B-178778, July 23, 1973.

b. Reemployment after RIF

Within 1 year following his separation by a RIF, an employee was reinstated to a permanent position at an isolated duty station in the continental U.S. Approximately 6 months after reporting for duty the employee's family placed their HHG in storage and joined him. The HHG 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 for 60 days temporary storage. 52 Comp. Gen. 881 (1973).

c. Incident to relocation

(1) Storage for personal reasons—An employee who places his household effects in temporary storage prior to his change of station in order to redecorate his home before sale, is not entitled to reimbursement because the storage was for purely personal reasons. B-126407, January 10, 1956.

An employee was reimbursed for 25 days temporary storage at the designated place of delivery. Although the regulations entitle a separated employee returning from overseas to reimbursement for 60 days temporary storage, the employee may not be reimbursed for the cost of 35 days of additional storage at a second location entirely removed from the designated place of delivery. The government's liability ends when HHG are delivered to the designated place of delivery and costs associated with the subsequent shipment of the HHG, including the additional 35-day storage period, are personal to the employee. B-191143, January 3, 1979.

(2) Storage in anticipation of transfer—An employee placed his HHG in temporary storage in anticipation of the transfer upon completion of a training course. He may not be reimbursed for the temporary storage expenses incurred prior to the actual notice of the transfer, in the absence of evidence clearly establishing an earlier intent by the agency to transfer the employee. B-190282, March 14, 1978.

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.

d. 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 the immediate family, HHG, 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 HHG 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 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.

e. Storage incident to TDY

A Navy employee assigned to TDY 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. An employee of the FAA who found it necessary to store his HHG in excess of 60 days due to a TDY assignment made soon after his PCS may not be reimbursed for temporary storage charges in excess of 60 days. FTR para. 2-8.2c provides for a maximum reimbursement of 60 days of temporary storage of HHG. That regulation was promulgated pursuant to the statutory authority contained in 5 U.S.C. § 5724(a)(2), and has the force and effect of law. Accordingly, the reimbursement of the costs of storage beyond the 60-day temporary period is not authorized regardless of extenuating circumstances. B-201043, June 26, 1981.

f. Nature of HHG stored

The 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 CPLM Title IV, Chapters 2 and 9 for a general discussion of the procedural requirements for reimbursement of relocation expenses, including costs of temporary storage.

D. Time Limitations

1. Time to begin storage

In determining whether temporary storage was begun within 2 years from the effective date of a 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 HHG to a common carrier for storage on September 16, 1975, may be reimbursed for temporary storage of his HHG from September 16 until October 8, 1975, since the storage commenced within the applicable 2-year period. B-185726, August 12, 1976, and B-140266, September 29, 1967.

a. Relation to shipment

An employee transferred on April 28, 1974, who consigned his HHG to a common carrier for temporary storage on April 27, 1976, may not be reimbursed for the shipment of his HHG to his new residence on January 4, 1977, since transportation of HHG to temporary storage within the 2-year period without the designation of the final destination does not satisfy the requirement that shipment begin within 2 years. However, since the HHG 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.

2. Period of storage

a. Sixty-day maximum (currently 90 days)

Incident to travel from Turkey to Buffalo, New York, for separation for a disability retirement, an employee had his HHG 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 HHG removed from storage until February

1973. Notwithstanding that medical reasons precluded the employee's earlier acceptance of delivery, he may not be reimbursed his expenses for the temporary storage for more than 60 days. The 60-day limitation on 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 HHG were in storage for a total of 5 months. B-115878, August 17, 1953.

b. 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 U.S. for his 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 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 the authority to pay for nontemporary storage.

c. Computing the 60 days

(1) Actual days in storage—An employee's HHG were placed in storage for 42 days when they were shipped to his new duty station and placed in storage for an additional 10-day period. 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 the 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 HHG 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.

d. 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).

e. Sixty days for each relocation action

(1) Successive transfers—A transferred employee placed his household effects in storage at his old station in anticipation of the shipment to his new permanent station, but did not ship them because of the lack of housing and the anticipation of a further transfer. Two months later he was transferred back to his old station. The 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.

f. Second transfer canceled

An employee reimbursed 60 days temporary storage expenses incident to his 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 canceled. B-189457, August 23, 1977.

g. Excess period of temporary storage

An employee, who was transferred and immediately thereafter sent for long-term training at a location distant from his new permanent duty station, was authorized temporary storage of his household goods not to exceed 180 days. He alleges that an agency official misinformed him that the government would pay for storage of the household goods the entire time he was away from training. The employee's request that we waive the time limitation so as to permit reimbursement for his costs for the additional 6-month period

based on extenuating circumstances is denied. Regardless of the circumstances, the period for which reimbursement of storage cost may be made is limited to the maximum period authorized in the regulations, and our Office is without authority to disregard those provisions or waive the time limitation imposed therein. David C. Funk, B-227488, December 29, 1987.

E. Weight Limitations (Current Limit Is 18,000 Pounds)

The employee must bear the excess cost of temporary storage of his HHG above the statutory weight limitation of 11,000 pounds, even though the government was the shipper under a GBL and the storage was required because the government's carrier failed to perform. The weight limitation is an express statutory restriction. Regardless of any extenuating circumstances, the weight limitation may not be exceeded. B-201251, August 12, 1981; B-193397, February 22, 1980.

1. Determining weight

Temporary storage expenses may be allowed for actual payments for the storage of HHG based on a constructive weight of 9,500 pounds of HHG, 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.

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 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).

1. Storage in truck or van

An employee who stored his HHG 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 HHG 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 HHG. 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 HHG. 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.

2. Storage at home of relative

An employee transferred from Virginia to Massachusetts placed 11,000 pounds of HHG 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.

An employee of the VA was transferred from New Hampshire to the Philippines. He was authorized to store his goods and he stored them in a house owned by his parents. The record discloses no contract between VA and his parents for the storage. Under 6 FAM § 171 which is applicable to VA employees assigned to Philippines offices, the VA assumes no obligation nor undertakes any services with respect to any effects not in storage under a contract between the VA and a storage firm. B-201344, September 29, 1981.

3. Storage in former residence

An employee left his HHG 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 placement or retention of an employee's goods at his residence may not serve as the basis for reimbursement under the 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.

4. Storage in residence at new station

a. Storage in temporary quarters

An employee may not be reimbursed the costs of temporary storage for keeping his HHG 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.

b. 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 the 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

1. Reimbursable expenses

a. Drayage

Drayage or cartage is defined, generally, as the movement of items within a recognized metropolitan area in which both the point of pick-up 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 HHG, as distinguished from drayage charges in connection with their transportation, are allowable as 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 the transportation of HHG to an employee's residence in Staten Island, New York may be reimbursed as a drayage charge incidental to the temporary storage of his HHG. 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.

b. Wrapping for storage

Where household effects were shipped by a van and placed in temporary storage at the destination, the charges incurred for wrapping and preparing the effects for storage may be considered necessary expenses incidental to storage. 28 Comp. Gen. 84 (1948).

c. Warehouse handling

Warehouse handling charges are reimbursable incident to temporary storage. B-154289, June 18, 1974, and B-150153, February 21, 1963.

d. 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).

2. Amount reimbursable

When the transportation of HHG is accomplished under the actual-expense method, the government will normally arrange for necessary temporary storage and pay the cost thereof directly. When the transportation of the HHG is under the commuted-rate system, the 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.

a. Actual-expense method

An employee may be reimbursed temporary storage, handling, and drayage expenses incurred when his HHG were shipped under the actual-expense method and the storage expenses were caused by

the agency's improper preparation of the GBL. 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 HHG would be moved under a government contract.

b. Commuted-rate system

An employee placed his HHG 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 the storage and shipment of his HHG 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.

Commuted-rate storage reimbursement includes transportation from storage to the 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 the 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 the transportation charges for the movement of his HHG from storage to the new duty station, even though the HHG were stored at other than his new

duty station, since the commuted rate for storage includes a 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).

c. Applicable commuted rate

An employee transferred from Austin to Dallas, Texas, placed her HHG in storage at Austin, and directed their shipment to Dallas. Upon delivery of her HHG to Dallas, the employee was unable to move into her leased quarters and placed her HHG 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.

3. Documentation requirements

The requirements 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 HHG 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).

An employee was authorized the shipment and temporary storage of his HHG under the commuted-rate system incident to a PCS. He may be reimbursed under the commuted-rate system for the shipment of his HHG based upon the carrier's bill of lading. However, he may not be reimbursed for the storage, because the receipt presented does not state the dates of the storage or the weight of the goods stored. B-200841, November 19, 1981.

A transferred employee's claim for reimbursement under the commuted-rate system for the costs of temporary storage of his HHG may not be paid, since he cannot present a bill for the storage costs. B-191539, July 5, 1978.

Rental expense for self-storage facility for temporary storage of household goods and personal effects may not be reimbursed in the absence of proof of weight of the items stored. Patsy S. Ricard, 67 Comp. Gen. 285 (1988).

Subchapter II—Non-temporary Storage

A. Authorities

1. Statutory authority

Nontemporary storage of HHG for employees assigned to installations within the continental U.S. 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 PDY at an isolated location. Under 5 U.S.C. § 5726(b) an employee, including a new appointee or student trainee, assigned to a PDY station outside the continental U.S. 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 HHG or if the agency head authorizes nontemporary storage as in the public interest for reasons of economy.

2. Regulations

The regulations governing nontemporary storage are contained at FTR Part 2-9 and, as further implemented and specifically applicable to civilian employees of the DOD, are found at 2 JTR Chapter 8.

B. Eligibility

Refer to CPLM Title IV, Chapters 1 and 2, for a more general discussion of the conditions of eligibility for various relocation expenses, including nontemporary storage of HHG.

1. Assignment within the U.S.

a. 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 HHG. He placed 2,410 pounds of HHG in storage and, having been reimbursed his 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 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.

b. New appointees

A new appointee assigned to duty at the Job Corps Conservation Center in Alder Springs, California, claimed reimbursement for nontemporary storage of his HHG 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 his 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.

c. Reemployment after RIF

An employee separated by RIF 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 HHG were placed in nontemporary storage when his family joined him in Langdon. An employee separated by a RIF 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 HHG incident to assignments outside the continental U.S., it does not authorize payment of nontemporary storage expenses under section 5726(c), applicable specifically to employees assigned to isolated locations in the continental U.S. Therefore, there is no basis to reimburse the employee's costs to nontemporary storage. 52 Comp. Gen. 881 (1973).

d. Non-isolated locations

An employee transferred to Washington, D.C., incorrectly understood that his entitlement to transportation of HHG was limited to $1,500. He sold half of his HHG and placed 8,000 pounds in storage to reduce the volume of HHG transported to his new duty station. Since the employee's transfer was within the continental U.S. 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.

e. Assignments for training

Upon assignment to training under 5 U.S.C. §§ 4101-4108, an employee had 7,500 pounds of HHG 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 HHG is to be at the expense of the employee. Accordingly, the employee's storage expenses may not be reimbursed. B-169893, July 29, 1970. See also 60 Comp. Gen. 478 (1981).

Where an employee is sent on a 2-year training assignment overseas under 5 U.S.C. § 4109 and is authorized to have his immediate family accompany him, his entitlement to travel and transportation allowances at government expense is limited to those allowances specifically prescribed in that section. Since reimbursement of the nontemporary storage allowance is not prescribed by that section, the employee may not be reimbursed for nontemporary storage of his HHG incident to the training assignment. 58 Comp. Gen. 253 (1979).

Agencies may not authorize reimbursement to an employee sent overseas on a 2-year training assignment pursuant to 5 U.S.C. § 4109 for nontemporary storage of HHG and the expenses of shipping his POV, since the legislative history of 5 U.S.C. § 4109 indicates the Congressional intent not to include such authority. See 5 U.S.C. §§ 3371-3376, codifying the Intergovernmental Personnel Act. Payment of such items requires legislation. B-193197, January 10, 1980, affirming 58 Comp. Gen. 253 (1979).

2. Overseas assignments

Employees occupying commercial quarters in Europe who were transferred elsewhere in Europe and required to occupy furnished quarters may have their HHG shipped to the U.S. and stored, since neither commercial nor government storage facilities were available in Europe. B-137605, April 4, 1967.

An employee's transfer to the U.S. from Japan was delayed. During the period of the delay, the employee was required to vacate his unfurnished government quarters and move to furnished government quarters. Under the circumstances, the employee may be reimbursed his expenses for 3 months of nontemporary storage of

his HHG incurred for reasons beyond his control. B-174459, January 20, 1972.

C. Procedural Requirements

Refer to CPLM Title IV, Chapter 2 for a more general discussion of the procedural requirements for the reimbursement of relocation expenses, including nontemporary storage of HHG.

1. Public interest determination

An employee who was not permitted to transport her HHG to her first overseas assignment in the Azores in 1957, placed them in storage in Colorado. Upon transfer to Turkey in 1961, she occupied unfurnished quarters and acquired some HHG before being transferred in 1962 to Germany, where she was assigned to furnished government quarters. The HHG she had acquired while in Turkey were placed in commercial storage in Germany. The agency may prospectively authorize nontemporary storage of HHG 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 HHG to, or use them at, his PDY station outside the U.S. The public interest condition is not stated in the conjunctive, but rather is stated in the disjunctive. B-150851, July 13, 1964.

2. Authorization

Upon transfer to Italy in 1957, an employee was authorized the transportation of his HHG not to exceed 8,750 pounds. On July 12, 1963, he was issued orders authorizing nontemporary storage of his HHG. 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 HHG, including goods in storage at personal expense at the time the storage at government expense is authorized. Since the agency did not authorize the nontemporary storage for any period prior to July 12, 1963, the 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.

a. Approval after the fact

In 1957, when initially assigned overseas, an employee placed her HHG 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 Overseas Differentials and Allowances Act, Pub. L. No. 86-707, § 301(c), September 6, 1960, 74 Stat. 792, 796. The regulations implementing that statute state—now in FTR para. 2-9.2b—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 HHG in storage at personal 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 the costs of the nontemporary storage not otherwise barred by the statute of limitations. B-159261, October 17, 1971, and B-175505, June 19, 1975.

b. Time limitation

An employee of the Drug Enforcement Administration was transferred overseas for the period of August 1971 to November 1975. The government paid for the non-temporary storage of his HHG from August 1971 to July 1979, 3-1/2 years more than authorized under the FTR. Regardless of an alleged request by the employee in December 1973, to the storage company to dispose of his goods, he is liable for the overpayments. The employee failed to notify the government of his request and to confirm his request with the storage company. B-201823, October 9, 1981.

c. Liability for indebtedness

In B-201823, October 9, 1981, we held that upon a determination of indebtedness under 5 U.S.C. § 5514, a federal employee's debt arising from an erroneous payment made by his agency on his behalf for the storage of his HHG may be collected from his pay. This procedure is not subject to the 6-year statute of limitations in 28 U.S.C. § 2415(d).

d. 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 HHG shipped to and stored in the U.S., since there were no commercial or government facilities in Europe for nontemporary storage. Their HHG may be transported to and stored in the U.S. at government expense and later transported back overseas, if so warranted, without regard to the execution of a new transportation agreement. B-137605, April 4, 1967.

D. Weight Limitation

The weight of the HHG stored and the weight of the HHG 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 the transfer is effected and must be applied until the employee has completed his agreed-to period of overseas service. Thus, an employee who placed HHG 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 HHG 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

1. Transportation of HHG

An employee assigned to duty in London since 1959 placed his HHG 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 costs incurred. The employee's HHG 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 cost covering the weight of the effects shipped incident to the same overseas assignment. B-152432, October 31, 1963.

2. Temporary storage of HHG

An employee authorized 60 days temporary storage upon transfer to Hawaii turned her HHG 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 HHG shipped to Hawaii, the storage expenses she incurred may be regarded as coming within the regulatory definition of "nontemporary storage"—now in FTR para. 2-1.4f—and her costs may be reimbursed, since the regulations now in FTR para. 2-9.2c(4) provide for the conversion of HHG from temporary to nontemporary storage. B-175505, June 19, 1972.

Transportation and Storage of Privately Owned Vehicle

A. Authorities

1. Statutory authority

Under 5 U.S.C. § 5727 the POV of an employee, including a new appointee or a student trainee, may be transported at government expense to, from, and between the continental U.S. and a post of duty outside the continental U.S. when the employee is assigned to the post for other than TDY, 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.

2. Regulations

The regulations implementing 5 U.S.C. § 5727 and governing transportation and emergency storage of POVs are contained at FTR Chapter 2, 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 U.S. A POV thus transferred may be transported back to the U.S. when its use is no longer required as upon separation, transfer to the continental U.S., or transfer to a location to which the employee is not authorized to ship his POV. Refer to CPLM Title IV, Chapters 1 and 2, for a more general discussion of eligibility for relocation expenses, including transportation of POVs.

1. Assignment overseas

a. 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 U.S. B-169032, May 19, 1970.

b. Home leave

Incident to home leave in the U.S. during 1956, an employee shipped an automobile from Cannes, France, to the U.S. 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 U.S. 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 U.S. incident to home leave, even though the employee obtained another position in the U.S. while on home leave and might have been authorized return shipment of his POV incident to a transfer to PDY in the U.S. B-151955, July 31, 1963.

c. 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 U.S. The regulations implementing 5 U.S.C. § 5727 provide for the return transportation of a POV to the U.S. upon transfer from an official station outside the continental U.S. 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 U.S. at government expense of his POV upon a transfer of station. B-167735, September 9, 1969.

d. Automobile rental

The cost of automobile rental for a 21-day period for an employee awaiting authorized overseas shipment of a POV is reimbursable only on a pro rata basis for days the automobile was actually used for official business where the agency authorized such use as

advantageous to the government. Pro rata amount for insurance may also be reimbursed to the extent it is not personal to the employee and in excess of the amount required for the operation of a motor vehicle on German roads. B-199122, February 18, 1981.

e. Assignment for training

Under 5 U.S.C. § 4109(a)(2)(B), employees assigned to training may not be reimbursed expenses associated with relocation other than for transportation of immediate family, HHG and personal effects, packing, crating, temporarily storing, draying and unpacking. Thus, an employee assigned to training overseas for a 2-year period under 5 U.S.C. § 4109 is not entitled to have his POV shipped at government expense. 58 Comp. Gen. 253 (1979).

Agencies may not authorize reimbursement to an employee sent overseas on a 2-year training assignment for the nontemporary storage of HHG and the expenses of shipping a POV, since the legislative history of 5 U.S.C. § 4109 indicates Congressional intent not to include such authority. Cf. 5 U.S.C. §§ 3371-3376, the codification of the Intergovernmental Personnel Act. Payment of such items requires legislation. B-193197, January 10, 1980, affirming 58 Comp. Gen. 253. See also 59 Comp. Gen. 130 (1979) for transfers to international organizations.

3. Transfer within the U.S.

An employee authorized the use of two POVs for PCS 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 U.S. B-176224, July 27, 1972, and B-186115, February 4, 1977.

An employee who transferred in August 1977 from San Diego, California, to Denver, Colorado, drove to his new station. Although he was authorized the use of a second automobile, his wife and children traveled by air and he shipped the second car by commercial carrier. In the absence of a specific statutory authorization, as required by 5 U.S.C. § 5727(a), the employee's claim for the cost of

shipping the second POV from San Diego to Denver may not be paid. 58 Comp. Gen. 249 (1979).

a. POV shipped by Auto Train

An employee transferred from Florida to Connecticut was authorized the use of his automobile. He drove from Miami to Sanford, Florida, took Auto Train to Lorton, Virginia, and drove from there to Danbury. Since the cost of travel as performed by the employee and his dependents was less than if they had driven the entire distance, and since they could not have used Auto Train without the automobile, he was properly reimbursed the total Auto Train fare, including the $159 amount allocable to the shipment of the automobile. As distinguished from B-186115, February 4, 1977, the cost of transportation of the automobile was incident to transportation of the employee and his family. B-194267, September 6, 1979.

b. 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 U.S. or between the residence and duty station of a new appointee to a shortage-category position. B-163936, May 3, 1968.

c. 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 U.S. but was shipping it within the continental U.S. B-185638, February 28, 1977.

An employe who transferred from Michigan to Hawaii did not ship his privately owned vehicle (POV) to Hawaii. The employee now seeks reimbursement for the expenses of shipping a vehicle from Hawaii to California upon transfer back to the continental United States. The employee may not be reimbursed these shipping expenses since para. 2-10.3b of the Federal Travel Regulations

authorizes such reimbursement only if this POV was initially shipped to the employee's overseas post of duty at government expense. David W. Krieber, B-229191, August 17, 1988.

An employee retiring from an overseas post who had a new automobile shipped directly to New York City from the overseas factory without delivery to him at his last overseas post is not entitled to government reimbursement of costs he incurred to transport the automobile from New York City to his residence since he did not purchase it for use in a foreign country, as required to qualify for reimbursement under the Foreign Affairs Manual. David E. Nyman, B-226426, January 19, 1988.

d. POV not a HHG

Upon a PCS from California to Washington, D.C., an employee claimed reimbursement for the shipment of 5,800 pounds of HHG consisting of 2,750 pounds of furniture and his automobile weighing 3,050 pounds. The regulations governing transportation of HHG specifically preclude shipment of an automobile as an item of HHG. In addition, there is no authority to transport the POV of an employee at government expense between duty stations in the continental U.S. 54 Comp. Gen. 301 (1974); B-187233, January 28, 1977; and B-183974, November 14, 1975.

e. Death or illness of employee

(1) 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).

(2) While on TDY—An employee permanently stationed in Newark, New Jersey, died while assigned to TDY in Chicago, Illinois. His survivors submitted a claim for the cost of shipping his vehicle back to Newark. Executive Order 8557, 5 Fed. Reg. 3,888 (1940), issued under 5 U.S.C. § 5742, which provides authority for the payment by the government of certain expenses when an employee dies while on TDY, does not authorize the reimbursement of the cost of

returning the deceased employee's POV to his home at his official station. 52 Comp. Gen. 493 (1973).

f. Handicapped employees

Employee without use of her arms who shipped her specially equipped automobile between duty stations within the continental United States may be reimbursed for shipping costs. The agency found, pursuant to the Rehabilitation Act of 1973, that employee was a qualified handicapped employee, that reimbursement was cost beneficial, that it constituted a reasonable accommodation to the employee, and that such reimbursement did not impose undue hardship on the operation of the personnel relocation program. Authorization under the Rehabilitation Act satisfies the "except as specifically authorized" language in 5 U.S.C. § 5727(a) (1982). Norma Depoyan, 64 Comp. Gen. 30 (1984).

g. Shipment in lieu of driving

An employee authorized to use his POV incident to his 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. Similarly an employee of the Army who was transferred from Tacoma, Washington, to Indianapolis, Indiana, who traveled by air with his family, may not be reimbursed for cost of shipping automobile by commercial carrier. B-201009, April 16, 1981.

4. Foreign-made vehicles

The authority for the transportation of POVs at government expense is limited to vehicles of U.S. 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 POV 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 POV would be authorized, or (iii) for other reasons and taking into consideration the current U.S. 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 the shipment of foreign-made vehicles was included in regulations dating back to April 1961. While DOD regulations in 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.

a. 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 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 CPLM Title IV, Chapter 2, for a general discussion of the procedural requirements for the reimbursement of relocation expenses, including the expenses for the shipment of POVs.

1. 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 the 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 the 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.

a. Agency discretion

Under 5 U.S.C. § 5727(b)(2), as implemented by FTR para. 2-10.2c, the agency head has discretion to determine whether the transportation of POVs is in the government's interest. See B-186578, January 3, 1977, where we stated that 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 the appropriate regulatory standards. This claim of a transferred federal employee for reimbursement for the shipment of his POV to his new official station in Guam in 1975 was properly denied based on the determination by the Government Comptroller for Guam not to authorize transportation as in the government's interest. The fact that the Comptroller's successor authorized shipment of POVs for other employees in 1978 does not provide a basis for payment of the transportation expenses claimed. B-192445, November 6, 1978.

b. 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.

c. Proof of ownership

Although State Department employee states that he owned automobile when shipped from factory, his claim for transportation costs of new vehicle from Japan to Thailand is disallowed since he had

not paid full purchase price, nor produced any clear evidence that legal title of the automobile had passed to him at time of shipment as required by section 165.1, Volume 6, Foreign Affairs Manual. Richard A. Virden, B-214412, August 23, 1984.

d. Retroactive determination of entitlement

An employee seeks reimbursement for shipment of an automobile to his new duty station in Hawaii. Shipment at government expense was not authorized at time of transfer and the employee shipped his automobile at personal expense. An appropriate official at the new duty station authorized shipment of the automobile, and his travel authorization was retroactively amended. However, this amendment to the travel orders was not based upon a new determination of necessity but rather was an attempt to change a determination previously made by an authorized official. Since the general rule is that legal rights and liabilities are established at the time authorization is issued and the travel is performed, it may not be modified at a later date to increase or decrease travel allowances. Therefore, payment based on the amendment after the transportation took place is not authorized. Dale T. Coggeshall, B-212642, February 23, 1984.

D. Shipment of One Vehicle

1. Mechanical difficulties prevented driving car

An employee authorized to travel by automobile from Alaska to Maryland incident to a PCS is not entitled to reimbursement for the travel expenses for two automobiles, since 5 U.S.C. § 5727 provides for the transportation of only one automobile between the continental U.S. and a post of duty outside the continental U.S. 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 PCS travel does not give him authority to ship the second vehicle. B-172235, January 24, 1972.

2. Second POV used as mode of travel

An employee, transferred from Pullman, Washington, to Fairbanks, Alaska, was authorized to ship a privately owned vehicle (POV). The agency disallowed the POV claim based on the rationale that the employee and her family used another POV as their approved mode

of relocation travel, and thus exhausted their rights under 5 U.S.C. § 5727, which precludes the shipment of more than one POV. On appeal, the claim is allowed. Relocation travel and POV shipment entitlement are separate and distinct statutory rights. The use of a POV as an approved mode of travel, in lieu of other approved modes of travel, is reimbursable on a mileage basis under authority of 5 U.S.C. § 5724, and such use as a mode of personal transportation does not diminish the employee's rights under 5 U.S.C. § 5726 to ship a different POV when travel orders approve such shipment. David J. Dossett, B-217691, July 31, 1985. Debra R. Hammond, 65 Comp. Gen. 710 (1986).

3. Spouse's separate entitlement

The authority for the shipment of a POV to, from, or between overseas locations is contained in 5 U.S.C. § 5727 which provides that the employing agency must determine 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 implementing regulations contained in FTR para. 2-10.2c set forth the conditions necessary for shipment of a POV. Assuming that each employee would meet the conditions necessary for the shipment of a POV, GAO sees no objection to the shipment of two vehicles where the husband/wife employees are transferred overseas. Although the FTR purports to limit relocation expenses where two or more family members are transferred, GAO's decisions have held that under such circumstances duplicate payments for the same purpose may not be allowed, but each employee is entitled to reimbursement for separate relocation expenses incurred incident to each employee's transfer. See 57 Comp. Gen. 389 (1978); and FTR para. 2-1.5c. See also 2 JTR para. C4000-2. Thus we have held that husband and wife employees who are both transferred to overseas duty stations in the same approximate area may be authorized the shipment of two vehicles under certain conditions. Each employee must sign a transportation agreement, although the agreement of the employee who is only shipping a vehicle and claiming other relocation expenses as a dependent of spouse should be limited. B-202053, March 23, 1982.

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 U.S. 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 foreign-made vehicle on a space-available basis and the amount paid for its commercial shipment. B-183408, May 3, 1976.

4. Privately-owned aircraft

An employee was transferred from Alaska and traveled by motor home to his new post of duty in West Virginia. He claims reimbursement for the actual travel expenses he incurred when he returned to his former post of duty to fly his privately owned aircraft to his new post of duty. The claim is denied because travel was authorized for only one POV. Shipment of an additional vehicle was not authorized. His travel expense entitlement and reimbursement became fixed when the employee traveled to his new duty station in West Virginia, because travel to the official post of duty had been completed. FTR para. 2-2.2a. See B-206354, June 8, 1982; citing, 54 Comp. Gen. 301 (1974) and B-188214, May 9, 1978.

E. Return Shipment of POV

1. Prior return of POV

Where an employee is assigned to duty outside the continental U.S. 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 U.S. 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 U.S. 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.

2. Shipment to alternate destination outside United States

Civilian employees of the government who are separated from service at an overseas post may be allowed to have privately owned vehicles which were transported to those posts at government expense transported to an alternate destination not in the United States or the country in which the employee's actual residence is located. Such transportation is subject to the limitation that the

cost may not exceed the constructive cost of having the vehicle shipped to the employee's place of actual residence when transferred to his last duty station overseas and may not be authorized if separation occurred before April 10, 1984, the date of the decision Thelma I. Grimes, 62 Comp. Gen. 281.

3. 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 U.S. at government expense upon subsequent transfer under the delayed return provisions of FTR para. 2-10.3c(1). B-184216, January 2, 1976.

4. Travel to pick up POV

Employee transferred from Germany to Richmond, Virginia, claims travel expenses and mileage for three trips from the Richmond area to Norfolk in order to pick up his automobile which had been transported back to the United States at government expense. The employee may not be allowed reimbursement for more than one round trip to Norfolk. As authorized by the applicable provision in Volume 2 of the Joint Travel Regulations, he may be allowed transportation expenses for one trip to the port at Norfolk and mileage for one trip back to the Richmond area. Roger E. Dexter, B-214904, September 5, 1984.

F. Shipment by U.S. Flag Vessels

Section 901 of the Merchant Marine Act of 1936, June 29, 1936, ch. 858, 49 Stat. 1985, 2015, codified in 46 U.S.C. § 1241(a), provides that any officer or employee of the U.S. traveling on official business overseas or to or from any of the possessions of the U.S. shall travel and transport his personal effects on ships registered under the laws of the U.S. 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 the shipment of POVs of officers and employees. B-188186, April 21, 1977.

Upon return to the U.S. 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 the 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 a foreign flag vessel. B-160229, July 1, 1968, and November 7, 1966. See also, 60 Comp. Gen. 478 (1981).

An employee was not entitled to reimbursement for the cost of shipping her POV from overseas to Baltimore, Maryland, by vessel of a foreign registry. Lack of knowledge concerning the law and implementing regulations does not relieve the employee from her obligation to pay for transporting her POV on a foreign flag vessel when American-flag ships were available. B-194940, July 18, 1979.

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 and mileage costs for operating the POV not to exceed the costs 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. C11004-3 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 U.S. 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 U.S. 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 entitlement, 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 POV 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.

1. Payment of mileage expenses

a. POV driven by other than employee

In B-197255, February 10, 1981, GAO held that a DOD civilian employee authorized to transport his POV at government expense may be reimbursed on a mileage basis at the rate specified in FTR para. 1-4.2 where the employee hires another individual to drive his POV from the vehicle's port of debarkation to the employee's new PDY station. The last paragraph of B-193837, July 17, 1979, is modified accordingly.

A DOD civilian employee authorized to transport his POV at government expense on an overseas PCS did not personally pick up his POV at the port of debarkation, but hired another individual to pick it up at Bremerhaven and drive it to Frankfurt for a fee of $50. The employee may not be reimbursed the $50 fee. However, under FTR para. 2-10.4c, he may be paid mileage for the transportation of his POV from Bremerhaven to Frankfurt, since the mileage payment authorized by that regulation is not limited to the situation in which the employee himself drives his POV from the port of debarkation. B-193837, July 17, 1979.

2. Entitlement

a. DOD employees prior to September 1, 1976

Expenses incurred by a DOD employee prior to September 1, 1976, for travel to the port of debarkation to reclaim a POV are not allowable, since 2 JTR para. C7154-3 (change 128, June 1, 1976), as in effect prior to that date, expressly prohibited travel allowances for a separate trip to deliver or pick up a vehicle. The change in regulations allowing such expenses is not retroactive. B-190854, July 7, 1978.

b. Transportation of POV not authorized

Since an employee assigned to training overseas is not entitled to transportation of his POV at government expense, he may not be reimbursed for the expense of round-trip travel to the port of debarkation to pick up his automobile. 58 Comp. Gen. 253 (1979).

H. Storage

1. 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 HHG should be evacuated, emergency storage of the employee's POV may be authorized under FTR para. 2-10.5.

2. 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. Storage charges on a POV transported to an employee's new PDY station are not payable by the government, even though the employee's TDY assignment prevented his acceptance of the vehicle upon delivery. The government's liability for the storage charges is limited to emergency situations. 5 U.S.C. § 5726(a); FTR para. 2-10.5; and B-199517, December 24, 1980.

Overseas Allowances

Subchapter III of Chapter 59, Title 5, U.S.C., authorizes payment of overseas differentials and allowances, including a living quarters allowance and 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 Civilian/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 CPLM Title I — Compensation.

A. Temporary Lodging Allowance

The TLA payable under 5 U.S.C. § 5923(1), and S.R. 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, and 1 month preceding final departure from a foreign area. It covers lodging, heat, light, fuel, and water; but excludes food, tips, and beverages.

1. Eligibility

a. Incident 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 PDY station was in New Mexico, was assigned to Munich, Germany, for 30 days. Since there was no record that his PDY station was changed to Munich, his claim for 30 days TLA was denied. Ordinarily, an employee on TDY is authorized per diem in lieu of subsistence to reimburse him for the cost of meals and quarters. B-166668, June 3, 1969.

b. 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 U.S. prior to departure to a post in a foreign area are payable as part of the FTA, discussed below.

c. 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.

2. Reimbursable expenses

a. Rates

The maximum rates for TLA are prescribed in the S.R. and the effective date of an authorized change fixes the entitlement of an employee. S.R. Chapter 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.

3. Relationship to other allowances

a. Quarters allowance

The TLA and a living quarters allowance may not be paid to an employee for the same period of time. S.R. Chapter 112.

b. 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.

c. TQSE

Where the TLA and the TQSE 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 U.S., he may receive up to 30 days TLA prior to his departure from the foreign area, and then receive up to 30 days TQSE under 5 U.S.C. § 5724a(a)(3) upon arrival in the U.S. B-165392, November 1, 1968.

Where the payment of a TLA and 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 U.S., he may be eligible for both a TLA and TQSE 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. However, the TQSE allowance otherwise payable must be reduced by the amount of any payments received by the employee as a TLA. B-180286(1) and (2), July 2, 1975. The subject of TQSE is discussed at CPLM Title IV, Chapter 6.

d. 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 TDY away from his station in Paris on several occasions, and received per diem for those days. The S.R. does 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 S.R. 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 U.S. 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.

in U.S. prior to departure

1. Eligibility

a. Payable prior to overseas departure

Before 1975, the FTA did not provide for the payment of temporary lodging expenses incurred in the U.S. 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-177531, 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 U.S. prior to departure to a post of assignment in a foreign area.

b. Agency discretion/relationship to other allowances

A civilian employee of the Army who transferred overseas in August 1977, may not receive the TQSE allowance authorized by 5 U.S.C. § 5724a(a)(3) and the predeparture subsistence expense portion of the FTA. Title 5, U.S.C. § 5724a(a)(3) does not authorize payment of the TQSE allowance to employees transferred overseas. Granting of the FTA is discretionary with the agency concerned and since the Army implementing regulation did not authorize payment of the FTA to its employees until May 1978, Army employees transferred overseas prior to May 1978 may not be paid the FTA. B-196809, May 9, 1980.

C. Home Service Transfer Allowance

The home service transfer allowance, payable under 5 U.S.C. § 5924(2)(B) and the S.R. Chapter 250, is similar to the FTA except that it is payable upon assignment to the U.S., between assignments to foreign areas. To employees engaged in carrying out overseas

programs, a transfer back to the U.S. 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 U.S. for up to 30 calendar days.

1. Eligibility

a. Between overseas assignments

Commerce employee was assigned overseas as a Foreign Service Reserve Officer. At the end of that assignment he was returned to the U.S. and reinstated as a General Schedule employee 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.

A Foreign Service employee transferred from Laramie, Wyoming, to Washington, D.C., submitted a claim for temporary lodgings in the Washington, D.C., area. His claim for temporary lodgings expenses was disallowed, since the transfer was between two posts within the U.S. The HSTA payable under S.R. Chapter 250 is authorized only where there is a transfer from a foreign post to a post within the U.S. B-192231, February 5, 1979.

Foreign Service Officer with Agency for International Development authorized to travel from Naples, Italy, to Washington, D.C., in June 1982, was authorized a home service transfer allowance (HSTA) covering the period of his stay in Washington, D.C., in contemplation of further reassignment to an overseas post. Employee may be paid HSTA for the period his dependents stayed in Ocean City, Maryland, limited to the maximum allowable period and computed on the basis of the statutory per diem rate. Blaine C. Richardson, B-223644, November 28, 1986.

b. Certification

A Commerce employee was assigned as a Foreign Service Reserve Officer to the position of Director of the U.S. Trade Center in Buenos Aires, Argentina. Upon completion of that assignment he returned to the U.S and was reinstated as an employee of Commerce. It was expected that he would return overseas as Director or Deputy Director of another trade center after his U.S. assignment. Although 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, 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 the foreign area. B-180852, October 23, 1974.

c. Home service transfer agreement

If an employee who has been paid an HSTA voluntarily separates within 12 months from the date of his entrance on duty at his post in the U.S., he is required to refund the total amount of the HSTA received in accordance with S.R. para. 254.2. An employee's claim for HSTA was not payable where, 2-1/2 months after arrival in the U.S. he terminated his employment in order to accept a position with another agency. B-184045, March 31, 1976.

2. What constitutes temporary lodgings

a. House or apartment

Under S.R. 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 HHG 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 agency had determined that a house or apartment may not be designated as temporary, if it later becomes permanent. B-158317, January 25, 1966.

b. 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.

3. Reimbursable expenses

a. Meals and transportation

Upon completion of an overseas assignment, an employee was transferred to the U.S. 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.

b. Reasonableness of amounts claimed

The HSTA permits reimbursement only of reasonable expenses. S.R. para. 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 TQSE, discussed in CPLM Title IV, Chapter 6, 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).

4. Relationship to other allowances

a. TQSE

There are some situations in which employees may not be entitled to either an HSTA or TQSE under 5 U.S.C. § 5724a(a)(3). For example, by virtue of 7 U.S.C. § 1763 (now codified as 7 U.S.C. § 1766c due to a redesignation by the Agricultural Trade Act of 1978, Pub. L. No.

95-501, § 401(3), October 21, 1978, 92 Stat. 1685, 1691), Agriculture employees assigned to overseas positions are paid relocation and travel expenses under 6 FAM. Upon return to the U.S. 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 6 FAM, they are not entitled to TQSE and miscellaneous expenses under 5 U.S.C. § 5724a. B-186548, February 28, 1977, and B-188437, September 15, 1977.

D. Living Quarters Allowance

Agency heads, under statutorily authorized regulations, issued pursuant to the President's authority delegated to the Secretary of State, have discretion to grant their overseas employees a living quarters allowance which provides the cost of rent and utilities for "suitable, adequate, living quarters" when government quarters are not provided. Since the regulations do not further define "suitable, adequate, living quarters," the Secretary of Labor may determine that a privately owned sailboat used by one of his employees as living quarters qualifies for a full living quarters allowance, although the Secretary of State concludes that a sailboat is not suitable, adequate quarters for the purpose of the full allowance for one of his employees. Richard F. Guantone, B-226041, December 15, 1987.

Relocation of Foreign Service Officers and Others

A. Authority

1. Statutory authorities

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, gave the Secretary of State authority to prescribe regulations for the payment of specified relocation expenses for Foreign Service Officers. Effective February 15, 1981, the Foreign Service Act of 1980 repealed these provisions; Pub. L. No. 96-465, § 2205(1), 94 Stat. 2071, 2160 (1980); replacing them with essentially similar provisions, Pub. L. No. 96-465, § 901, 94 Stat. 2071, 2124; codified at 22 U.S.C. § 4081.

2. Regulations

The regulations implementing 22 U.S.C. § 4081 are the Foreign Service Travel Regulations published in Volume 6 of the Foreign Affairs Manual (6 FAM). The FAM covers travel and relocation expenses for all Foreign Service Officers and employees and Foreign Service Reserve Officers of State, AID, and USIA. Its provisions extend to certain employees authorized allowances and benefits similar to those authorized by the Foreign Service Act of 1980.

3. Relationship to other allowances

a. FTR allowances

Generally, employees entitled to the payment of relocation expenses under 6 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 6 FAM for his and his family's travel and transportation and temporary storage of effects. His claim for expenses under the FTR, including real estate transaction expenses, travel to seek residence quarters, miscellaneous expenses and TQSE may not be paid. B-188467, November 21, 1977.

b. Standardized Regulations (S.R.)

Employees entitled to payments under 6 FAM may be eligible for the allowances payable under 5 U.S.C. Chapter 59 and the S.R., including the TLA, the FTA, and the HSTA. These three allowances are discussed at CPLM Title IV, Chapter 12.

B. Eligibility

1. Generally

Certain individuals other than Foreign Service Officers and Foreign Service Reserve Officers of State, AID, and USIA are authorized allowances under 6 FAM.

a. 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 FAM and may not be reimbursed the expenses under the FTR, including the expenses incurred in purchasing a new residence and TQSE and B-177277, February 12, 1973, and May 3, 1973; and B-163639, March 27, 1968.

b. 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. That section has been redesignated 7 U.S.C. § 1766c by the Agricultural Trade Act of 1978, Pub. L. No. 95-501, § 401(3), 92 Stat. 1685, 1691. An employee of the Forest Service stationed in the U.S. and transferred to the International Forestry Division in Laos, may not be reimbursed the costs incurred in selling his residence in the U.S. or miscellaneous expenses, since the costs incident to his transfer to Laos were payable under former 22 U.S.C. § 1136, not 5 U.S.C. Chapter 57. B-166181, April 1, 1969, and B-163658, April 4, 1968. Compare B-194741, February 19, 1981, where we held that an Agriculture employee transferred to a duty station in Mexico City under the FSTR may not be paid TQSE and miscellaneous expenses under the

FTR when transferred back to the U.S. in connection with his interdepartmental reassignment to the Forest Service. Where an employee was transferred overseas under Department-wide regulation providing for payment of relocation expenses under the FSTR, the employee may not be reimbursed relocation expenses under the FTR incident to his return transfer.

Employee of Department of Agriculture completed an overseas assignment in Saudi Arabia. He had been assigned there under the Foreign Assistance Act of 1961, as amended, 22 U.S.C. Chapter 32 and was thus eligible under 22 U.S.C. § 2385(d) (1982) to receive the home service transfer allowance given to Foreign Service Officers. He performed permanent change of station travel from Riyadh, Saudi Arabia, to Winchester, Virginia. Due to a delay in receiving his household goods shipment which was not his fault, he seeks extension of the home service transfer allowance beyond the maximum 30 days allowed by regulation. We hold that such a regulation has the force and effect of law, and is not subject to waiver or exception by the agency on a case-to-case basis. William P. Hubbard, B-215362, October 1, 1984.

c. VA employees

VA employees who are U.S. citizens assigned to the Philippines or Europe have been covered by 6 FAM. Under 38 U.S.C. § 235, they were authorized payment of specific Foreign Service allowances and benefits, including the expenses of travel and the transportation of effects under former 22 U.S.C. § 1136 and the transportation of automobiles allowance under former 22 U.S.C. § 1138—now 22 U.S.C. § 4081. B-140337, October 4, 1961. By the Veterans Health Care Amendments of 1979, Pub. L. No. 96-22, § 503(b), 93 Stat. 47, 65, 38 U.S.C. § 235 was made applicable only to VA employees who are U.S. citizens assigned to the Philippines. Section 235 provides, however, that its authority supplements allowances provided by U.S.C. Titles 5 and 22.

An employee of the VA was transferred from New Hampshire to the Philippines. He was authorized to store goods and he stored them in a house owned by his parents. The record discloses no contract between the VA and his parents for the storage. Under 6 FAM § 171, which is applicable to VA employees assigned to the Philippines offices, the VA assumes no obligation, nor undertakes any services,

with respect to effects not in storage under a contract between the VA and a storage firm. B-201344, September 29, 1981.

d. 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. Employees assigned under 22 U.S.C. § 922 will be integrated into the Foreign Service at least by February 15, 1984 under the Foreign Service Act of 1980, Pub. L. No. 96-465, § 2101, 94 Stat. 2071, 2148; codified at 22 U.S.C. §§ 4152 and 4153. As a Foreign Service Reserve Officer appointed under this authority an employee's travel is governed by 6 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.

2. Exceptions

a. IPA 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.

3. Family members

Volume 6 of the FAM defines the term "family" and establishes the requirements to be met for the travel of relatives at government expense. Generally, the term includes the spouse of the employee, minor or dependent children of the employee, 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.

a. Spouse

(1) Divorced spouse—Under 6 FAM § 126.2 an employee may be reimbursed for advance or return travel to the U.S. of a spouse who traveled to the employee's post as his dependent, even though, because of a divorce or annulment, the spouse ceased to be his

dependent at the time he became eligible to travel. 52 Comp. Gen. 246 (1972).

(2) 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.

b. Parents

The travel expenses of an employee's dependent father may be paid. B-175019, March 6, 1972.

c. 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 U.S. citizens by naturalization may not be paid. B-177594, February 7, 1973.

d. Children

(1) Children under 21

(a) Children of divorced employee—An employee may be reimbursed for return travel to the U.S. of minor children who traveled to the employee's post as his dependents even if, because of a divorce and the 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.

(2) Children over 21—Except for the special provisions at 6 FAM § 126.3 for return travel to the U.S., children must be under 21 years of age to be eligible for travel at government expense. An employee was transferred from the U.S. 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, when an employee was transferred from Lima, Peru, to TDY 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. § 4081, 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 an appointment, a transfer, and a separation. As in the case of an employee covered by the FTR, an employee covered by 6 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.

1. Incident to appointment, transfer, or separation

a. Travel for vacation purposes

An employee stationed in Libya was on vacation in Brussels when he was notified of his 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.

b. Travel for personal reasons

Incident to his 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 half brother and half 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 U.S. 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.

c. Home leave

A Foreign Service employee requested home leave in the Panama Canal Zone. Home leave may not be authorized in the Canal Zone, since home leave may only be granted in the continental U.S. or its territories and possessions, and the Panama Canal Treaty of 1977, effective October 1, 1979, provides that the Republic of Panama has full sovereignty over Canal Zone. Since home leave for purposes of "re-Americanization" was compulsory under 22 U.S.C. § 1148, the employee should designate an appropriate location for this purpose. 59 Comp. Gen. 671 (1980). Effective February 15, 1981, the Foreign Service Act of 1980 repealed 22 U.S.C. § 1148; Pub. L. No. 96-465, § 2205(1), 94 Stat. 2071, 2160 (1980); replacing it with an essentially similar provision, Pub. L. No. 96-465, § 103, 94 Stat. 2071, 2127; codified at 22 U.S.C. § 4083.

United States Information Agency employee and family performed official transfer travel from Montevideo, Uruguay, to Washington, D.C., with home leave en route at Burlington, Iowa. Foreign Service Travel Regulations require all official travel be performed directly by "usually traveled route" which is one or more routes essentially the same in cost and traveltime. We find that segment of employee's travel performed over 16 days on a Mississippi riverboat between New Orleans and Burlington was a deviation from the usually traveled route for the employee's personal convenience and for which he must bear the extra expense. Christopher Paddack, B-212445, February 14, 1984.

State Department employee was authorized home leave pending reassignment. Consultation at State Department, Washington, D.C., was authorized prior or after leave provided expenses may not

exceed that which would have been incurred had consultation occurred after home leave. Foreign Service Travel Regulations require all official travel be performed directly by "usually traveled route" which is one or more routes essentially the same in cost and traveltime. Employee elected to perform home leave after consultations in Washington, D.C. Therefore, his claim for reimbursement for actual travel expenses is denied since he is limited to constructive cost of direct travel from Washington, D.C., to new duty station in Mexico City, Mexico.

State Department employee was transferred from Tijuana, Mexico, to Mexico City, Mexico, with home leave en route and consultations at State Department. Baggage handling claim cannot be allowed as it was incident to travel segment found not to be authorized but for the personal convenience of employee. Additionally, reimbursement for passport photographs for family members cannot be allowed where family members do not participate in relocation travel. Further, claim for long-distance telephone calls to shipping agent, American Embassy in Mexico City, and to State Department may be paid if proper agency official after reexamination determines calls were for official business. Gerald S. Mathews - Liability for Indirect Travel - Foreign Service Travel Regulation, B-220104, August 4, 1986.

2. 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. 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.

a. 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 airfares are available, the family-plan airfare should be used in the computation of constructive costs. B-171969, April 14, 1972.

b. 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).

3. Travel for separation

Upon separation from the service, 22 U.S.C. § 4081 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 U.S., 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. See also, B-200929, December 31, 1981.

A State Department employee retired from the Foreign Service on December 31, 1983, and timely performed domestic separation travel from McLean, Virginia, to his designated place of residence, Tucson, Arizona. The State Department questions whether he may be reimbursed since he did not establish a residence in Tucson, but returned to his residence in McLean. The Foreign Affairs Manual states that an employee who retires from the Foreign Service is entitled to travel to a designated place of residence in the United States, provided that the travel is performed within 6 months of separation, unless extended. Since the employee traveled before the extended deadline, he is entitled to be reimbursed his travel expenses even though he did not establish a residence in Tucson. James H. Bahti - Foreign Service Retirement - Separation Travel, B-224767, July 10, 1987.

a. 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 is 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 State's *authority to grant special relief.* 57 Comp. Gen. 387 (1978).

b. Employees on leave at separation

Where an employee is at his place of residence in the U.S. 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, 1969.

In connection with educational leave granted in the interest of the government, but on a LWOP 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.

c. Reemployment after separation

When travel incident to a separation from an overseas location is followed by employment with another agency, the cost of returning the employee to his residence in the U.S. may be borne by the losing agency, if the employee arrived in the U.S. prior to the date of his appointment with the gaining agency. An AID employee in Bangkok accepted a position with 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 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 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 State and reemployed by the Army on April 3. His family stayed in Paris until June when they traveled by way of Washington, D.C., and New York to Salt Lake City. Since the employee arrived in the U.S. prior to reappointment by the Army, the 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.

d. Erroneous separation

An employee 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.

4. Transportation costs

a. Travel by POV

(1) Use of standard highway guides—When the mode of travel authorized is a POV, mileage is determined by standard highway guides or odometer 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.

(2) Distances—Under travel orders authorizing the use of a POV, an employee traveled from Copenhagen, Denmark, to Southampton, England, and claimed reimbursement for travel of 902 miles for the overland portion of the trip based on his odometer reading. Under 6 FAM § 145.4-1, the employee is entitled to reimbursement for mileage based on standard highway mileage guides or odometer readings, except that any substantial deviation from distances shown in a standard highway mileage guide must be explained. Accordingly, the employee may only be reimbursed for travel over the 724-mile

distance shown in the Official Table of Distances, Foreign Travel, used by State to determine mileage distances, since he failed to explain the reason for the excess mileage. B-194254, June 18, 1979.

(3) Use of two vehicles—A transferred employee with six family members may receive reimbursement for their travel expenses for the use of two POVs. Although 6 FAM § 165.1 precludes shipment of more than one automobile at government expense, no such restriction is contained in 6 FAM § 145.2a(2) which authorizes the use of a POV for transportation incident to a transfer of official station. B-192231, February 5, 1979.

b. Travel by U.S. vessel

When travel is performed by a vessel, 46 U.S.C. § 1241(a) requires the use of American-flag ships in the absence of a showing of the necessity for travel aboard a foreign vessel. This requirement is discussed more generally in the Transportation Law Manual at Chapter 4.

c. Travel by U.S. air carriers

Under 49 U.S.C. § 1517, as amended, government-financed commercial air transportation is required to be performed by certificated U.S. air carriers to the extent such service is available. This requirement, further implemented at 6 FAM § 134, is discussed in CPLM Title III—Travel. Upon transfer to the U.S. 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 U.S. aboard U.S. 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 U.S. 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 U.S. air carriers, the employee is liable for the loss of U.S. air carrier revenues computed in accordance with the formula set forth at 56 Comp. Gen. 209 (1977). 57 Comp. Gen. 76 (1977).

5. Per diem

a. No per diem at permanent station

An Interior employee detailed to AID was assigned to TDY in Brazil. While in Brazil, he was converted to Foreign Service Officer status and Brazil was designated his PDY 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 PDY station. B-162063, August 15, 1967, and B-173271, September 9, 1971.

b. Per diem for consultation

(1) Consultation en route—Under 6 FAM § 126.4, per diem may be paid for an employee's family accompanying him for a period of TDY 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 the authority of 6 FAM § 113 for "emergency, unusual and additional payments." B-183000, June 3, 1975.

(2) 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.

(3) 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 TDY 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).

c. Per diem for delay

Upon arrival in New York City at 9 a.m. from overseas, it took until the afternoon for the employee to clear Customs. For this reason the employee could not arrange to rent a car and ship his baggage on that day. He spent the night in New York and continued his journey at 9 a.m. the following day. While he was not authorized a rest stop, the employee may receive per diem for the 24-hour delay, since the delay in clearing Customs is the type of circumstance contemplated by 6 FAM § 156.4, which provides for per diem while awaiting onward transportation. B-194254, June 18, 1979. See also, B-144916, June 19, 1964.

d. Actual subsistence expenses during delay

We have held that a federal employee may be entitled to per diem or actual subsistence expenses while awaiting the delivery of his automobile at the port of debarkation where the delay in availability of the automobile was beyond the employee's control. See B-181344, February 12, 1975; B-170850, June 9, 1971, and December 31, 1970. In these cases the use of a POV to continue travel from the port to which the automobile was shipped was authorized as advantageous to the government. However, where an employee was authorized to travel by commercial air carrier and his election to travel by POV was a matter of personal preference, his reimbursement for such travel is on a constructive-cost basis. That is, he is entitled to reimbursement of costs incurred up to that cost the government would have paid had he and his family used a common carrier for the travel involved. However, in computing the constructive costs, it is noted that under FSTR §§ 156.5-1 and 157.1, generally neither per diem, nor actual subsistence expenses, may be paid for leave taken while in a travel status. Since the employee's travel by POV was not authorized as advantageous to the government, he may not be paid additional subsistence expenses for the 11-day period he delayed his travel while awaiting the delivery of his automobile. B-202856, March 2, 1982.

D. Transportation and Storage of Effects

Transportation of furniture and household and personal effects at government expense was authorized incident to appointment, transfer, and separation under 22 U.S.C. § 136—now 22 U.S.C. § 4081. The maximum weight limits set forth at 6 FAM § 162.2 do not include the weight of POVs (covered under Section 165), excess and

unaccompanied baggage (covered under Sections 147.1 and 147.2), shipment of layettes (covered under Section 147.3), allowance for additional consumables (covered under Section 162.5), and allowances for additional effects due to representational responsibilities (covered under Section 162.4).

1. Items included in effects

a. 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.

b. 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.

2. Weight limitation

a. Applicable weight

(1) 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.

(2) 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 HHG, 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 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.

(3) 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 the 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.

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-154913, August 28, 1964.

(4) Statutory vs. regulatory change—An amendment to Volume 6, Foreign Affairs Manual, increasing the allowable combined weight for shipment and storage of household effects is applicable to effects in storage under competent orders on the effective date of the amendment for costs of storage accruing after the effective date of the amended regulation. The rule against retroactive amendments to travel orders would not be applicable since the new weight allowances are fixed amounts requiring no administrative discretion to authorize, and the regulations specifically provide for applying the more beneficial allowance in these circumstances. Department of State, B-216347, March 26, 1985.

3. Origin and destination of shipment

a. Shipment upon transfer

There is no authority to ship goods beyond the employee's duty station, except where authorized for nontemporary storage. B-165950, February 18, 1969.

b. 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 was entitled to the payment of the actual costs of the shipment of the 400 pounds to Florida, to the payment on a constructive-cost basis for the 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.

c. Alternate destination

A civilian employee of the Defense Intelligence Agency upon separation overseas shipped her household goods from Denmark to Scotland. The agency disallowed her expenses based on our prior decisions since she did not return to United States. We hold that she is entitled to household goods shipment incurred in her move to Scotland, not to exceed the constructive cost of household goods shipment to her place of actual residence in the United States. Thelma I. Grimes, 63 Comp. Gen. 281 (1984).

d. Time limitation

The spouse of a Foreign Service Officer who died while stationed in Washington, D.C., was entitled to transportation of her household effects to the place where the family will reside, but by regulation such transportation was required to take place within a maximum of 18 months after the officer's death. The widow may not be granted a further extension of time by action of the Committee on Exceptions to the Foreign Service Travel Regulations. Teresita G. Bowman, B-212278, September 2, 1983.

4. Transportation by U.S. vessels

Under 46 U.S.C. § 1241(a), vessels of U.S. registry are required to be used for the transportation of effects in the absence of a showing of the necessity for shipment by a foreign vessel. This requirement is discussed generally in the Transportation Law Manual at Chapter 4.

5. Storage

a. 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.

b. Time limitation

(1) 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 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.

(2) Beginning of storage—An employee stationed in Brussels was scheduled for home leave and a 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 departed from her last post. B-158272, January 25, 1966.

c. 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

The authority to transport POVs was found at 22 U.S.C. § 1138—now 22 U.S.C. § 4081—and is found at 6 FAM § 165.

1. 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-176285, 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 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.

Although State Department employee states that he owned automobile when shipped from factory, his claim for transportation costs of new vehicle from Japan to Thailand is disallowed since he had not paid full purchase price, nor produced any clear evidence that legal title of automobile had passed to him at time of shipment as required by section 165.1, Volume 6, Foreign Affairs Manual. Richard A. Virden, B-214412, August 23, 1984.

2. Replacement vehicles

An employee who shipped his POV at government expense in October 1963, incident to his 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.

3. Transportation by U.S. vessel

Under 46 U.S.C. § 1241(a), vessels of U.S. registry are required to be used for transportation of vehicles in the absence of a showing of the necessity for shipment by a 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 a 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-140238, September 16, 1959, and October 26, 1960.

4. Foreign cars

a. Excepted duty stations

State Department employee purchased a foreign-made vehicle in 1978 during tour of duty in Leningrad, Russia. At that time, Leningrad was not one of the posts of duty granted an exception to the restriction on the shipment of a foreign-made, foreign-purchased vehicle to the United States at government expense. 6 FAM § 165.9-2. In 1980, claimant transferred from Leningrad to Copenhagen, Denmark, and his vehicle was shipped at government expense. Leningrad was added to the list of posts granted exceptions in 1982, but employee's vehicle does not qualify for shipment to the United States since Leningrad was not added to list of excepted posts until after his transfer to Copenhagen and Copenhagen is not on such list. Travel authorization may not be amended to authorize shipment. Roger E. Burgess, Jr., B-213806, May 16, 1984.

b. Purchase and sale overseas

Under Foreign Affairs Manual Circular No. 378, an employee who sold his automobile abroad was allowed to retain only its acquisition cost and was required to account to the government for the profits of its sale. Where the employee had taken a month of annual leave and had driven his new car from its place of purchase in West Germany to his post of duty in India, he may not include personal travel expenses as part of the automobile's acquisition cost. Since he was reimbursed by the government for the constructive cost of commercially shipping the vehicle from West Germany to India, any refund from profits based on personal travel expenses would contravene the Circular's prohibition against United States employees profiting directly or indirectly from the sale of personal property aboard. George C. Warner, B-217564, August 13, 1985.

c. Shipment overseas

A commissioned officer in the Public Health Service, while on temporary duty in Washington, D.C., en route to his permanent duty station overseas, was converted to a Foreign Compensation rating under an agreement between the Department of Health and Human Services and the Agency for International Development. Officer seeks reimbursement for the shipment of his foreign-made automobile and for his wife's per diem in Washington, D.C. Authorization for payment of travel expenses under the Joint Travel Regulations was administrative error and order may be modified to provide for travel expenses under the Foreign Service Travel Regulations. Since Foreign Service Travel Regulations permit payment of expenses incurred for the shipment of a foreign-made automobile and for dependent's per diem incurred at temporary duty station en route to new permanent duty station, officer may be reimbursed for the total amount of his claim. Harry F. Hull, B-219835, June 2, 1986.

5. 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-180143, May 7, 1974, and May 29, 1975.

F. Home Service Transfer Allowance

The home service transfer allowance, under 5 U.S.C. § 5924(2) (B) prescribed in the Standardized Regulations (Government Civilians, Foreign Areas), provides reimbursement for subsistence and miscellaneous expenses for employee (including Foreign Service members) only when they are transferred to the United States "between assignments to posts in foreign areas." Under authority of the Foreign Service Act of 1980 the restriction "between assignments" in foreign areas was removed from the regulations. That change is valid as to Foreign Service members and others whose relocation allowances are authorized under the Foreign Service Act, but the restriction still applies to other employees not covered by the act. William J. Shampine, 63 Comp. Gen. 195 (1984).

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