

13152 PLM-J



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

In reply refer to
B-194852 (HID)

March 12, 1980

The Honorable Bob Bergland
The Secretary of Agriculture

Dear Mr. Secretary:

This is in response to your letter dated May 2, 1979, concerning whether the below paragraph, if included in [employees' agreements with the Forest Service] at the time of assignment to the Agency for International Development, would permit the employees to be reimbursed for relocation expenses incurred at the old official station once the new official station is known and travel orders are issued:

"It is the intent of the Forest Service to transfer you from your current official station upon completion of this foreign assignment. However, you cannot be assured reimbursement of relocation expenses incurred until a travel order is issued moving you from your current official station to a new official station. Certain expenses, such as househunting trips if incurred before issuance of authorization for transfer, cannot be reimbursed."

The Forest Service is specifically concerned with those cases in which employees are transferred back to the United States from overseas to new stations in different locations than their duty stations upon transfer to overseas locations. We have been required to disallow real estate expenses in these cases because of the language in 5 U.S.C. § 5724a(a)(4), which prohibits reimbursement for the sale or purchase of an employee's residence incident to a transfer between the United States and overseas areas. Dr. Thomas W. Hill, B-187289, November 2, 1976; John S. Treadwell, B-192659, February 14, 1979. Specifically, 5 U.S.C. § 5724a(a) (1976) provides for reimbursement of real estate expenses, as follows:

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"Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone* * *."

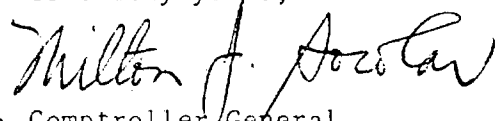
The requirement regarding the old and the new duty stations is carried over in paragraph 2-6.1a of the Federal Travel Regulations (FPMR 101-7) (May 1973).

We have consistently held that the statute and regulations require that both the old and the new duty stations be located within the areas listed. 47 Comp. Gen. 93 (1967) and 54 id. 1006 (1975). This requirement is controlling even when tours of duty at stations within the United States are separated by an overseas tour of duty, Hugh C. Miller, B-182002, May 29, 1975, and B-161815, July 6, 1972. The fact that an employee has been unable to take his family with him on the overseas tour of duty does not change the requirement, B-169696, June 2, 1970. Nor can the requirement be circumvented by a short tour of duty at the old duty station in the United States between the overseas tour and the final duty station, Reimbursement of Real Estate Expenses, B-172594, March 27, 1974.

Since the law and regulations governing reimbursement for real estate expenses relate only to residence moves where both the old official station and the new official station are within the United States, its territories and possessions, the paragraph proposed by the Forest Service cannot overcome the statutory prohibition against the reimbursement of real estate expenses when employees return from overseas posts of duty.

We recognize the inequity inherent in the present law. In order to alleviate the financial burden on Federal employees who, upon completion of overseas tours of duty, are transferred back to new duty stations in the United States, we are considering a recommendation to the Congress to amend 5 U.S.C. § 5724a.

Sincerely yours,



For the Comptroller General
of the United States