

41 CFR Parts 302-6 and 302-12

[FTR Amendment 62]

RIN 3090-AG37

**Federal Travel Regulation;
Modification of Residence Transaction
Expenses Allowance and Use of
Relocation Services Companies**AGENCY: Office of Governmentwide
Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to eliminate the fixed dollar caps on residence transaction expenses reimbursement and to modify the regulations governing the use of relocation services companies. This amendment will save the Government money by offering agencies options to more effectively use relocation services companies.

DATES: This final rule is effective March 22, 1997, and applies to an employee whose effective date of transfer (date the employee reports for duty at the new official station) is on or after March 22, 1997.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Travel and Transportation Management Policy Division (MTT), Washington, DC 20405, telephone 202-501-0299.

SUPPLEMENTARY INFORMATION: A multi-agency travel reinvention task force was organized in August 1994 under the auspices of the Joint Financial Management Improvement Program (JFMIP) to reengineer Federal travel rules and procedures. The task force developed 25 recommended travel management improvements published in a JFMIP report entitled *Improving Travel Management Governmentwide*, dated December 1995. On September 23, 1996, the President signed into law the Federal Employee Travel Reform Act of 1996 (Pub. L. 104-201), which included 8 legislative changes recommended by the JFMIP to improve travel and the delivery of relocation services.

This amendment implements section 1713 of the Act which eliminates the fixed dollar caps on residence transaction expenses reimbursement and modifies the rules governing use of relocation services companies. This amendment is written in the "plain English" style of regulation writing as a continuation of the General Services Administration's (GSA's) effort to make the FTR easier to understand and to use.

How does eliminating the fixed dollar caps affect reimbursement for residence transaction expenses?

It eliminates previous fixed dollar caps but continues to cap residence sale reimbursement at 10 percent of the sales price of the residence, and residence purchase reimbursement at 5 percent of the purchase price of a residence.

How does this amendment modify the use of relocation services companies?

It provides agencies explicit authority to pay fees to a relocation services company. It also facilitates the use of cost-reimbursable contracting by incorporating the new authority to pay for losses incurred by a relocation services company. It eliminates the existing regulatory preference for fixed fee contracts contained in FTR part 302-12, and implements two regulatory improvements recommended by the JFMIP—explicit authority for agencies to establish a cap on the value of residences entered in a homesale program and authority for agencies to separately contract for (unbundle) individual relocation services.

What is the "plain English" style of regulation writing?

The "plain English" style of regulation writing is a new, simpler to read and understand, question and answer regulatory format. Questions are in the first person, and answers are in the second person. GSA uses a "we" question when referring to an agency, and an "I" question when referring to the employee.

How does the plain English style of regulation writing affect employees?

A question and its answer combine to establish a rule. The employee and the agency must follow the language contained in both the question and its answer.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 302-6 and 302-12

Government employees, travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR chapter 302 is amended as follows:

**PART 302-6—ALLOWANCE FOR
EXPENSES INCURRED IN
CONNECTION WITH RESIDENCE
TRANSACTIONS**

1. The authority citation for part 302-6 is revised to read as follows:

Authority: 5 U.S.C. 5738 and 20 U.S.C. 905(c).

2. Section 302-6.1 is amended by revising the introductory text of paragraph (f)(2) to read as follows:

§ 302-6.1 Conditions and requirements under which allowances are payable.

* * * * *

(f) *Reimbursement of expenses.* * * *

(2) *Pro rata reimbursement.* When the title possessed by an employee and/or a member(s) of his/her immediate family is not full title to the residence, or when an employee is deemed to have a title interest under paragraph (c)(3) of this section, the employee shall be reimbursed on a pro rata basis to the extent of his/her actual title interest plus his/her deemed title interest in the residence. Additionally, an employee shall be reimbursed on a pro rata basis in the situations listed in paragraphs (f)(2) (i) and (ii) of this section.

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3. Section 302-6.2 is amended by revising paragraphs (e) and (g) to read as follows:

§ 302-6.2 Reimbursable and nonreimbursable expenses.

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(e) *Losses due to prices or market conditions at the old and new posts of duty.* Losses are not reimbursable when they are incurred by an employee:

(1) Due to failure to sell a residence at the old official station at the price asked, or at its current appraised value, or at its original cost;

(2) Due to failure to buy a dwelling at the new official station at a price comparable to the selling price of the residence at the old official station; or

(3) Any similar losses.

* * * * *

(g) *Overall limitations—(1) Sale of the residence at the old official station.* The total amount of expenses that an agency may reimburse in connection with the sale of the residence at the old official station shall not exceed 10 percent of the actual sales price of the residence.

(2) *Purchase of a residence at the new official station.* The total amount of expenses that an agency may reimburse in connection with the purchase of a residence at the new official station shall not exceed 5 percent of the actual purchase price of the residence.

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4. Part 302-12 is revised to read as follows:

PART 302-12—USE OF A RELOCATION SERVICES COMPANY

Subpart A—Agency's Use of a Relocation Services Company

Sec.

302-12.1 What are "relocation services"?

302-12.2 May we enter into a contract with a relocation services company for the company to provide relocation services?

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302-12.4 May we separately contract for each type of relocation service?

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302-12.13 Under a homesale program, may we pay an employee for losses he/she incurs on the sale of a residence?

302-12.14 Under a homesale program, may we direct the relocation services company to pay an employee more than the fair market value of his/her residence?

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302-12.105 What expenses will my agency pay if I use a relocation services company to ship household goods in excess of the maximum weight allowance?

302-12.106 What expenses will my agency pay if I use a relocation services company to sell or purchase a residence for which I and/or a member(s) of my immediate family do not have full title?

302-12.107 If my agency authorizes me to enter a homesale program, must I accept a buyout offer from the relocation services company?

302-12.108 What are the income tax consequences if I use a relocation services company?

Authority: 5 U.S.C. 5738 and 20 U.S.C. 905(c).

Subpart A—Agency's Use of a Relocation Services Company

Note to subpart A: Use of the pronouns "we" and "you" throughout this subpart refers to the agency.

§ 302-12.1 What are "relocation services"?

"Relocation services" are services provided by a private company under a contract with an agency to assist a transferred employee in relocating to the new official station. Examples include homesale programs, home marketing assistance, home finding assistance, and property management services.

§ 302-12.2 May we enter into a contract with a relocation services company for the company to provide relocation services?

Yes.

§ 302-12.3 What contracted relocation services may we provide at Government expense?

You may pay for contracted relocation services that are a substitute for reimbursable relocation allowances authorized throughout this chapter. For example, you may pay for homesale services as a substitute for residence sale expenses, or household goods management services as a substitute for transportation of household goods.

§ 302-12.4 May we separately contract for each type of relocation service?

Yes, or you may combine several types of relocation services in a single contract.

§ 302-12.5 What is the purpose of contracting for relocation services?

To improve the treatment of employees who are directed to relocate to facilitate the retention of a well-qualified workforce.

§ 302-12.6 How must we administer a relocation services contract?

You must balance the positive effects that availability of relocation services has on employee mobility and morale with any increased costs your agency may experience as a result of providing relocation services.

§ 302-12.7 What policies must we establish when offering our employees the services of a relocation services company? You must establish policies governing:

(a) The conditions under which you will authorize an employee to use a relocation services company;

(b) Which employees you will allow to use a relocation services company;

(c) What relocation services you will offer an employee; and

(d) Who will determine in each case if an employee may use a relocation services company and what services will be offered.

§ 302-12.8 What rules must we follow when contracting for relocation services?

The rules contained in the Federal Acquisition Regulations (FAR) (48 CFR) and/or other procurement regulations applicable to you.

§ 302-12.9 What are the income tax consequences that we must consider when offering relocation services?

Amounts you pay to a relocation services company on behalf of an employee may be taxable to the employee. In some cases, such as with certain homesale programs, the amounts may not be taxable. You must determine the taxability of such payments, and pay a relocation income tax (RIT) allowance in accordance with part 302-11 of this chapter on payments you determine to be taxable to the employee. You may contact the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service, 1111 Constitution Avenue, NW., Room 5501, Washington, DC 20224, for information on the income tax consequences of payments you make to a relocation services company.

§ 302-12.10 What must we consider in deciding whether to use the fixed-fee or cost-reimbursable contracting method?

You must consider the following factors in deciding which contracting method to use:

(a) *Risk of alternative methods.* Under a fixed fee contract, the relocation services company bears all risks not expressly contained in the contract. Under a cost-reimbursable contract, you must assume some or all risks and, therefore, must assume some management responsibilities under the contract as well. For example, under a fixed fee homesale program you are not directly liable for losses incurred if a residence does not sell immediately, while under a cost-reimbursable homesale program you assume some or all risks of selling the residence.

(b) *Cost of alternative methods.* Under the fixed fee method of contracting, the fee includes a cost component for risk

assumed by the relocation services company. Under the cost-reimbursable method of contracting, you are directly responsible for some or all of the costs associated with management of the contract. In deciding whether to use cost-reimbursable contracting you, therefore, must consider the cost of resources you would require (including personnel costs) to manage a cost-reimbursable relocation services contract.

(c) *Effect on the obligation of funds.* You must obligate funds for a relocation in the fiscal year in which the purchase order is awarded under the contract. Under the fixed fee contracting method, the amount of the relocation services fee is fixed and you have a basis for determining the amount of funds to obligate. Under the cost-reimbursable contracting method, you must obligate funds based on an estimate of the costs that will be incurred. When opting for cost-reimbursable contracting you, therefore, should establish a reliable method of computing fund obligation estimates.

§ 302–12.11 May we take title to an employee's residence?

No, you may not take title to an employee's residence except as specifically provided by statute. The statutes which form the basis for the provisions of this part do not provide such authority.

§ 302–12.12 Under a homesale program, may we establish a maximum home value above which we will not pay for homesale services?

Yes. If a home exceeding the maximum value is sold under your homesale program, the employee will be responsible for any additional costs. You must establish a maximum amount commensurate with your agency's experience. You may consider, among other factors, budgetary constraints, the value range of homes in areas where you have offices, and the value range of homes previously entered in your program.

§ 302–12.13 Under a homesale program, may we pay an employee for losses he/she incurs on the sale of a residence?

No. But, this does not preclude your reimbursing a relocation services company for losses incurred while the contractor holds the property.

§ 302–12.14 Under a homesale program, may we direct the relocation services company to pay an employee more than the fair market value of his/her residence?

No. Under a homesale program you may not direct the relocation services company to pay an employee more than the fair market value (as determined by the residence appraisal process) of his/her home.

§ 302–12.15 May we use a relocation services contract for services which we are contractually bound to obtain under another travel services contract?

No. For example, you may not use a relocation services contract to circumvent the travel and transportation expense payment system contract if you are a user of that contract.

Subpart B—Employee's Use of a Relocation Services Company

Note to subpart B: Use of the pronouns "I" and "you" throughout this subpart refers to the employee.

§ 302–12.100 Am I eligible to use a relocation services company?

Yes, if you are an employee who is authorized to transfer.

§ 302–12.101 Must my agency allow me to use a relocation services company?

No. Your agency determines if you may use a relocation services company.

§ 302–12.102 Under what conditions may I use a relocation services company?

You may use a relocation services company if:

- (a) You meet all conditions required for you to be eligible for an allowance contained in this chapter for which a service provided by the relocation services company would serve as a substitute, and you are authorized to use a specific relocation service provided by the company as a substitute;
- (b) You have signed a service agreement; and
- (c) You meet any specific conditions your agency has established.

§ 302–12.103 For what relocation services expenses will my agency pay?

Your agency will pay the relocation services company's fees/expenses for the services you are authorized to use. If your agency pays the relocation services company for actual expenses the company incurs on your behalf, payment to the company is limited to what you would have received under the direct reimbursement provisions of this chapter.

§ 302–12.104 If I use a contracted-for relocation service that is a substitute for reimbursable relocation allowance, will I be reimbursed for the relocation allowance as well?

No.

§ 302–12.105 What expenses will my agency pay if I use a relocation services company to ship household goods in excess of the maximum weight allowance?

Your agency will pay the portion of the fee attributable to 18,000 pounds net weight. You must pay the rest.

§ 302–12.106 What expenses will my agency pay if I use a relocation services company to sell or purchase a residence for which I and/or a member(s) of my immediate family do not have full title?

Your agency will pay the portion of the relocation services company's fee attributable to your pro rata share of the residence, as determined in accordance with § 302–6.1(f) of this chapter. You must pay any portion of the fee attributable to other than your pro rata share of the residence.

§ 302–12.107 If my agency authorizes me to enter a homesale program, must I accept a buyout offer from the relocation services company?

No. Your agency must give you the option to accept or reject an offer from the relocation services company.

§ 302–12.108 What are the income tax consequences if I use a relocation services company?

You may incur income taxes on relocation services provided by a relocation services company and paid for by your agency. Section 82 of the Internal Revenue Code states there shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one residence to another residence which is attributable to employment. You will receive a relocation income tax (RIT) allowance if your agency determines that such expenses are taxable. The Government does not assume responsibility for payment of your taxes, however, and you may wish to consult a tax professional on income tax reporting.

Dated: March 17, 1997.

Thurman M. Davis, Sr.,
Acting Administrator of General Services.
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