

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–10, 302–1, 302–5, 302–6, 302–8, 302–10, 302–11, and 302–15

RIN 3090–AG87

[FTR Amendment 84]

Federal Travel Regulation; Airline Contract City-Pair Fares, Property Management Services, and Technical Corrections

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to correct exceptions to the mandatory use requirement of a contract city-pair fare, and to implement technical corrections made by the Travel and Transportation Reform Act of 1998 to chapter 57 of title 5, United States Code. This final rule amends, for purposes of relocation allowances, the definition of “United States”, adds a definition of “Foreign Service of the United States”, allows for property management services when an employee transfers within the continental United States, and for househunting trip expenses to areas within the United States, as amended. It also replaces “United States” with “Government” where the intent is to refer to the Government of the United States. This change will avoid confusion between the phrases “the Government of the United States” and “the United States”, which is defined to mean the several States, the District of Columbia, and certain territories.

DATES: Effective date: The provisions of this final rule are effective May 28, 1999.

Applicability date: Additional contract exception included in the provisions of this final rule relating to part 301–10 (General Services Administration (GSA) airline contract city-pair fares) was effective as a matter of contract on October 1, 1998, and, therefore, the revisions to part 301–10 apply to travel performed on or after October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Harte, Travel and Transportation Management Policy Division, at 202–501–1538.

SUPPLEMENTARY INFORMATION:

A. Background

The primary purpose of this amendment is to establish policy consistent with technical corrections made by Pub. L. 105–264, Travel and

Transportation Reform Act of 1998. This amendment also adds a fifth exception to use of a GSA airline contract city-pair fare, when smoking is permitted on the contract flight, and the nonsmoking section of the aircraft is not acceptable to the traveler.

On October 19, 1998, the President signed the Travel and Transportation Reform Act of 1998 (Pub. L. 105–264) which, among other things, clarifies the definitions of “United States” and “Foreign Service of the United States”, and allows an agency to pay for—

(1) Property management services when an employee transfers within the continental United States; and

(2) Househunting trip expenses to the Commonwealths of Puerto Rico and the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

This amendment also includes miscellaneous technical corrections contained in Section 7 of the Act.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

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.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also 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 301–10, 302–1, 302–5, 302–6, 302–8, 302–10, 302–11, and 302–15

Entitlements and transfers, Government employees, Relocation allowances, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR parts 301–10, 302–1,

302–5, 302–6, 302–8, 302–10, 302–11, and 302–15 are amended to read as follows:

PART 301–10—TRANSPORTATION EXPENSES

1. The authority citation for 41 CFR part 301–10 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); 49 U.S.C. 40118.

2. Section 301–10.107 is revised to read as follows:

§ 301–10.107 When must I use a contract city-pair fare?

You must always use a contract city-pair fare (an Internet list of city-pairs is available at <http://pub.fss.gsa.gov/services/citypairs>), if you are a civilian employee of an agency (see § 301–1.1 of this chapter), unless one or more of the following conditions exist(s):

(a) Space or a scheduled contract flight is not available in time to accomplish the purpose of your travel, or use of contract service would require you to incur unnecessary overnight lodging costs which would increase the total cost of the trip; or

(b) The contractor's flight schedule is inconsistent with explicit policies of your Federal department or agency with regard to scheduling travel during normal working hours; or

(c) A non-contract carrier offers a lower fare available to the general public, the use of which will result in a lower total trip cost to the Government, to include the combined costs of transportation, lodging, meals, and related expenses.

Note to paragraph (c): This exception does not apply if the contract carrier offers a comparable fare and has seats available at that fare, or if the lower fare offered by a noncontract carrier is restricted to Government and military travelers on official business and may only be purchased with a GTR, contractor-issued charge card, or centrally billed account (*e.g.*, YDG, MDG, ODG, VDG, and similar fares); or

(d) Rail service is available and such service is cost effective and consistent with mission requirements; or

(e) Smoking is permitted on the contract flight and the nonsmoking section of the aircraft for the contract flight is not acceptable to you.

PART 302–1—APPLICABILITY, GENERAL RULES, AND ELIGIBILITY CONDITIONS

3. The authority citation for part 302–1 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

4. Section 302-1.4 is amended by revising paragraph (b) and adding paragraph (m) to read as follows:

§ 302-1.4 Definitions.

* * * * *

(b) *United States*. United States means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979).

* * * * *

(m) *Foreign Service of the United States*. Foreign Service of the United States means the Foreign Service as constituted under the Foreign Service Act of 1980.

§ 302-1.5 [Amended]

5. Section 302-1.5 is amended in the second sentence of paragraph (a), the last sentence of paragraph (b)(1)(iii), and the second sentence of paragraph (c) by removing the words "United States" each time they appear and adding the word "Government" in their place.

§ 302-1.12 [Amended]

6. Section 302-1.12 is amended in paragraphs (e)(1), (e)(5), and in the first sentence of (e)(6) by removing the words "the 50 States, the District of Columbia, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, or a United States territory or possession" and adding the words "the United States" in their place.

§ 302-1.13 [Amended]

7. Section 302-1.13 is amended in paragraph (b)(3) by removing the words "the United States, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, a United States territory or possession," and "the United States, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, or a United States territory or possession" and adding the words "the United States" in their place; and in paragraph (d)(1)(iv)(A) by removing the words "United States" and inserting the word "Government" in their place.

§ 302-1.105 [Amended]

8. Section 302-1.105 is amended in paragraph (a) by removing the words "the United States, the Commonwealth of Puerto Rico or the Commonwealth of

the Northern Mariana Islands, a United States territory or possession, or the former Canal Zone area (i.e., areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979))" and adding the words "the United States" in their place.

§ 302-1.228 [Amended]

9. Section 302-1.228 is amended in paragraph (c) by removing the words "under part 302-14" and adding the words "under part 302-15" in their place.

PART 302-5—ALLOWANCE FOR TEMPORARY QUARTERS SUBSISTENCE EXPENSES

10. The authority citation for part 302-5 is revised to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-5.4 [Amended]

11. Section 302-5.4 is amended in paragraph (a) by removing the words "the United States, its territories or possessions, the Commonwealths of Puerto Rico or the Northern Mariana Islands, or the former Canal Zone area (i.e., areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in 22 U.S.C. 3602(a)))" and adding the words "the United States" in their place.

§ 302-5.17 [Amended]

12. Section 302-5.17 is amended by removing the words "the United States, its territories or possessions, the Commonwealths of Puerto Rico or the Northern Mariana Islands, or the former Canal Zone area (i.e., areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in 22 U.S.C. 3602(a)))" and adding the words "the United States" in their place.

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

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

Authority: 5 U.S.C. 5738; and E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975, Comp., p. 586.

§ 302-6.1 [Amended]

14. Section 302-6.1 is amended in paragraph (a) by removing the words "the 50 States, the District of Columbia, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, a United States territory or possession, or the former Canal Zone area (i.e., areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979))" and adding the words "the United States" in their place, and in paragraph (g)(1)(ii) by removing the words "the United States, its territories or possessions, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the former Canal Zone area (i.e., areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979))" and adding the words "the United States" in their place.

PART 302-8—TRANSPORTATION AND TEMPORARY STORAGE OF HOUSEHOLD GOODS AND PROFESSIONAL BOOKS, PAPERS, AND EQUIPMENT

15. The authority citation for part 302-8 is revised to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-8.5 [Amended]

16. Section 302-8.5 is amended in the first sentence of paragraph (b)(2) by removing the words "within or outside the United States".

PART 302-10—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY STORAGE OF A PRIVATELY OWNED VEHICLE

17. The authority citation for part 302-10 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-10.174 [Amended]

18. Section 302-10.174 is amended by removing the words "the United States" and adding the words "the several States and the District of Columbia" in their place.

PART 302-11—RELOCATION INCOME TAX (RIT) ALLOWANCE

19. The authority citation for part 302-11 is revised to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-11.8 [Amended]

20. Section 302-11.8 is amended in the second sentence of paragraph (e)(4)(i) by removing the words "United States" and adding the words "U.S. Government" in their place.

§ 302-11.10 [Amended]

21. Section 302-11.10 is amended in paragraph (c) by removing the words "United States" wherever they appear and adding the word "Government" in their place.

§ 302-11.11 [Amended]

22. Section 302-11.11 is amended by removing the words "United States" and adding the word "Government" in their place.

23. Part 302-15 is revised to read as follows:

PART 302-15—ALLOWANCE FOR PROPERTY MANAGEMENT SERVICES**Subpart A—General Rules for the Employee**

Sec.

302-15.1 What are "property management services"?

302-15.2 What are the purposes of the allowance for property management services?

302-15.3 Am I eligible for payment for property management services under this subpart?

302-15.4 Who is not eligible for payment for property management services?

302-15.5 Is my agency required to authorize payment for property management services?

302-15.6 Under what circumstances may my agency authorize payment under this part?

302-15.7 For what property may my agency authorize payment under this part?

302-15.8 When my agency authorizes payment for me under this part, am I obligated to use such services, or may I elect instead to sell my residence at Government expense?

302-15.9 Must I repay property management expenses my agency paid under this part if I elect to sell my former residence in the United States at Government expense when I am transferred from my current foreign post of duty to an official station in the United States other than the one I left?

302-15.10 How long may my agency pay under this part?

302-15.11 If my agency authorized, and I elected to receive, payment for property management expenses, may I later elect to sell my residence at Government expense?

302-15.12 If my agency is paying for property management services under this part and my service agreement expires, what must I do to ensure that payment for property management services continues?

302-15.13 What are the income tax consequences when my agency pays for my property management services?

Subpart B—Agency Responsibilities

302-15.70 What governing policies must we establish for the allowance for property management services?

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

Subpart A—General Rules for the Employee

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

§ 302-15.1 What are "property management services"?

"Property management services" are programs provided by private companies for a fee, which help an employee to manage his/her residence at the old official station as a rental property. These services typically include, but are not limited to, obtaining a tenant, negotiating the lease, inspecting the property regularly, managing repairs and maintenance, enforcing lease terms, collecting the rent, paying the mortgage and other carrying expenses from rental proceeds and/or funds of the employee, and accounting for the transactions and providing periodic reports to the employee.

§ 302-15.2 What are the purposes of the allowance for property management services?

The purpose is to reduce overall Government relocation costs when used instead of sale of the employee's residence at Government expense. When authorized in connection with an employee's transfer to a foreign post of duty, the purpose is to relieve the employee of the costs of maintaining a home in the United States while stationed at a foreign post of duty.

§ 302-15.3 Am I eligible for payment for property management services under this subpart?

Yes, when:

(a) You transfer in the interest of the Government; and

(b) You and/or (a) member(s) of your immediate family hold title to a

residence which you are eligible to sell at Government expense under part 302-6 or 302-12 of this chapter.

§ 302-15.4 Who is not eligible for payment for property management services?

New appointees, employees assigned under the Government Employees Training Act (5 U.S.C. 4109), and employees transferring wholly outside the United States are not eligible. However, relocations wholly outside the United States do not affect previously authorized property management services as long as the employee continues to meet the requirements of § 302-15.6 and any other conditions established by the agency.

§ 302-15.5 Is my agency required to authorize payment for property management services?

No, your agency determines:

(a) When you meet the conditions set forth in § 302-15.3;

(b) When to authorize payment for these services; and

(c) What procedures you must follow when it authorizes such payment.

§ 302-15.6 Under what circumstances may my agency authorize payment under this part?

(a) For a relocation to an official station in the United States, your agency may authorize payment under this part when:

(1) You are being returned from a foreign post of duty to a different official station than the one from which you were transferred for your foreign tour of duty;

(2) Your agency has determined that property management services are more advantageous and cost effective for the Government than sale of your residence;

(3) You have signed a service agreement; and

(4) You meet any other conditions that your agency has established.

(b) For relocations to official stations outside the United States, your agency will authorize payment under this part when you meet conditions set forth in paragraphs (a)(3) and (a)(4) of this section.

§ 302-15.7 For what property may my agency authorize payment under this part?

Payment may be authorized only on your residence at the last official station in the United States from which you transferred.

§ 302-15.8 When my agency authorizes payment for me under this part, am I obligated to use such services, or may I elect instead to sell my residence at Government expense?

You are not obligated to use your authorized property management

services allowance. You have the option of choosing to sell your residence at Government expense or to use the property management services allowance.

§ 302–15.9 Must I repay property management expenses my agency paid under this part if I elect to sell my former residence in the United States at Government expense when I am transferred from my current foreign post of duty to an official station in the United States other than the one I left?

No. The authority for your agency to pay for property management services under this part when you are transferred to a foreign post of duty arises from your transfer to the foreign post of duty and is separate from, and in addition to, the authority to sell your residence at Government expense when you are transferred to an official station in the United States other than the official station from which you were transferred to the foreign post of duty.

§ 302–15.10 How long may my agency pay under this part?

Your agency may pay:

(a) For transfers within the United States, a period not to exceed 2 years from your effective date of transfer, with up to a 1-year extension, under the same conditions required in § 302–6.1(e)(2) of this chapter; or

(b) From the time you transfer to a foreign post of duty until one of the following occurs:

(1) You transfer back to an official station in the United States;

(2) You complete a service agreement at your post of duty and remain there, but do not sign a new service agreement; or

(3) You separate from Government service.

§ 302–15.11 If my agency authorized, and I elected to receive, payment for property management expenses, may I later elect to sell my residence at Government expense?

Yes, provided:

(a) Your agency allows you to change your election of payment for property management expenses to an election of sale of your residence at Government expense; and

(b) Payment for sale of your residence at Government expense is offset in accordance with your agency's policy established under § 302–15.70(d).

§ 302–15.12 If my agency is paying for property management services under this part, and my service agreement expires, what must I do to ensure that payment for property management services continues?

You must sign a new service agreement. (See § 302–1.5 of this chapter.)

§ 302–15.13 What are the income tax consequences when my agency pays for my property management services?

You will be taxed on the amount of expenses your agency pays for property management services whether it reimburses you directly or whether it pays a relocation services company to manage your residence. Your agency must pay you a relocation income tax (RIT) allowance for the additional Federal, State and local income taxes you incur on property management expenses it reimburses you or pays on your behalf. You may wish to consult with a tax advisor to determine whether you will incur any additional tax liability, unrelated to your agency's payment of your property management expenses, as a result of maintaining your residence as a rental property.

Subpart B—Agency Responsibilities

Note to subpart B: Use of the pronouns “we” and “you” throughout this subpart refers to the agency.

§ 302–15.70 What governing policies must we establish for the allowance for property management services?

You must establish policies and procedures governing:

(a) When you will authorize payment for property management services for an employee who transfers in the interest of the Government;

(b) Who will determine, for relocations to official stations in the United States, whether payment for property management services is more advantageous and cost effective than sale of an employee's residence at Government expense;

(c) If and when you will allow an employee who was offered and accepted payment for property management services to change his/her mind and elect instead to sell his/her residence at Government expense in accordance with paragraph (d) of this section; and

(d) How you will offset expenses you have paid for property management services against payable expenses for sale of the employee's residence when an eligible employee who elected payment for property management services later changes his/her mind and elects instead to sell his/her residence at Government expense.

Dated: May 7, 1999.

David. J. Barram,

Administrator of General Services.

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