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APPROVED
AUG 19 1976

88/19/76

THE WHITE HOUSE
WASHINGTON
August 17, 1976

ACTION
Last Day: August 23

Posted
8/21/76

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *J.C. Cannon*
SUBJECT: H.R. 1402 - For the Relief of John W. Hollis

Archives
8/23/76

Attached for your consideration is H.R. 1402, sponsored by Representative Ichord.

The enrolled bill authorizes and directs payment to John Hollis of \$4,114.45 in settlement of his claim for relocation and travel expenses in connection with transfers of his official duty station from New Mexico to Saigon and then to Missouri in 1969.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

The Department of the Army recommends disapproval of the enrolled bill because it would accord preferential treatment to the claimant and afford him relief which has been denied other employees.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 1402 at Tab B.

Approve 1

Disapprove _____

Sign veto message at Tab C which has been cleared by the White House Editorial Office (Friedman)





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 16 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1402 - For the relief of
John W. Hollis
Sponsor - Rep. Ichord (D) Missouri

Last Day for Action

August 23, 1976 - Monday

Purpose

Authorizes and directs payment to Mr. John W. Hollis of \$4,114.45 in settlement of his claim for relocation and travel expenses in connection with transfers of his official duty station from New Mexico to Saigon and then to Missouri in 1969.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Army	Disapproval (Veto message attached)
General Services Administration	No objection

Discussion

In June 1968, Mr. Hollis, a civilian employee of the Army at Sandia Base, New Mexico, was selected for assignment in Saigon, Vietnam. He sold his residence in Albuquerque, New Mexico, and moved his dependents and household goods to Springfield, Illinois, and arrived in Saigon on January 16, 1969. On the following day, he received a request to accept an assignment in St. Louis, Missouri, and on February 4, 1969, he was reassigned to St. Louis.

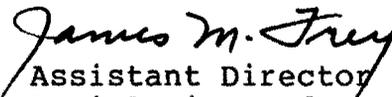
Mr. Hollis moved from Vietnam to St. Louis, Missouri, in March 1969, and moved his dependents and household

goods from their residence in Springfield, Illinois, to a newly-purchased residence in St. Louis. Mr. Hollis submitted claims for his expenses for relocation of his household and travel and these claims were paid to the maximum extent authorized by applicable regulations.

Under Government travel regulations, certain expenses incurred by employees when they change their duty stations--such as expenses for real estate transactions--are reimbursed only when both the old and new duty stations are located in the United States and certain of the territories. These and certain other expenses that Mr. Hollis claimed were barred from reimbursement because of the circumstances surrounding his two transfers, each involving a duty station outside the United States. The effect of the enrolled bill would be to reimburse Mr. Hollis to the maximum extent that would have been possible if he had been transferred directly from Albuquerque to St. Louis. This approach and the amount in the bill, \$4,114.45, were recommended by the General Accounting Office (GAO) in its reports on predecessor legislation in the 93rd Congress.

The Department of the Army recommends that the enrolled bill be disapproved because it would accord preferential treatment to Mr. Hollis denied to other employees, and because it finds no clear grounds of equity to justify an exception to the statutory provisions that bar reimbursement of his claims. Army also finds no evidence of erroneous representations by any Government officials, and believes that an employee of the claimant's grade (GS-15) and experience should have considered all the circumstances involved before volunteering for the two transfers.

We concur with the conclusion of the GAO that since the period intervening between Mr. Hollis' two transfers was only a few days, it would have no objection to appropriate relief in his case. We believe that the circumstances of Mr. Hollis' case are sufficiently unusual to warrant an exception to the applicable Government regulations, and do not believe it serves the interest of equity to penalize him for his brief transfer to Saigon. Accordingly, we recommend approval of the enrolled bill.


Assistant Director for
Legislative Reference

Enclosures

TO THE HOUSE OF REPRESENTATIVES:

I return herewith, without my approval, H.R. 1402, for the relief of John W. Hollis.

The purpose of the act is to pay John W. Hollis the sum of \$4,114.45 in full settlement of all his claims against the United States for losses he sustained through the purchase and sale of residences and for travel and for other expenses which failed to qualify for reimbursement, which he and his family incurred as a result of changes in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by various agencies of the Department of Defense.

In order to reimburse the claimant for the expenses incurred in connection with the two real estate transactions, it would be necessary to make an exception to the clearly expressed statutory language of section 5724a(4), title 5, United States Code, which limits reimbursements to cases involving changes of duty stations within the United States.

The Administration is of the opinion that this act would accord preferential treatment to the claimant and afford him relief denied to other employees. The Administration does not oppose making exceptions to statutory provisions if one is warranted on clear grounds of equity. There is no evidence, for example, that any erroneous representations were made by Government officials that the claimant would be reimbursed for any expenses incurred in connection with either of the two real estate

transactions or that he would be authorized travel, family separation and transportation allowances in excess of the entitlements of others similarly situated. There is no equitable basis for exceptional action in the case of this claimant.

THE WHITE HOUSE,

To -
J. Cunningham
8-16-76
5:45 P.M.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 16 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1402 - For the relief of
John W. Hollis
Sponsor - Rep. Ichord (D) Missouri

Last Day for Action

August 23, 1976 - Monday

Purpose

Authorizes and directs payment to Mr. John W. Hollis of \$4,114.45 in settlement of his claim for relocation and travel expenses in connection with transfers of his official duty station from New Mexico to Saigon and then to Missouri in 1969.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Army	Disapproval (Veto message attached)
General Services Administration	No objection

Discussion

In June 1968, Mr. Hollis, a civilian employee of the Army at Sandia Base, New Mexico, was selected for assignment in Saigon, Vietnam. He sold his residence in Albuquerque, New Mexico, and moved his dependents and household goods to Springfield, Illinois, and arrived in Saigon on January 16, 1969. On the following day, he received a request to accept an assignment in St. Louis, Missouri, and on February 4, 1969, he was reassigned to St. Louis.

Mr. Hollis moved from Vietnam to St. Louis, Missouri, in March 1969, and moved his dependents and household

TO THE HOUSE OF REPRESENTATIVES:

I return herewith, without my approval, H. R. 1402, For the relief of John W. Hollis.

The purpose of the act is to pay John W. Hollis the sum of \$4,114.45 in full settlement of all his claims against the United States for losses he sustained through the purchase and sale of residences and for travel and for other expenses which failed to qualify for reimbursement, which he and his family incurred as a result of changes in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by various agencies of the Department of Defense.

In order to reimburse the claimant for the expenses incurred in connection with the two real estate transactions, it would be necessary to make an exception to the clearly expressed statutory language of section 5724a(4), title 5, United States Code, which limits reimbursements to cases involving changes of duty stations within the United States.

The Administration is of the opinion that this act would accord preferential treatment to the claimant and afford him relief ~~which has been consistently denied~~^{to} other employees. The Administration does not oppose making exceptions to statutory provisions if one is warranted on clear grounds of equity. There is no evidence, for example, that any erroneous representations were made by Government officials that the claimant would be reimbursed for any expenses incurred in connection with either of the two real estate transactions or that he would be authorized travel, family separation and transportation allowances in excess of the entitlements of others similarly situated. ~~Moreover, an employee of the claimant's grade (GS-15) and experience should have considered all the circumstances involved before volunteering for the two transfers. Accordingly,~~ There is no equitable basis for exceptional action in the case of this claimant.

~~It is the opinion of the Administration that~~

THE WHITE HOUSE

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 17

Time: 920 am

FOR ACTION: Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 17

Time: 1100am

SUBJECT: H.R. 1402 - for the relief of John W. Hollis

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

13 AUG 1976

Honorable James T. Lynn
Director, Office of Management and Budget

Dear Mr. Lynn:

The Department of Army recommends that the President withhold his approval from enrolled enactment H. R. 1402, 94th Congress, "For the relief of John W. Hollis."

The reasons for this recommendation are in the draft of a Veto Message inclosed for the signature of the President, should he approve the proposed action.

If approved, the cost of the act would be \$4,114.45.

Sincerely,

A handwritten signature in cursive script, reading "Hadlai A. Hull", is positioned above the typed name.

Incl

Hadlai A. Hull
Assistant Secretary of the Army
(Financial Management)

TO THE HOUSE OF REPRESENTATIVES:

I return herewith, without my approval, H. R. 1402, For the relief of John W. Hollis.

The purpose of the act is to pay John W. Hollis the sum of \$4,114.45 in full settlement of all his claims against the United States for losses he sustained through the purchase and sale of residences and for travel and for other expenses which failed to qualify for reimbursement, which he and his family incurred as a result of changes in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by various agencies of the Department of Defense.

In order to reimburse the claimant for the expenses incurred in connection with the two real estate transactions, it would be necessary to make an exception to the clearly expressed statutory language of section 5724a(4), title 5, United States Code, which limits reimbursements to cases involving changes of duty stations within the United States.

The Administration is of the opinion that this act would accord preferential treatment to the claimant and afford him relief which has been consistently denied other employees. The Administration does not oppose making exceptions to statutory provisions if one is warranted on clear grounds of equity. There is no evidence, for example, that any erroneous representations were made by Government officials that the claimant would be reimbursed for any expenses incurred in connection with either of the two real estate transactions or that he would be authorized travel, family separation and transportation allowances in excess of the entitlements of others similarly situated. Moreover, an employee of the claimant's grade (GS-15) and experience should have considered all the circumstances involved before volunteering for the two transfers. Accordingly, there is no equitable basis for exceptional action in the case of this claimant.

THE WHITE HOUSE

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



August 13, 1976

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

By letter of August 11, 1976, you requested the views of the General Services Administration on enrolled bill H.R. 1402, "For the relief of John W. Hollis."

We have reviewed the subject legislation and have no objection to Presidential approval.

Sincerely,


TERRY CHAMBERS
DEPUTY ADMINISTRATOR

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 17

Time: 920am

FOR ACTION: Max Friedersdorf
Ken Lazarus
David Lissy

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 17

Time: 1100am

SUBJECT: H.R. 1402 - for the relief of John W. Hollis

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend approval for the reasons set forth by OMB.

Ken Lazarus

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James M. Cannon

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 17

Time: 920am

FOR ACTION: Max Friedersdorf
Ken Lazarus
David Lissy

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

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DUE: Date: August 17

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SUBJECT: H.R. 1402 - for the relief of John W. Hollis

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*No objection
WMS*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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James M. Cannon

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 17

Time: 920am

FOR ACTION: Max Friedersdorf *PKW* cc (for information):
Ken Lazarus
David Lissy

Jack Marsh
Jim Cavanaugh
Ed Schmults

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SUBJECT: H.R. 1402 - for the relief of John W. Hollis

ACTION REQUESTED:

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For Your Recommendations

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For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James M. Cannon

TO THE HOUSE OF REPRESENTATIVES:

I return herewith, without my approval, H.R. 1402, for the relief of John W. Hollis.

The purpose of the act is to pay John W. Hollis the sum of \$4,114.45 in full settlement of all his claims against the United States for losses he sustained through the purchase and sale of residences and for travel and for other expenses which failed to qualify for reimbursement, which he and his family incurred as a result of changes in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by various agencies of the Department of Defense.

In order to reimburse the claimant for the expenses incurred in connection with the two real estate transactions, it would be necessary to make an exception to the clearly expressed statutory language of section 5724a(4), title 5, United States Code, which limits reimbursements to cases involving changes of duty stations within the United States.

The Administration is of the opinion that this act would accord preferential treatment to the claimant and afford him relief denied to other employees. The Administration does not oppose making exceptions to statutory provisions if one is warranted on clear grounds of equity. There is no evidence, for example, that any erroneous representations were made by Government officials that the claimant would be reimbursed for any expenses incurred in connection with either of the two real estate

transactions or that he would be authorized travel, family separation and transportation allowances in excess of the entitlements of others similarly situated. There is no equitable basis for exceptional action in the case of this claimant.

THE WHITE HOUSE,

JOHN W. HOLLIS

MARCH 29, 1976.—Committed to the Committee of the Whole House and ordered to be printed

Mr. MOORHEAD of California, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1402]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1402) for the relief of John W. Hollis, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Page 1, line 6, Strike "\$5,148.55" and insert "\$4,114.45".

PURPOSE

The purpose of the proposed legislation, as amended, is to pay John W. Hollis, of Ballwin, Missouri, \$4,114.45 in settlement of his claims for losses sustained in the purchase and sale of residences and for travel and other expenses which he and his family incurred as a result of transfer in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by military departments within the Department of Defense.

STATEMENT

The Comptroller General in a report on an earlier bill outlined the basis of the various elements of the claim and concluded that it would have no objection to reimbursement for expenses which he as a Federal employee would have been entitled in a permanent change of station from Albuquerque, New Mexico to St. Louis, Missouri, as if there had not been an intervening brief assignment to Siagon. In a subsequent communication on that bill on November 30, 1972, the Comptroller General recommended the amendment reducing the amount to be paid to \$4,114.45, the amount stated in the committee amendment.



The situation giving rise to this claim began on June 24, 1968 when Mr. John W. Hollis was advised of his selection for assignment to Headquarters, Military Assistance Command, Saigon, and on December 21, was issued travel orders authorizing his permanent change of station.

Mr. Hollis sold his residence in Albuquerque and relocated his family to Springfield, Illinois, for the duration of his assignment to Vietnam. He arrived in Saigon on January 16, 1969, and the following day received a request to accept an assignment with the U.S. Army Aviation Systems Command in St. Louis, Missouri. On February 4, 1969, Headquarters, Military Assistance Command, Saigon, released him from his one-year service obligation and reassigned him to St. Louis. Incident to that reassignment he moved his family from Springfield, to St. Louis, where he purchased a new residence.

Mr. Hollis was reimbursed expenses to which he was entitled under applicable regulations incident to each assignment. Expenses which were not reimbursed and which constitute the \$5,148.35, the amount of his original claim as stated in the bill H.R. 1402, as based on the following items:

(1) Expenses in connection with the sale of residence in Albuquerque and purchase of residence in St. Louis.....	\$3,252.85
(2) Travel, per diem and subsistence expenses in connection with the dependent's move to Springfield, and the employee's transfer to Saigon from Albuquerque.....	539.26
(3) Mileage and per diem expenses in connection with relocation of dependents from Springfield to St. Louis.....	96.24
(4) Temporary quarters subsistence expenses for dependents and self incident to relocation in St. Louis.....	1,260.00
Total	5,148.35

Real estate expenses in connection with the sale of Mr. Hollis' former residence in Albuquerque, and the purchase of a new residence in St. Louis, were disallowed on the basis that paragraph C8350 of the Joint Travel Regulations, Volume II (JTR), revised January 1, 1968, restricts reimbursement for real estate expenses incident to a change of permanent station to situations where both the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone. Paragraph C8350 provides in pertinent part as follows:

C8350 GENERAL

An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station; the purchase of a residence at his new duty station; or in connection with the settlement of an unexpired lease for his residence at his old duty station, after he has signed the required transportation agreement and provided that:

1. a permanent change of station is authorized or approved and the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone;"

The above regulations are based upon regulations issued by the Office of Management and Budget (Circular No. A-56) as well as subsection 5724a(4) of title 5 of the United States Code in pertinent part as follows:

§ 5724a. Relocation expenses of employees transferred or reemployed

(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

* * * * *

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

Because the employee was transferred twice, the transfer in each case involving one duty station outside of the United States or other prescribed area, he is not entitled to reimbursement of real estate in connection with either transaction. Had he been transferred directly from Albuquerque to St. Louis, he would have been entitled to reimbursement for certain of the real estate expenses which he has claimed. His decision to accept the reassignment to St. Louis did not however nullify the intermediate transfer to Vietnam or otherwise create a basis for reimbursement of real estate expenses.

The itemization of real estate expenses as stated by the GAO to be submitted by Mr. Hollis is as follows:

Expenses in connection with sale of Albuquerque residence, January 1, 1969:	
Brokerage fee	\$1,948.00
Attorney's fee	10.40
Sale or transfer tax; mortgage tax.....	77.94
Escrow fee	30.16
Miscellaneous expenses.....	197.50
Total	2,264.60

Expenses in connection with purchase of St. Louis residence, June 25, 1969:	
Appraisal or inspection fee.....	\$35.00
Lender's loan or origination fee.....	630.00
Recording fees	13.25
Title examination and instrument preparation.....	175.00
Mortgage title policy.....	160.00
Miscellaneous expenses	75.00
Total	988.25

Since the period intervening between the employee's two transfers was only a few days, that GAO sees no objection to allowing him real estate expenses as though he had transferred directly from Albuquerque to St. Louis. However, it believes the items labeled "miscellaneous expenses" should be deducted in the absence of an explanation as to what is covered thereby so as to permit a determination of whether they are otherwise allowable under the regulations.

That portion of Mr. Hollis' claim for expenses incident to moving his dependents from Albuquerque to Springfield and in connection with his travel to Saigon consists of \$8.51 for additional mileage, \$114.75 for additional per diem for his family while traveling, and \$416.00 for subsistence expenses for his dependents and himself while in Springfield. The claim for additional mileage and per diem results from the fact that in the course of traveling from Albuquerque to Springfield, the employee and his family traveled by way of St. Louis, rather than by the usually traveled route. He has explained that this detour was made for the purpose of picking up orders and a passport in St. Louis. That travel, however, was not authorized and there is no showing that this was necessary. Consequently he was limited to the mileage and per diem which would have been allowable had he proceeded directly from Albuquerque to Springfield. We see no equity in allowing him the additional mileage and per diem.

The \$416.00 amount claimed in connection with the move to Springfield is for subsistence expenses for 8 days while locating a residence in Springfield. That item was disallowed on the basis that temporary quarters subsistence expenses is authorized under 5 U.S.C. 5724a only when the new duty station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone. However, we note that had Mr. Hollis been transferred directly from Albuquerque to St. Louis he would have been entitled under the applicable regulations to the expenses of a househunting trip to St. Louis with per diem in lieu of subsistence limited to 6 days for himself and wife (including travel time). Thus, the allowance of 6 days additional per diem would not appear unreasonable. At the rates then in effect this would amount to \$28 per day or \$168.

The \$96.24 amount claimed by Mr. Hollis for additional expenses upon his return from Saigon in connection with moving his family from Springfield to St. Louis consists of \$6.24 for mileage and \$90.00 for per diem. The additional mileage is attributable to travel between the motel in which the employee and his family stayed while awaiting delivery of their household goods and their new residence in St. Louis. The additional per diem claimed is for time spent in such motel. Reimbursement of the additional mileage was not allowable because the regulations make no provisions for this type of expense and the additional per diem was not allowable on the basis that the time spent in a motel awaiting delivery of household effects ordinarily is a part of the temporary subsistence allowance which he was entitled to for a maximum of 30 days as hereinafter explained. Had he been transferred directly to St. Louis from Albuquerque this additional expense would not have been allowable. Therefore, GAO does not believe it should be included in the bill.

The remaining \$1,260.00 portion of Mr. Hollis' claim (after return from Saigon) is for 60 days subsistence expenses for his family while

occupying what he asserts were temporary quarters. He has been reimbursed \$260, representing 30 days subsistence expenses in connection with his own occupancy of temporary quarters in St. Louis prior to his family's arrival from Springfield. Paragraph C8251-3a, JTR, revised August 1, 1968, provides as to reimbursement of temporary quarters subsistence expenses as follows:

3. TIME ALLOWABLE

a. *General.* Except as provided herein, temporary quarters subsistence expenses may be authorized or approved for the period of occupancy of temporary quarters, but not to exceed 30 days. When an employee is transferred to or from Hawaii, Alaska, the territories and possessions, the Commonwealth of Puerto Rico, or the Canal Zone, temporary quarters subsistence expenses may be authorized or approved for an additional period not to exceed 30 days. The length of time allowed for occupancy of temporary quarters at Government expense under the 30- or 60-day limitations specified herein, will begin to run for the employee and his dependents when the employee, the spouse, or any other dependent starts to occupy such quarters and the time will run concurrently. If employee occupies temporary quarters at one location while the spouse and/or other dependents occupy temporary quarters at another location, the time will terminate for the employee and dependents when any one of them moves into permanent residence quarters or when the allowable time limit expires, whichever occurs first. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, the required written agreement has been signed, and permanent quarters at the old duty station have been vacated. Also see prohibitions in par. C8253.

Subsistence expenses for the employee's family for the first 30 days were disallowed under the above-quoted regulation. Since the 30-day period of entitlement runs concurrently for the employee and for his dependents, Mr. Hollis' occupancy of temporary quarters in St. Louis determined the running of that period. During those 30 days the family remained in occupancy of their residence in Springfield. Although temporary quarters subsistence expenses may be reimbursed where an employee and his dependents occupy temporary quarters at separate locations, occupancy by the dependents of the permanent type residence quarters in which they were residing at the time of the transfer does not constitute occupancy of temporary quarters. Paragraph C8250, JTR, revised August 1, 1968, provides in this regard as follows:

C8250 GENERAL

When it is necessary to occupy temporary quarters incident to the employee's transfer to a new duty station, temporary quarters subsistence expenses will be authorized, subject to the conditions in this Part, for the purpose of defraying the ex-

penses of the employee and his dependents. Temporary quarters refers to lodging obtained temporarily after a transfer has been authorized or approved and after the employee and/or his dependents vacate the residence quarters in which they were residing at the time of the transfer, until the employee or his dependents move, within the allowable period of entitlement, into permanent residence quarters. Temporary quarters must, in fact, be a temporary place of residence. Quarters occupied upon initial arrival at a new duty station location which factually are permanent type residence quarters into which an employee moves his household goods and continues occupancy indefinitely will not be considered temporary quarters for which expense reimbursement is allowable. Such quarters occupied temporarily within the allowable time limit may be considered temporary quarters when their need is due to the fact that the permanent quarters for which the employee has made arrangements * * *

That GAO has computed the maximum (\$693.60) which is the amount to which Mr. Hollis would have been entitled to under the regulations had his dependents been regarded as occupying temporary quarters in Springfield. Since the family would in all likelihood have occupied temporary quarters had Mr. Hollis been transferred directly from Albuquerque to St. Louis, that GAO would have no objection to the payment of that amount.

The claim for additional subsistence expenses in the amount of \$506.40 for a second 30-day period was disallowed under paragraph 8551-3a, *supra*, inasmuch as the authority for payment of temporary quarters subsistence expenses is limited to a period not to exceed 30 days, except in cases involving transfers to or from certain prescribed areas, of which neither Saigon nor St. Louis is one. Since Mr. Hollis would not have been entitled to subsistence expenses for an additional 30 days if transferred directly from Albuquerque to St. Louis, we see no particular equity in his claim for expenses which other employees under similar circumstances are not entitled to.

In view of the recommendations and conclusions detailed in the report of the General Accounting Office, the committee has determined that this is an appropriate matter for legislative relief. It is recommended that the bill, amended to pay the reduced amount \$4,114.45 suggested in the supplemental report of that office dated November 30, 1972, be considered favorably.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 30, 1972.

B-176779

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: We refer further to your letter of August 15, 1972, and to our report, B-176779 dated October 5, 1972, in regard to H.R. 16140, 92d Congress, 2d session, a bill "For the relief of John W. Hollis."

We indicated in our report that the items of "miscellaneous expense" claimed by Mr. Hollis should be deducted in the absence of an explanation as to the specific items included therein. Mr. Hollis has now furnished a statement, together with supporting documentation, that the item of \$197.50 claimed as a miscellaneous expense in connection with the sale of his Albuquerque, New Mexico, residence was for a title insurance reissue fee, and that the \$75 claimed as a miscellaneous expense in connection with the purchase of his St. Louis, Missouri, residence was for a survey fee.

Both of those items of expense may properly be reimbursed under section 4 of Office of Management and Budget Circular No. A-56 in an appropriate situation. We therefore recommend, if favorable consideration is to be given to this bill, that the \$5,148.35 amount be reduced to \$4,114.45 rather than to the \$3,841.95 amount indicated in our report.

Sincerely yours,

ROBERT F. KELLER,

Deputy Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., October 5, 1972.

B-176779

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of August 15, 1972, requests our report on H.R. 16140, 92d Congress, 2d Session. The bill would authorize payment to Mr. John W. Hollis of Ballwin, Missouri, in the amount of \$5,148.35, in settlement of his claim for reimbursement of travel and subsistence expense for himself and his family, and for real estate expenses in connection with his transfers of official statistics from Sandia Base, Albuquerque, New Mexico, to Headquarters, Military Assistance Command, Saigon, Republic of Vietnam, and from there to the United States Army Aviation Systems Command, St. Louis, Missouri.

The employee's claim was presented to our Office and disallowed by Settlement Certificate dated February 14, 1972, copy enclosed. The record indicates that on June 24, 1968, following notice of an impending reduction in force at Sandia Base, the employee was advised of his selection for assignment to Headquarters, Military Assistance Command, Saigon, and on December 21, was issued travel orders authorizing his permanent change of station.

Mr. Hollis sold his residence in Albuquerque and relocated his family to Springfield, Illinois, for the duration of his assignment to Vietnam. He arrived in Saigon on January 16, 1969, and the following day received a request to accept an assignment with the U.S. Army Aviation Systems Command in St. Louis, Missouri. On February 4, 1969, Headquarters, Military Assistance Command, Saigon, released him from his one-year service obligation and reassigned him to St. Louis. Incident to that reassignment he moved his family from Springfield, to St. Louis, where he purchased a new residence.

Mr. Hollis was reimbursed expenses to which he was entitled under applicable regulations incident to each assignment. Expenses which

were not reimbursed and which constitute the \$5,148.35 which is the subject of H.R. 16140 are as follows:

(1) Expenses in connection with the sale of residence in Albuquerque and purchase of residence in St. Louis.....	\$3,252.85
(2) Travel, per diem and subsistence expenses in connection with the dependent's move to Springfield, and the employee's transfer to Saigon from Albuquerque.....	539.26
(3) Mileage and per diem expenses in connection with relocation of dependents from Springfield to St. Louis.....	96.24
(4) Temporary quarters subsistence expenses for dependents and self incident to relocation in St. Louis.....	1,260.00
Total	5,148.35

Real estate expenses in connection with the sale of Mr. Hollis' former residence in Albuquerque, and the purchase of a new residence in St. Louis, were disallowed on the basis that paragraph C8350 of the Joint Travel Regulations, Volume II (JTR), revised January 1, 1968, restricts reimbursement for real estate expenses incident to a change of permanent station to situations where both the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone. Paragraph C8350 provides in pertinent part as follows:

C8350 GENERAL

An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station; the purchase of a residence at his new duty station; or in connection with the settlement of an unexpired lease for his residence at his old duty station, after he has signed the required transportation agreement and provided that:

"1. a permanent change of station is authorized or approved and the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone;"

The above regulations are based upon regulations issued by the Office of Management and Budget (Circular No. A-56) as well as subsection 5724a(4) of title 5 of the United States Code in pertinent part as follows:

"§ 5724a. Relocation expenses of employees transferred or reemployed

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

* * * * *

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

Because the employee was transferred twice, the transfer in each case involving one duty station outside of the United States or other prescribed area, he is not entitled to reimbursement of real estate expenses in connection with either transaction. Had he been transferred directly from Albuquerque to St. Louis, he would have been entitled to reimbursement for certain of the real estate expenses which he has claimed. His decision to accept the reassignment to St. Louis did not however nullify the intermediate transfer to Vietnam or otherwise create a basis for reimbursement of real estate expenses.

The itemization of real estate expenses submitted by Mr. Hollis is as follows:

Expenses in connection with sale of Albuquerque residence, January 1, 1969:	
Brokerage fee.....	\$1,948.00
Attorney's fee.....	10.40
Sale or transfer tax; mortgage tax.....	77.94
Escrow fee.....	30.16
Miscellaneous expenses.....	197.50
Total	2,264.00
Expenses in connection with purchase of St. Louis residence, June 25, 1969:	
Appraisal or inspection fee.....	\$35.00
Lender's loan or origination fee.....	680.00
Recording fees.....	13.25
Title examination and instrument preparation.....	175.00
Mortgage title policy.....	160.00
Miscellaneous expenses.....	75.00
Total	988.25

Since the period intervening between the employee's two transfers was only a few days, we see no objection to allowing him real estate expenses as though he had transferred directly from Albuquerque to St. Louis. However, we believe the items labeled "miscellaneous expenses" should be deducted in the absence of an explanation as to what is covered thereby so as to permit a determination of whether they are otherwise allowable under the regulations.

That portion of Mr. Hollis' claim for expenses incident to moving his dependents from Albuquerque to Springfield and in connection with his travel to Saigon consists of \$8.51 for additional mileage, \$114.75 for additional per diem for his family while traveling, and \$416.00 for subsistence expenses for his dependents and himself while in Springfield. The claim for additional mileage and per diem results from the fact that in the course of traveling from Albuquerque to Springfield, the employee and his family traveled by way of St. Louis, rather than by the usually traveled route. He has explained that this detour was made for the purpose of picking up orders and a passport in St. Louis. That travel, however, was not authorized and there is no showing that this was necessary. Consequently he was limited to the mileage and per diem which would have been allowable had he proceeded directly from Albuquerque to Springfield. We see no equity in allowing him the additional mileage and per diem.

The \$416.00 amount claimed in connection with the move to Springfield is for subsistence expenses for 8 days while locating a residence

in Springfield. That item was disallowed on the basis that temporary quarters subsistence expenses is authorized under 5 U.S.C. 5724a only when the new duty station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone. However, we note that had Mr. Hollis been transferred directly from Albuquerque to St. Louis he would have been entitled under the applicable regulations to the expenses of a househunting trip to St. Louis with per diem in lieu of subsistence limited to 6 days for himself and wife (including travel time). Thus, the allowance of 6 days additional per diem would not appear unreasonable. At the rates then in effect this would amount to \$28 per day or \$168.

The \$96.24 amount claimed by Mr. Hollis for additional expenses upon his return from Saigon in connection with moving his family from Springfield to St. Louis consists of \$6.24 for mileage and \$90.00 for per diem. The additional mileage is attributable to travel between the motel in which the employee and his family stayed while awaiting delivery of their household goods and their new residence in St. Louis. The additional per diem claimed is for time spent in such motel. Reimbursement of the additional mileage was not allowable because the regulations make no provisions for this type of expense and the additional per diem was not allowable on the basis that the time spent in a motel awaiting delivery of household effects ordinarily is a part of the temporary subsistence allowance which he was entitled to for a maximum of 30 days as hereinafter explained. Had he been transferred directly to St. Louis from Albuquerque this additional expense would not have been allowable. Therefore, we do not believe it should be included in the bill.

The remaining \$1,260.00 portion of Mr. Hollis' claim (after return from Saigon) is for 60 days subsistence expenses for his family while occupying what he asserts were temporary quarters. He has been reimbursed \$260, representing 30 days subsistence expenses in connection with his own occupancy of temporary quarters in St. Louis prior to his family's arrival from Springfield. Paragraph C8251-3a, JTR, revised August 1, 1968, provides as to reimbursement of temporary quarters subsistence expenses as follows:

"3. TIME ALLOWABLE

"a. *General.* Except as provided herein, temporary quarters subsistence expenses may be authorized or approved for the period of occupancy of temporary quarters, but not to exceed 30 days. When an employee is transferred to or from Hawaii, Alaska, the territories and possessions, the Commonwealth of Puerto Rico, or the Canal Zone, temporary quarters subsistence expenses may be authorized or approved for an additional period not to exceed 30 days. The length of time allowed for occupancy of temporary quarters at Government expense under the 30- or 60-day limitations specified herein, will begin to run for the employee and his dependents when the employee, the spouse, or any other dependent starts to occupy such quarters and the time will run concurrently. If the employee occupies temporary quarters at one location while the spouse and/or other dependents occupy temporary quarters at another location, the time will

terminate for the employee and dependents when any one of them moves into permanent residence quarters or when the allowable time limit expires, whichever occurs first. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, the required written agreement has been signed, and permanent quarters at the old duty station have been vacated. Also see prohibitions in par. C8253."

Subsistence expenses for the employee's family for the first 30 days were disallowed under the above-quoted regulation. Since the 30-day period of entitlement runs concurrently for the employee and for his dependents, Mr. Hollis' occupancy of temporary quarters in St. Louis determined the running of that period. During those 30 days the family remained in occupancy of their residence in Springfield. Although temporary quarters subsistence expenses may be reimbursed where an employee and his dependents occupy temporary quarters at separate locations, occupancy by the dependents of the permanent type residence quarters in which they were residing at the time of the transfer does not constitute occupancy of temporary quarters. Paragraph C8250, JTR, revised August 1, 1968, provides in this regard as follows:

"C 8250 GENERAL

"When it is necessary to occupy temporary quarters incident to the employee's transfer to a new duty station, temporary quarters subsistence expenses will be authorized, subject to the conditions in this Part, for the purpose of defraying the expenses of the employee and his dependents. Temporary quarters refers to lodging obtained temporarily after a transfer has been authorized or approved and after the employee and/or his dependents vacate the residence quarters in which they were residing at the time of the transfer, until the employee or his dependents move, within the allowable period of entitlement, into permanent residence quarters. Temporary quarters must, in fact, be a temporary place of residence. Quarters occupied upon initial arrival at a new duty station location which factually are permanent type residence quarters into which an employee moves his household goods and continues occupancy indefinitely will not be considered temporary quarters for which expense reimbursement is allowable. Such quarters occupied temporarily within the allowable time limit may be considered temporary quarters when their need is due to the fact that the permanent quarters for which the employee has made arrangements * * *"

We have computed the maximum amount (\$693.60) to which Mr. Hollis would have been entitled to under the regulations had his dependents been regarded as occupying temporary quarters in Springfield. Since the family would in all likelihood have occupied temporary quarters had Mr. Hollis been transferred directly from Albuquerque to St. Louis, we would have no objection to the payment of that amount.

The claim for additional subsistence expenses in the amount of \$506.40 for the second 30-day period was disallowed under paragraph 8551-3a, *supra*, inasmuch as the authority for payment of temporary quarters subsistence expenses is limited to a period not to exceed 30

days, except in cases involving transfers to or from certain prescribed areas, of which neither Saigon nor St. Louis is one. Since Mr. Hollis would not have been entitled to subsistence expenses for an additional 30 days if transferred directly from Albuquerque to St. Louis, we see no particular equity in his claim for expenses which other employees under similar circumstances are not entitled to.

If favorable consideration is to be given to the bill on Mr. Hollis' behalf, we recommend that the \$5,148.35 amount be reduced to \$3,841.95 to provide for reimbursement of expenses to which he probably would have been entitled if he had been transferred directly from Albuquerque to St. Louis, as discussed above.

Sincerely yours,

PAUL G. DEMBLING,
(For the Comptroller General of the United States).

○

Calendar No. 1060

94TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 94-1125

JOHN W. HOLLIS

AUGUST 5, 1976.—Ordered to be printed

Mr. HRUSKA, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 1402]

The Committee on the Judiciary, to which was referred the bill, (H.R. 1402), for the relief of John W. Hollis, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the bill, is to pay John W. Hollis, of Ballwin, Missouri, \$4,114.45 in settlement of his claims for losses sustained in the purchase and sale of residences and for travel and other expenses which he and his family incurred as a result of transfer in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by military departments within the Department of Defense.

STATEMENT

The facts of the case are contained in the House report as follows:

The Comptroller General in a report on an earlier bill outlined the basis of the various elements of the claim and concluded that it would have no objection to reimbursement for expenses which he as a Federal employee would have been entitled in a permanent change of station from Albuquerque, New Mexico, St. Louis, Missouri, as if there had not been an

intervening brief assignment to Saigon. In a subsequent communication on that bill on November 30, 1972, the Comptroller General recommended the amendment reducing the amounts to be paid to \$4,114.45, the amount stated in the committee amendment.

The situation giving rise to this claim began on June 24, 1968, when Mr. John W. Hollis was advised of his selection for assignment to Headquarters, Military Assistance Command, Saigon, and on December 21, was issued travel orders authorizing his permanent change of station.

Mr. Hollis sold his residence in Albuquerque and relocated his family to Springfield, Illinois, for the duration of his assignment to Vietnam. He arrived in Saigon on January 16, 1969, and the following day received a request to accept an assignment with the U.S. Army Aviation Systems Command in St. Louis, Missouri. On February 4, 1969, Headquarters, Military Assistance Command, Saigon, released him from his one-year service obligation and reassigned him to St. Louis. Incident to that reassignment he moved his family from Springfield, to St. Louis, where he purchased a new residence.

Mr. Hollis was reimbursed expenses to which he was entitled under applicable regulations incident to each assignment. Expenses which were not reimbursed and which constitute the \$5,148.35, the amount of his original claim as stated in the bill H.R. 1402, as based on the following items:

(1) Expenses in connection with the sale of residence in Albuquerque and purchase of residence in St. Louis.....	\$3,252.85
(2) Travel, per diem and subsistence expenses in connection with the dependent's move to Springfield, and the employee's transfer to Saigon from Albuquerque.....	539.26
(3) Mileage and per diem expenses in connection with relocation of dependents from Springfield to St. Louis.....	96.24
(4) Temporary quarters subsistence expenses for dependents and self incident to relocation in St. Louis.....	1,260.00
Total	5,148.35

Real estate expenses in connection with the sale of Mr. Hollis' former residence in Albuquerque, and the purchase of a new residence in St. Louis, were disallowed on the basis that paragraph C8350 of the Joint Travel Regulations, Volume II (JTR), revised January 1, 1968, restricts reimbursement for real estate expenses incident to a change of permanent station to situations where both the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone, Paragraph C8350 provides in pertinent part as follows:

"C8350 GENERAL

"An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station; the purchase of a residence at his new duty station; or in connection with the

settlement of an unexpired lease for his residence at his old duty station, after he has signed the required transportation agreement and provided that:

"1. a permanent change of station is authorized or approved and the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone;"

The above regulations are based upon regulations issued by the Office of Management and Budget (Circular No. A-56) as well as subsection 5724a(4) of title 5 of the United States Code in pertinent part as follows:

"§ 5724a. Relocation expenses of employees transferred or reemployed

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

* * * * *

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

Because the employee was transferred twice, the transfer in each case involving one duty station outside of the United States or other prescribed area, he is not entitled to reimbursement of real estate in connection with either transaction. Had he been transferred directly from Albuquerque to St. Louis, he would have been entitled to reimbursement for certain of the real estate expenses which he has claimed. His decision to accept the reassignment to St. Louis did not however nullify the intermediate transfer to Vietnam or otherwise create a basis for reimbursement of real estate expenses.

The itemization of real estate expenses as stated by the GAO to be submitted by Mr. Hollis is as follows:

Expenses in connection with sale of Albuquerque residence,	
January 1, 1969:	
Brokerage fee.....	\$1,948.60
Attorney's fee.....	10.40
Sale or transfer tax; mortgage tax.....	77.94
Escrow fee.....	30.16
Miscellaneous expenses.....	197.50
Total	2,264.60

Expenses in connection with purchase of St. Louis residence,
June 25, 1969:

Appraisal or inspection fee-----	35.00
Lender's loan or origination fee-----	630.00
Recording fees-----	13.25
Title examination and instrument preparation-----	175.00
Mortgage title policy-----	160.00
Miscellaneous expenses-----	75.00
Total -----	988.25

Since the period intervening between the employee's two transfers was only a few days, that GAO sees no objection to allowing him real estate expenses as though he had transferred directly from Albuquerque to St. Louis. However, it believes the items labeled "miscellaneous expenses" should be deducted in the absence of an explanation as to what is covered thereby so as to permit a determination of whether they are otherwise allowable under the regulations.

That portion of Mr. Hollis' claim for expenses incident to moving his dependents from Albuquerque to Springfield and in connection with his travel to Saigon consists of \$8.51 for additional mileage, \$114.75 for additional per diem for his family while traveling, and \$416.00 for subsistence expenses for his dependents and himself while in Springfield. The claim for additional mileage and per diem results from the fact that in the course of traveling from Albuquerque to Springfield, the employee and his family traveled by way of St. Louis, rather than by the usually traveled route. He has explained that this detour was made for the purpose of picking up orders and a passport in St. Louis. That travel, however, was not authorized and there is no showing that this was necessary. Consequently he was limited to the mileage and per diem which would have been allowable had he proceeded directly from Albuquerque to Springfield. We see no equity in allowing him the additional mileage and per diem.

The \$416.00 amount claimed in connection with the move to Springfield is for subsistence expenses for 8 days while locating a residence in Springfield. That item was disallowed on the basis that temporary quarters subsistence expenses is authorized under 5 U.S.C. 5724a only when the new duty station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone. However, we note that had Mr. Hollis been transferred directly from Albuquerque to St. Louis he would have been entitled under the applicable regulations to the expenses of a househunting trip to St. Louis with per diem in lieu of subsistence limited to 6 days for himself and wife (including travel time). Thus, the allowance of 6 days additional per diem would not appear unreasonable. At the rates then in effect this would amount to \$28 per day or \$168.

The \$96.24 amount claimed by Mr. Hollis for additional expenses upon his return from Saigon in connection with moving his family from Springfield to St. Louis consists of \$6.24 for mileage and \$90.00 for per diem. The additional

mileage is attributable to travel between the motel in which the employee and his family stayed while awaiting delivery of their household goods and their new residence in St. Louis. The additional per diem claimed is for time spent in such motel. Reimbursement of the additional mileage was not allowable because the regulations make no provisions for this type of expense and the additional per diem was not allowable on the basis that the time spent in a motel awaiting delivery of household effects ordinarily is a part of the temporary subsistence allowance which he was entitled to for a maximum of 30 days as hereinafter explained. Had he been transferred directly to St. Louis from Albuquerque this additional expense would not have been allowable. Therefore, GAO does not believe it should be included in the bill.

The remaining \$1,260.00 portion of Mr. Hollis' claim (after return from Saigon) is for 60 days subsistence expenses for his family while occupying what he asserts were temporary quarters. He has been reimbursed \$260, representing 30 days subsistence expenses in connection with his own occupancy of temporary quarters in St. Louis prior to his family's arrival from Springfield. Paragraph C8251-3a, JTR, revised August 1, 1968, provides as to reimbursement of temporary quarters subsistence expenses as follows:

"3. TIME ALLOWABLE

"a. *General.* Except as provided herein, temporary quarters subsistence expenses may be authorized or approved for the period of occupancy of temporary quarters, but not to exceed 30 days. When an employee is transferred to or from Hawaii, Alaska, the territories and possessions, the Commonwealth of Puerto Rico, or the Canal Zone, temporary quarters subsistence expenses may be authorized or approved for an additional period not to exceed 30 days. The length of time allowed for occupancy of temporary quarters at Government expense under the 30- or 60-day limitations specified herein, will begin to run for the employee and his dependents when the employee, the spouse, or any other dependent starts to occupy such quarters and the time will run concurrently. If employee occupies temporary quarters at one location while the spouse and/or other dependents occupy temporary quarters at another location, the time will terminate for the employee and dependents when any one of them moves into permanent residence quarters or when the allowable time limit expires, whichever occurs first. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, the required written agreement has been signed, and permanent quarters at the old duty station have been vacated. Also see prohibitions in par. C8253."

Subsistence expenses for the employee's family for the first 30 days were disallowed under the above-quoted regulation.

Since the 30-day period of entitlement runs concurrently for the employee and for his dependents, Mr. Hollis' occupancy of temporary quarters in St. Louis determined the running of that period. During those 30 days the family remained in occupancy of their residence in Springfield. Although temporary quarters subsistence expenses may be reimbursed where an employee and his dependents occupy temporary quarters at separate locations, occupancy by the dependents of the permanent type residence quarters in which they were residing at the time of the transfer does not constitute occupancy of temporary quarters. Paragraph C8250, JTR, revised August 1, 1968, provides in this regard as follows:

"C8250 GENERAL

"When it is necessary to occupy temporary quarters incident to the employee's transfer to a new duty station, temporary quarters subsistence expenses will be authorized, subject to the conditions in this Part, for the purpose of defraying the expenses of the employee and his dependents. Temporary quarters refers to lodging obtained temporarily after a transfer has been authorized or approved and after the employee and/or his dependents vacate the residence quarters in which they were residing at the time of the transfer, until the employee or his dependents move, within the allowable period of entitlement, into permanent residence quarters. Temporary quarters must, in fact, be a temporary place of residence. Quarters occupied upon initial arrival at a new duty station location which factually are permanent type residence quarters into which an employee moves his household goods and continues occupancy indefinitely will not be considered temporary quarters for which expense reimbursement is allowable. Such quarters occupied temporarily within the allowable time limit may be considered temporary quarters when their need is due to the fact that the permanent quarters for which the employee has made arrangements * * *".

That GAO has computed the maximum (\$693.60) which is the amount to which Mr. Hollis would have been entitled to under the regulations had his dependents been regarded as occupying temporary quarters in Springfield. Since the family would in all likelihood have occupied temporary quarters had Mr. Hollis been transferred directly from Albuquerque to St. Louis, that GAO would have no objection to the payment of that amount.

The claim for additional subsistence expenses in the amount of \$506.40 for a second 30-day period was disallowed under paragraph 8551-3a, *supra*, inasmuch as the authority for payment of temporary quarters subsistence expenses is limited to a period not to exceed 30 days, except in cases involving transfers to or from certain prescribed areas, of which neither Saigon nor St. Louis is one. Since Mr. Hollis would not have been entitled to subsistence expenses for an additional 30 days if transferred directly from Albuquerque to St. Louis, we see

no particular equity in his claim for expenses which other employees under similar circumstances are not entitled to.

In view of the recommendations and conclusions detailed in the report of the General Accounting Office, the committee has determined that this is an appropriate matter for legislative relief. It is recommended that the bill, amended to pay the reduced amount \$4,114.45 suggested in the supplemental report of that office dated November 30, 1972, be considered favorably.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 30, 1972.

B-176779

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: We refer further to your letter of August 15, 1972, and to our report, B-176779 dated October 5, 1972, in regard to H.R. 16140, 92d Congress, 2d session, a bill "For the relief of John W. Hollis."

We indicated in our report that the items of "miscellaneous expense" claimed by Mr. Hollis should be deducted in the absence of an explanation as to the specific items included therein. Mr. Hollis has now furnished a statement, together with supporting documentation, that the item of \$197.50 claimed as a miscellaneous expense in connection with the sale of his Albuquerque, New Mexico, residence was for a title insurance reissue fee, and that the \$75 claimed as a miscellaneous expense in connection with the purchase of his St. Louis, Missouri, residence was for a survey fee.

Both of those items of expense may properly be reimbursed under section 4 of Office of Management and Budget Circular No. A-56 in an appropriate situation. We therefore recommend, if favorable consideration is to be given to this bill, that the \$5,148.35 amount be reduced to \$4,114.45 rather than to the \$3,841.95 amount indicated in our report.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., October 5, 1972.

B-176779

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of August 15, 1972, requests our report on H.R. 16140, 92d Congress, 2d Session. The bill would authorize payment to Mr. John W. Hollis of Ballwin, Missouri, in the amount of \$5,148.35, in settlement of his claim for reimbursement of travel and subsistence expense for himself and his family, and for real estate expenses in connection with his transfers of official statistics

from Sandia Base, Albuquerque, New Mexico, to Headquarters, Military Assistance Command, Saigon, Republic of Vietnam, and from there to the United States Army Aviation Systems Command, St. Louis, Missouri.

The employee's claim was presented to our Office and disallowed by Settlement Certificate dated February 14, 1972, copy enclosed. The record indicates that on June 24, 1968, following notice of an impending reduction in force at Sandia Base, the employee was advised of his selection for assignment to Headquarters, Military Assistance Command, Saigon, and on December 21, was issued travel orders authorizing his permanent change of station.

Mr. Hollis sold his residence in Albuquerque and relocated his family to Springfield, Illinois, for the duration of his assignment to Vietnam. He arrived in Saigon on January 16, 1969, and the following day received a request to accept an assignment with the U.S. Army Aviation Systems Command in St. Louis, Missouri. On February 4, 1969, Headquarters, Military Assistance Command, Saigon, released him from his one-year service obligation and reassigned him to St. Louis. Incident to that reassignment he moved his family from Springfield, to St. Louis, where he purchased a new residence.

Mr. Hollis was reimbursed expenses to which he was entitled under applicable regulations incident to each assignment. Expenses which were not reimbursed and which constitute the \$5,148.35 which is the subject of H.R. 16140 are as follows:

(1) Expenses in connection with the sale of residence in Albuquerque and purchase of residence in St. Louis.....	\$3,252.85
(2) Travel, per diem and subsistence expenses in connection with the dependent's move to Springfield, and the employee's transfer to Saigon from Albuquerque.....	539.26
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Total	5,148.35

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C8350 GENERAL

An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his

residence at his old duty station; the purchase of a residence at his new duty station; or in connection with the settlement of an unexpired lease for his residence at his old duty station, after he has signed the required transportation agreement and provided that:

"1. a permanent change of station is authorized or approved and the old and new duty stations are located within the United States, Commonwealth of Puerto Rico, or the Canal Zone;"

The above regulations are based upon regulations issued by the Office of Management and Budget (Circular No. A-56) as well as subsection 5724a (4) of title 5 of the United States Code in pertinent part as follows:

"§ 5724a. Relocation expenses of employees transferred or reemployed

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

* * * * *

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

Because the employee was transferred twice, the transfer in each case involving one duty station outside of the United States or other prescribed area, he is not entitled to reimbursement of real estate expenses in connection with either transaction. Had he had transferred directly from Albuquerque to St. Louis, he would have been entitled to reimbursement for certain of the real estate expenses which he has claimed. His decision to accept the reassignment to St. Louis did not however nullify the intermediate transfer to Vietnam or otherwise create a basis for reimbursement of real estate expenses.

The itemization of real estate expenses submitted by Mr. Hollis is as follows:

Expenses in connection with sale of Albuquerque residence, January 1, 1969:	
Brokerage fee.....	\$1,948.60
Attorney's fee.....	10.40
Sale or transfer tax; mortgage tax.....	77.94
Escrow fee.....	30.16
Miscellaneous expenses.....	197.50
Total	2,264.60

Expenses in connection with purchase of St. Louis residence,
June 25, 1969:

Appraisal or inspection fee.....	35.00
Lender's loan or origination fee.....	630.00
Recording fees.....	13.25
Title examination and instrument preparation.....	175.00
Mortgage title policy.....	160.00
Miscellaneous expenses.....	75.00
Total	988.25

Since the period intervening between the employee's two transfers was only a few days, we see no objection to allowing him real estate expenses as though he had transferred directly from Albuquerque to St. Louis. However, we believe the items labeled "miscellaneous expenses" should be deducted in the absence of an explanation as to what is covered thereby so as to permit a determination of whether they are otherwise allowable under the regulations.

That portion of Mr. Hollis' claim for expenses incident to moving his dependents from Albuquerque to Springfield and in connection with his travel to Saigon consists of \$8.51 for additional mileage, \$114.75 for additional per diem for his family while traveling, and \$416.00 for subsistence expenses for his dependents and himself while in Springfield. The claim for additional mileage and per diem results from the fact that in the course of traveling from Albuquerque to Springfield, the employee and his family traveled by way of St. Louis, rather than by the usually traveled route. He has explained that this detour was made for the purpose of picking up orders and a passport in St. Louis. That travel, however, was not authorized and there is no showing that this was necessary. Consequently he was limited to the mileage and per diem which would have been allowable had he proceeded directly from Albuquerque to Springfield. We see no equity in allowing him the additional mileage and per diem.

The \$416.00 amount claimed in connection with the move to Springfield is for subsistence expenses of 8 days while locating a residence in Springfield. That item was disallowed on the basis that temporary quarters subsistence expenses is authorized under 5 U.S.C. 5724a only when the new duty station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone. However, we note that had Mr. Hollis been transferred directly from Albuquerque to St. Louis he would have been entitled under the applicable regulations to the expenses of a househunting trip to St. Louis with per diem in lieu of subsistence limited to 6 days for himself and wife (including travel time). Thus, the allowance of 6 days additional per diem would not appear unreasonable. At the rates then in effect this would amount to \$28 per day or \$168.

The \$96.24 amount claimed by Mr. Hollis for additional expenses upon his return from Saigon in connection with moving his family from Springfield to St. Louis consists of

\$6.24 for mileage and \$90.00 for per diem. The additional mileage is attributable to travel between the motel in which the employee and his family stayed while awaiting delivery of their household goods and their new residence in St. Louis. The additional per diem claimed is for time spent in such motel. Reimbursement of the additional mileage was not allowable because the regulations make no provision for this type of expense and the additional per diem was not allowable on the basis that the time spent in a motel awaiting delivery of household effects ordinarily is a part of the temporary subsistence allowance which he was entitled to for a maximum of 30 days as hereinafter explained. Had he been transferred directly to St. Louis from Albuquerque this additional expense would not have been allowable. Therefore, we do not believe it should be included in the bill.

The remaining \$1,260.00 portion of Mr. Hollis' claim (after return from Saigon) is for 60 days subsistence expenses for his family while occupying what he asserts were temporary quarters. He has been reimbursed \$260, representing 30 days subsistence expenses in connection with his own occupancy of temporary quarters in St. Louis prior to his family's arrival from Springfield. Paragraph C8251-3a, JTR, revised August 1, 1968, provides as to reimbursement of temporary quarters subsistence expenses as follows:

"3. TIME ALLOWABLE

"a. *General.* Except as provided herein, temporary quarters subsistence expenses may be authorized or approved for the period of occupancy of temporary quarters, but not to exceed 30 days. When an employee is transferred to or from Hawaii, Alaska, the territories and possession, the Commonwealth of Puerto Rico, or the Canal Zone, temporary quarters subsistence expenses may be authorized or approved for an additional period not to exceed 30 days. The length of time allowed for occupancy of temporary quarters at Government expense under the 30- or 60-day limitations specified herein, will begin to run for the employee and his dependents when the employee, the spouse, or any other dependent starts to occupy such quarters and the time will run concurrently. If the employee occupies temporary quarters at one location while the spouse and/or other dependents occupy temporary quarters at another location, the time will terminate for the employee and dependents when any one of them moves into permanent residence quarters or when the allowable time limit expires, whichever occurs first. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, the required written agreement has been signed, and permanent quarters at the old duty station have been vacated. Also see prohibitions in par. C8253."

Subsistence expenses for the employee's family for the first 30 days were disallowed under the above-quoted regulation.

Since the 30-day period of entitlement runs concurrently for the employee and for his dependents, Mr. Hollis' occupancy of temporary quarters in St. Louis determined the running of that period. During those 30 days the family remained in occupancy of their residence in Springfield. Although temporary quarters subsistence expenses may be reimbursed where an employee and his dependents occupy temporary quarters at separate locations, occupancy by the dependents of the permanent type residence quarters in which they were residing at the time of the transfers does not constitute occupancy of temporary quarters. Paragraph C8250, JTR, revised August 1, 1968, provides in this regard as follows:

"C8250 GENERAL

"When it is necessary to occupy temporary quarters incident to the employee's transfer to a new duty station, temporary quarters subsistence expenses will be authorized, subject to the conditions in this Part, for the purpose of defraying the expenses of the employee and his dependents. Temporary quarters refers to lodging obtained temporarily after a transfer has been authorized or approved and after the employee and/or his dependents vacate the residence quarters in which they were residing at the time of the transfer, until the employee or his dependents move, within the allowable period of entitlement, into permanent residence quarters. Temporary quarters must, in fact, be a temporary place of residence. Quarters occupied upon initial arrival at a new duty station located which factually are permanent type residence quarters into which an employee moves his household goods and continues occupancy indefinitely will not be considered temporary quarters for which expense reimbursement is allowable. Such quarters occupied temporarily within the allowable time limit may be considered temporary quarters when their need is due to the fact that the permanent quarters for which the employee has made arrangements * * *"

We have computed the maximum amount (\$693.60) to which Mr. Hollis would have been entitled to under the regulations had his dependents been regarded as occupying temporary quarters in Springfield. Since the family would in all likelihood have occupied temporary quarters had Mr. Hollis been transferred directly from Albuquerque to St. Louis, we would have no objection to the payment of that amount.

The claim for additional subsistence expenses in the amount of \$506.40 for the second 30-day period was disallowed under paragraph 8551-3a, *supra*, inasmuch as the authority for payment of temporary quarters subsistence expenses is limited to a period not to exceed 30 days, except in cases involving transfers to or from certain prescribed areas, of which neither Saigon nor St. Louis is one. Since Mr. Hollis would not have been entitled to subsistence ex-

penses for an additional 30 days if transferred directly from Albuquerque to St. Louis, we see no particular equity in his claim for expenses which other employees under similar circumstances are not entitled to.

If favorable consideration is to be given to the bill on Mr. Hollis' behalf, we recommend that the \$5,148.35 amount be reduced to \$3,841.95 to provide for reimbursement of expenses to which he probably would have been entitled if he had been transferred directly from Albuquerque to St. Louis, as discussed above.

Sincerely yours,

PAUL G. DEMBLING,

(For the Comptroller General of the United States).

The Committee believes the bill is meritorious and recommends it favorably.

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Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

For the relief of John W. Hollis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John W. Hollis, of Ballwin, Missouri, the sum of \$4,114.45 in full settlement of all his claims against the United States for losses he sustained through the purchase and sale of residences and for travel and other expenses which failed to qualify for reimbursement, which he and his family incurred as a result of changes in his official station from Sandia Base, New Mexico, to Saigon, Republic of Vietnam in January 1969, and from Saigon to St. Louis, Missouri, on March 10, 1969, while he was employed by various agencies of the Department of Defense.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim. Any person violating the provisions of this section shall be fined not more than \$1,000.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*