

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

January 24, 2001

GSBCA 15386-RELO

In the Matter of VICTORIA H. COATES

Victoria H. Coates, Roswell, GA, Claimant.

Jeanette Bushner, Chief, Travel Section, Veterans Affairs Financial Services Center, Austin, TX, appearing for Department of Veterans Affairs.

HYATT, Board Judge.

In September 1999, claimant, Victoria H. Coates, an employee of the Department of Veterans Affairs (VA), transferred from Washington, D.C., to Atlanta, Georgia. Ms. Coates has requested the Board's review of the agency's disallowance of certain closing costs on the purchase of a house in Georgia.

Specifically, the VA determined that the following items were not reimbursable because they were paid in connection with the loan obtained for the purchase of the house and, as such, constituted part of the finance charge:

Georgia residential loan fee	\$ 6.50
Tax service fee	75.00
Underwriting fee	295.00
Funding and review fee	300.00
Courier and wire transfer fee	75.00
Tax report fee	10.00

The VA also suspended payment on a \$280 charge for an inspection pending receipt of a statement from the settlement company or lender verifying that the service was required as a precondition for closing. Ms. Coates requested that the Board review the VA's disallowance of these costs.

The VA states, in a memorandum explaining why it declined to pay the listed expenses, that all of these items are imposed as an incident to the extension of credit. As a

result, the applicable regulations preclude payment. 41 CFR 302-6.2(d) (1999). Ms. Coates has not provided any response suggesting that the VA's assessment is erroneous.

Discussion

When a Government employee is transferred from one official station to another, the agency is authorized to reimburse the employee for expenses incurred in connection with the move, including certain real estate transaction costs attributable to the purchase of a new residence. 5 U.S.C. § 5724a(a)(4) (Supp. IV 1998). Charges associated with the extension of credit, however, are not allowable under the Federal Travel Regulation (FTR), 41 CFR 302-6.2(d)(2)(v), (2000) which provides that unless specifically authorized elsewhere in the regulation, no fees, charges, costs, or expenses determined to be part of the finance charge under the Truth in Lending Act, 15 U.S.C. § 1605 (1994), may be reimbursed. The Truth in Lending Act provides that the finance charge shall be determined as the sum of all charges imposed directly or indirectly by the creditor incident to the extension of credit. Richard A. Poisel, GSBCA 15333-RELO (Dec. 8, 2000).

All of the costs disallowed by the VA are listed on the settlement papers as items payable in connection with the loan, or mortgage. The Board has consistently recognized that underwriting and tax service fees are charges paid incident to and as a prerequisite to the extension of credit, and thus are not reimbursable. E.g., Paula K. Fowler, GSBCA 15384-RELO (Jan. 22, 2001); Richard A. Poisel; Gerald Fediw, GSBCA 14256-RELO, 98-1 BCA ¶ 29,513. The tax report fee generally represents the cost of obtaining current tax information required by the lending institution as a prerequisite to approval of the mortgage loan. This, too, is not allowable. Charles A. Peters, GSBCA 13643-RELO, 97-1 BCA ¶ 28,689 (1996); Richard P. Johnson, B-218754 (Sept. 17, 1985). The remaining items imposed in connection with the loan approval process-- the residential loan fee, funding and review fee, and courier and wire fees¹ – are similarly not reimbursable. See, e.g., S. K. Datta, GSBCA 13888-RELO, 97-1 BCA ¶ 28,929; Anibal L. Toboas, B-217474 (July 19, 1985); Leonard Hardy, Jr., B-182930 (Mar. 20, 1975).

With respect to the inspection fee of \$280, the VA recognizes that this charge is payable if required as a condition of the sale. 41 CFR 302-6.2(d)(1)(xi) (2000); see David P. Brockelman, GSBCA 14604-RELO, 98-2 BCA ¶ 29,971. The VA has not disallowed

¹In some circumstances, we have recognized that courier, special mailing, and wire fees may be recoverable as incidental expenses under FTR 302-6.2(d), if customary and required as a precondition for completion of the real estate transaction. See, e.g., Paula K. Fowler; Larry D. Gatewood, GSBCA 15343-RELO (Nov. 28, 2000). This most commonly occurs when the transferring employee has moved and cannot readily attend the closing on the sale of the home at the old duty station. We have acknowledged that it may be possible for these employees to prove that overnight mailing services and the like were necessary to ensure timely and traceable deliver of necessary documents. Here, the courier and wire charges were imposed by financial institutions and were attributable to the loan approval process. Because these are indirect charges imposed incident to the extension of credit, reimbursement is not permitted under the applicable regulations. Anibal Toboas, B-217474 (July 19, 1985).

this cost, but simply has suspended payment of this amount pending receipt from Ms. Coates of documentation showing that the inspection was required as a precondition for completion of the purchase. If this inspection was so required, Ms. Coates may recover this cost by producing the documentation requested by the VA.

CATHERINE B. HYATT
Board Judge