



The Comptroller General
of the United States

Washington, D.C. 20548

Heitman

Decision

Matter of: Edward W. DePiazza - Long-term Temporary Duty -
Nature of Duties

File: B-234262

Date: June 2, 1989

DIGEST

A Navy employee on a long-term temporary duty assignment at a contractor's site may remain on temporary duty until completion of the contract. The employee's duties, flight-testing during the term of a contract, are the type of duties normally handled on a temporary duty basis; the assignment is for a finite period; and the cost to the government of the temporary duty assignment is less than a permanent change of station.

DECISION

This decision is in response to a request from the Department of the Navy concerning whether it must issue permanent change-of-station (PCS) orders to an employee on a long-term assignment.^{1/} For the reasons that follow, we agree with the Navy that PCS orders are not required; the employee may continue on temporary duty until the completion of his assignment.

BACKGROUND

The Navy has entered into an agreement with the Grumman Aerospace Corporation to conduct tests of the F-14D aircraft at Grumman's test facility in Calverton, New York. The flight-testing program began in August 1987 and is scheduled to continue until February 1990.

The Naval Air Test Center, Patuxent River, Maryland, was responsible for providing a Navy test team to monitor the aircraft development and to participate in contractor tests at Calverton. A team consisting of civilian engineers, an

^{1/} The request was forwarded through the Per Diem, Travel and Transportation Allowance Committee and has been assigned PDTATAC Control No. 89-1.

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aircrew, enlisted personnel, technicians, and contract support personnel was established at Calverton under the supervision of Mr. Edward W. DePiazza, as the Lead Systems Integration Engineer.

Mr. DePiazza was assigned to the project on August 21, 1987, when the test program commenced at the Grumman flight test facility, and he was issued temporary duty travel orders. The Navy viewed the assignment as temporary since it was unique to the contract and finite in time, and since Mr. DePiazza would return to the Patuxent River site after completion of his assignment. Mr. DePiazza is receiving a reduced per diem while on temporary duty at Calverton.

Although Mr. DePiazza was originally assigned to the project at Calverton for 17 months, the Navy requires his presence at the site for an additional 14 months since he has the needed expertise to provide continuity for the program and he cannot easily be replaced. Thus, the Navy has requested that Mr. DePiazza be allowed to remain on temporary duty at a reduced per diem for the balance of the time necessary to finish the project.

The Navy is aware of the fact that our decisions rarely sanction temporary duty assignments that exceed 16 months. However, the Navy has prepared a cost comparison between a permanent change of duty station and a temporary duty assignment for Mr. DePiazza. The cost comparison shows that the payment of per diem in lieu of relocation expenses (both to New York and back to Maryland) results in a savings of over \$66,000 to the government.

The Navy also points out that temporary duty assignments may be allowed in excess of 6 months when cost savings will result since the Joint Travel Regulations, at Vol. 2, para. C4455-c (Change No. 267, Jan. 1, 1988), state:

"When a period of temporary duty assignment at one place will exceed 2 months, consideration will be given to changing the employee's permanent duty station unless there is reason to expect the employee to return to his permanent duty station within 6 months from the date of initial assignment or the temporary duty expenses are warranted in comparison with permanent change-of-station movement expenses."

The Navy also advises us that it has many other employees who have been performing long-term temporary duty assignments in circumstances similar to Mr. DePiazza's. These other employees have been assigned to various

contractor sites, they perform highly-skilled jobs, and they are expected to remain at those sites for a prolonged period of time until completion of a specific fixed-term contract. Therefore, we have also been asked to consider these employees in our decision.

OPINION

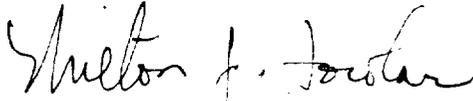
Whether an assignment to a particular station is temporary or permanent is a question of fact to be determined from the orders under which the assignment is made, the character of the assignment, its duration, and the nature of the duties. 33 Comp. Gen. 98 (1953); Erwin E. Drossel, B-203009, May 17, 1982. Our decisions concerning the length of an assignment have not established any hard and fast rules; however, they hold that the duration should generally be brief. Bertram C. Drouin, 64 Comp. Gen. 205 (1985); Peter J. Dispenzirie, 62 Comp. Gen. 560 (1983).

The length of Mr. DePiazza's current and projected assignment, standing alone, might suggest that his assignment is permanent in nature. However, as noted above, it is also necessary to consider the character of the assignment and the nature of the employee's duties in reaching our conclusion. In addition, we believe that cost should be considered in accordance with 2 JTR para. C4455 although cost should not be the sole criterion. Cf., 36 Comp. Gen. 757 (1957); Dispenzirie, supra.

Mr. DePiazza's assignment, to work on the flight-testing program for the F-14D aircraft, is the type that is normally handled on a temporary duty basis. Further, the work is to be completed at the contractor's plant and is time-limited to the completion of the contract. Cf. J. Michael Tabor, B-211626, July 19, 1983. Mr. DePiazza was issued orders by the Navy for the performance of temporary duty and he is expected to return to Patuxent, Maryland, at the completion of his duties. Finally, the Navy estimates that a temporary duty assignment is much less costly than a permanent change of station. Under these circumstances, we have no objection to Mr. DePiazza's remaining on temporary duty until completion of his assignment.

The Navy should apply the above criteria in addressing other long-term temporary duty assignments. The employees should be notified in advance by competent orders of the length of the assignment, and reduced per diem should be authorized in

advance in accordance with 2 JTR para. C4550 (change 274, Aug. 1, 1988). The employees should also be made fully aware of the potential tax liability if their assignment extends beyond 1 year. See Dispenzirie, supra.

A handwritten signature in cursive script, appearing to read "Milton J. Fowler".

Acting Comptroller General
of the United States