Overruled by 56 Comp. Gen. ——, (B-187833, 7-6-77).

DECISION

THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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52 Comp Gen 69 distinguished

FILE: B-182581 DATE: MAR 21 1975

MATTER OF: Dislocation Allowance - PDTATAC Control No. 74-43

DIGEST:

1. Military members required to involuntarily relocate their households incident to base closings in Japan under Kanto Plain Consolidation Plan, without permanent changes of station, may not be paid dislocation allowance under 37 U.S.C. 407(a)(1970), nor may they be paid such allowance pursuant to 37 U.S.C. 405a (1970) since the relocations were not evacuations incident to unusual or emergency circumstances.

2. Military members required to relocate their households incident to base closings in Japan without permanent changes of station may not be reimbursed personal expenses incurred for purchase of rugs, drapes, curtains, and service charges for items of personal convenience not essential to the occupation of quarters. Also, reimbursement for telephone installation charges is specifically prohibited by 31 U.S.C. 679 (1970).

This action is in response to a letter dated September 20, 1974, with enclosures (file reference ACF), from Major Alan C. Duncan, USAF, Chief, Accounting and Finance Branch, Headquarters 475th Air Base Wing (PACAF), APO San Francisco 96328, requesting an advance decision concerning payment of dislocation allowances to members stationed in Japan who were required to move from their Government housing areas incident to the Kanto Plain Consolidation Plan. This request was approved by the Per Diem, Travel and Transportation Allowance Committee and forwarded here by indorsement dated October 29, 1974, under PDTATAC Control No. 74-43.

The submission indicates that under the Kanto Plain Consolidation Plan (KPCP), with the concurrence of the United States and

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Japanese Governments, certain United States occupied military bases in the Kanto Plain area of Japan were closed and returned to the control of the Government of Japan. Several of these bases were being used only as housing areas, and personnel commuted daily from these housing areas to duty at other bases at which they were permanently stationed. As a result of the base closings under the KPCP, certain members changed housing areas without changing their duty stations and were, therefore, not issued permanent change of station orders.

In line with the foregoing, it is explained in a letter dated October 4, 1974, from the Assistant Deputy Chief of Staff/Comptroller, Headquarters Pacific Air Forces, that movement of personnel from Fuchu Air Station to Yokota Air Base and coincidental closure of the Kanto Mura and other Government housing complexes required over 600 military members to relocate their households. Those members stationed at Fuchu whose households were moved in connection with permanent change of station (PCS) orders could be paid a dislocation allowance (DLA). However, members not making a PCS but who were forced to move from housing complexes were not entitled to DLA, due to absence of PCS orders. The need for reimbursing various unavoidable expenses of moving incident to Government housing complex closures is pointed out, and it is suggested that the most equitable solution is payment of DLA to all members involved.

In this regard the Chief, Accounting and Finance Branch, requests a decision as to whether DLA may be paid to all members who were required to move because of the housing closures and who incurred moving expenses for those moves, although they did not move pursuant to permanent change of station orders. The Assistant Deputy Chief of Staff/Comptroller recommends that those members be paid DLA pursuant to paragraph M12002, Volume 1, of the Joint Travel Regulations (1 JTR). He also recommends that, if it is determined that DLA cannot be authorized to such members, they be reimbursed from Operation and Maintenance funds "for command approved expenses incurred in connection with their carrying out orders," such approved expenses to be in amounts not greater than "eligibility under DLA." As authority for that method of reimbursement, he cites 51 Comp. Gen. 12 (1971) and 52 Comp. Gen. 69 (1972).

As representative of the foregoing, two vouchers have been transmitted with the submission covering the claimed relocation expenses of Senior Master Sergeant , USAF,

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, and Staff Sergeant , USAF, . Sergeant claims the cost of purchase of curtains, service charges for rewiring of plugs for and installation of air-conditioners, and a charge for installation of a telephone. Sergeant claims the costs of cleaning appliances and installation of air-conditioners, the purchase and installation of a television antenna, the cost of purchase of curtains, drapes and rugs, and a charge for telephone installation. Both members' housing was relocated incident to the KPCP but neither member's permanent duty station was changed. Presumably, the transportation of their household goods incident to the relocation was at Government expense. 1 JTR, paragraph M8309.

Section 407(a), title 37, United States Code (1970) provides in pertinent part that under regulations prescribed by the Secretary concerned, a member of a uniformed service whose dependents make an authorized move "in connection with his change of permanent station" or whose dependents are "covered by section 405(a)" of title 37, is entitled to a dislocation allowance.

Paragraph M9003-1, 1 JTR, promulgated pursuant to that authority, provides that a dislocation allowance is payable to a member with dependents whenever the dependents relocate their household "in connection with a permanent change of station." Since it is clear that the relocations here involved did not take place in connection with permanent changes of station, payment of DLA on that basis is precluded. See 47 Comp. Gen. 556 (1968).

Pursuant to 37 U.S.C. 405a (1970) and 1 JTR, paragraph M12002, a member may also be entitled to DLA when his dependents are necessarily relocated "incident to an evacuation," which must be caused by "unusual or emergency circumstances (such as war, riots, civil uprising or unrest, adverse political conditions, denial or revocation by host Government of permission to remain, national disaster, epidemics, or similar conditions of comparable magnitude)." The relocations of members from one military housing area to another under the KPCP did not, in our view, take place incident to such unusual or emergency circumstances. Compare 46 Comp. Gen. 133 (1966), and 52 Comp. Gen. 69, supra. Thus, DLA is not payable on that basis.

In view of the above payment of DLA is not authorized in these circumstances.

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As to whether the members here involved may be reimbursed from Operation and Maintenance funds, as was indicated in the submission, in 51 Comp. Gen. 12, we authorized reimbursement to a Navy officer for the advance rental of a motel room incident to competent orders to perform temporary duty which duty was terminated early. In that case, although the member could not be paid travel per diem, we indicated that the rental of the room could be considered as part of the administrative cost of operating the member's permanent duty station and he could be reimbursed from Operation and Maintenance funds. On a similar basis in 52 Comp. Gen. 69, we authorized reimbursement to a member for expenses he incurred for relocation of his house trailer from one trailer court to another incident to an order of his base commander declaring his trailer court "off limits." Since no permanent change of station was involved, normal trailer allowances could not be paid; however, we authorized reimbursement from Operation and Maintenance funds for the transportation of the trailer and necessary expenses for materials required for new water and electric hook-ups and conversion from LP to natural gas, which were essential to occupancy of the house trailer.

The situation in the present case is similar to that in 52 Comp. Gen. 69 (house trailer) only in that the members' relocations occurred incident to the exercise of the appropriate military commanders' authority in connection with the administration of their bases. However, unlike the situation in the trailer case, above, the vouchers submitted in this case for the expenses incurred by Sergeant and Sergeant represent purely personal expenses incurred, but not mandatory for the actual habitation of new Government quarters.

With respect to the foregoing, the purchase of such personal furnishings as rugs, curtains and drapes which are (and remain) the personal property of the members are not reimbursable items. Similarly, the amounts claimed for service charges appear to be for services performed for the personal convenience of the members and were not services essential to the occupation of the quarters, as was the case in 52 Comp. Gen. 69. Thus, such service charges are not reimbursable. This is in accord with the general position this Office has taken in other cases involving expenditure of Government funds for the purchase of furnishings for the personal use of employees. See 47 Comp. Gen. 657 (1968), 32 Comp. Gen. 369 (1953), 32 Comp. Gen. 229 (1952), and 3 Comp. Gen. 433

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(1924), and compare B-163449, March 4, 1968, and B-162320, September 18, 1967. Also, although reimbursement for a telephone installation charge was authorized in 52 Comp. Gen. 69, such authorization was inadvertent since payment of such charges is specifically prohibited by 31 U.S.C. 679 (1970). See 54 Comp. Gen. 661 (1975). Thus, telephone charges claimed by Sergeants and may not be reimbursed. Therefore, in this case, we do not view the representative vouchers submitted as showing any actual and necessary expenses of the type which may be reimbursed from Operation and Maintenance funds of the bases involved.

Accordingly, the vouchers submitted are not authorized for payment and are retained here.

R. F. Keller

Deputy Comptroller General
of the United States