



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Kirk S. Peters

File: B-249451

Date: January 7, 1993

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### DIGEST

An employee sold his residence after notice that the Air Force Base at which he worked would be closed, but before he accepted a transfer to another base and signed a transportation agreement. The employee's agency denied his claim for real estate expenses because he incurred them before signing a transportation agreement. The employee was enrolled in the agency's priority placement program under which the agency committed itself to assist in locating another federal job for him and paying relocation expenses incident to the necessary relocation. He may be reimbursed the real estate expenses because in these circumstances the base closure notice was evidence of a clear administrative intent to transfer him upon the location of a new position for him.

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### DECISION

An authorized disbursing officer<sup>1</sup> asks whether Mr. Kirk S. Peters, an Air Force civilian employee, may be reimbursed for real estate expenses he incurred incident to his transfer from George Air Force Base, California, to Nellis Air Force Base, Nevada. We approve payment.

### BACKGROUND

Mr. Peters states that after the Department of Defense (DOD) announced that George Air Force Base would be closed, in December 1992, he registered in the DOD's Priority Placement Program (PPP), which assists civilian employees in finding other Federal jobs. Mr. Peters also states that at a meeting held in October 1989 by the Civilian Personnel Office at George Air Force Base to provide information on the base closure, the PPP employees were encouraged to sell their homes early to "beat the rush and confusion of base closure." Employees who are transferred to other federal jobs through the PPP are eligible for reimbursement of relocation costs.

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<sup>1</sup>Mr. W.S. Gordon, Deputy Accounting and Finance Officer, Nellis Air Force Base, submitted the request.

Following the base closure announcement and anticipating that he eventually would receive an offer through the PPP, Mr. Peters placed his home on the market in September, 1991 and sold his home in February, 1992. In fact, in April 1992, DOD offered and Mr. Peters accepted a job at Nellis Air Force Base and he signed the required transportation agreement on April 23, 1992.

When Mr. Peters claimed reimbursement for expenses he incurred in the sale of his residence at the old duty station, the claim was denied on the basis of a provision of the travel regulations that provides that such reimbursement is authorized for expenses incurred "after" the required transportation agreement is signed. Joint Federal Travel Regulations (JFTR), vol. 1, para. C14000-1 (Change no. 304, Feb. 1, 1991). In submitting the matter to us, however, the Finance Officer states that his office feels that any residence sale made after announcement of a base closure should be charged to the closure program.

We have received comments on this matter from the Per Diem, Travel and Transportation Allowance Committee, which recommends payment on the claim based on the general rule that an employee may be reimbursed for real estate expenses incurred prior to and in anticipation of a transfer if a clearly evident administrative intent to transfer the employee exists at the time the expenses are incurred. It is the Committee's view that the announcement of a base closure accompanied with an offer to assist in finding new positions for affected employees should be considered a clearly evident intent to transfer such employees. The Committee notes that because base closures involve a large number of transfers that adversely affect the housing market, employees are encouraged to place their homes on the market as soon as a base closure is announced. The Committee argues that those who do so should not have to forfeit their entitlement to real estate expense reimbursement simply because the employees have yet to find and accept a transfer.

#### OPINION

The primary statutory requirements for reimbursement of real estate expenses are that the employee be "transferred in the interest of the government from one official station or agency to another for permanent duty . . ." and that the employee agree "in writing to remain in the government service for 12 months after the transfer . . ." 5 U.S.C. § 5724(1).

We do not view the problem here as arising from the particular date on which Mr. Peters signed his

transportation agreement. That requirement is meant only to ensure that the expenses claimed by a transferring employee are attributable to the transfer. Thus, the larger concern here is that at the time Mr. Peters sold his home, he had not received a firm job offer or any orders directing his travel to a new duty station.

However, regarding the effect the timing of a real estate transaction has on an employee's eligibility for reimbursement, as the Per Diem, Travel and Transportation Allowance Committee points out, we have held that an employee may be reimbursed for real estate transactions that occur before an official notice of transfer is issued if there is a clearly evident administrative intent to transfer the employee at the time the employee incurred the expense. Joan E. Marci, B-188301, Aug. 16, 1977. In circumstances similar to the present case, we have found a clear intention to transfer an employee where there was notice that an employee's current position would be abolished or that all essential functions of a military installation would be relocated. Orville H. Myers, 57 Comp. Gen. 447 (1978); Compare, George S. McGowan, B-206246, Aug. 29, 1984.

By encouraging eligible employees to enroll in the PPP and to place their homes on the market early, and by committing itself to pay the relocation costs of employees transferred through the PPP, we believe DOD has expressed a clear intent to transfer employees who enroll in that program incident to a base closure, although they may not know the location of the next duty station until sometime later. Therefore, once a position is found for the employee and he signs the required transportation agreement and is issued the transfer orders, if the agency determines the sale of the residence was incident to the anticipated transfer, the employee may be reimbursed. Orville H. Myers, supra, 451.

Accordingly, in Mr. Peters's case if the required orders have been issued and the agreement has been signed, he may be reimbursed for the real estate selling expenses.

*for* *James F. Hinchman*  
James F. Hinchman  
General Counsel