



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

B-176536

October 10, 1972

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Dear Governor Parker:

Reference is made to letter dated July 11, 1972, from Charles R. Clark, Acting Governor, with enclosures, requesting our decision concerning increases in compensation which may be prescribed administratively for postal employees of the Canal Zone Government.

You point out that the employees here involved are not within the purview of the statutes that govern the United States Postal Service (USPS), 39 U.S.C. 101 et seq., but rather are covered by the Canal Zone Code (specifically, 2 C. Z. Code §§ 101-149 and 1131-43).

In the past the pay rates for the postal employees of the Canal Zone Government were traditionally established and adjusted administratively to conform generally with those rates prescribed for the former United States Post Office Department. However, you say that since the establishment of USPS a problem has arisen in attempting to grant the same increases as those granted by USPS because of the wage-price guidelines set forth by the President and the Pay Board. Although USPS has granted more than one wage increase to its employees since the institution of the wage-price freeze (on August 15, 1971) with the aggregate thereof exceeding 5.5 percent (stated to have ranged from 4.8 percent to 11.5 percent) the Canal Zone Government has limited the increases for its postal employees to 5.5 percent of the pay rates in existence prior to August 15, 1971.

Since the Pay Board has permitted USPS to exceed the 5.5 percent increases as specified by the guidelines you ask whether such limitation likewise may be exceeded for the postal employees of the Canal Zone Government.

We first note that determinations with regard to wage rates and increases therein for Canal Zone Government employees are a matter of administrative discretion. 2 C. Z. C. 101. In such light (and as pointed out by your letter of July 11, 1972) resolution of the present question would appear to turn on whether the fourth paragraph of a Presidential Memorandum dated January 11, 1972, would be for application to the employees here involved. This paragraph stated as follows:

PUBLISHED DECISION
52 Comp. Gen. _____

"Heads of executive agencies are authorized to adjust by administrative action the rates of pay which are subject to the provisions of section 5307 of Title 5 of the United States Code, consistent with the adjustments effected by Executive Order No. 11637 of December 22, 1971. Such adjustments shall also be consistent with the policies and pay increase guidelines issued by the Pay Board established under Executive Order No. 11627 of October 15, 1971."

5 U.S.C. 5307 provides in pertinent part as follows:

"(a) Notwithstanding section 665 of title 31--

"(1) the rates of pay of--

"(A) employees in the legislative, executive, and judicial branches of the Government of the United States (except employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) and of the government of the District of Columbia, whose rates of pay are fixed by administrative action under law and are not otherwise adjusted under this subchapter;

"(B) employees under the Architect of the Capitol, whose rates of pay are fixed under section 166b-3 of title 40, and the Superintendent of Garages, House office buildings; and

"(C) persons employed by the county committees established under section 590h(b) of title 16; and

"(2) any minimum or maximum rate of pay (other than a maximum rate equal to or greater than the maximum rate then currently being paid under the

General Schedule as a result of the pay adjustment by the President), and any monetary limitation on or monetary allowance for pay, applicable to employees described in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection;

may be adjusted, by the appropriate authority concerned, effective at the beginning of the first applicable pay period commencing on or after the day on which a pay adjustment becomes effective under section 5305 of this title, by whichever of the following methods the appropriate authority concerned considers appropriate—

"(i) by an amount or amounts not in excess of the pay adjustment provided under section 5305 of this title for corresponding rates of pay in the appropriate schedule or scale of pay;

"(ii) if there are no corresponding rates of pay, by an amount or amounts equal or equivalent, insofar as practicable and with such exceptions and modifications as may be necessary to provide for appropriate pay relationships between positions, to the amount of the pay adjustment provided under section 5305 of this title; or" (Emphasis added.)

While the matter is not entirely free from doubt, we believe the better view is that the language of 5 U.S.C. 5307 was intended to include within its scope all Canal Zone Government employees since they are employees in the executive branch of the United States Government. Moreover, the fact that by practice or regulation the Canal Zone Government used the compensation of employees of USPS (which agency is not under 5307) as a measure of the compensation to be paid to postal employees of the Canal Zone Government does not serve to remove the latter from the scope of 5307.

It follows from the above that your agency was correct in following the guidelines on pay increases as set forth in the Presidential Memorandum of January 11, 1972, for the postal employees here involved and that you should continue to do so in the absence of any exemption therefrom by law or otherwise.

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Your question is answered accordingly.

Sincerely yours,

R.F. KELLER

Deputy Comptroller General
of the United States

The Honorable David S. Parker
Governor of Canal Zone Government
Balboa Heights, Canal Zone

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