

12076 PHM II



**DECISION**

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

FILE: B-194374

DATE: November 20, 1979

MATTER OF: Detail to Acting State Directors, Farmers Home Administration

AGC 00358

**DIGEST:** Employees of the Department of Agriculture detailed to positions 2 or more grades higher than their appointed positions are entitled to a retroactive promotion to the highest grade to which entitled under the Whitten Amendment and other requirements. Employees detailed to a higher grade position the duties of which they performed in addition to their regular duties are entitled to a retroactive promotion since there is no indication that they did not perform the full duties at the higher grade.

AGC 00042

We have been asked by the Department of Agriculture to determine the entitlement to a retroactive promotion and backpay of certain employees who were detailed to the position of Acting State Director of the Farmers Home Administration. The position of State Director was a Schedule A, Excepted Appointment, which was classified at grade GS-15. The employees who were appointed as Acting State Directors occupied positions in the competitive service at the GS-12 and GS-13 levels.

The employees detailed to the position of Acting State Director fall into two groups. The first group was detailed as follows:

"You are hereby designated to act as State Director for [State] effective immediately until further notice. You are delegated all rights, privileges, duties, and powers delegated to the position of State Director. This delegation is in addition to your regular duties."

The second group was detailed in the following manner:

"You are hereby designated to act with full authority for the State Director effective [date]."

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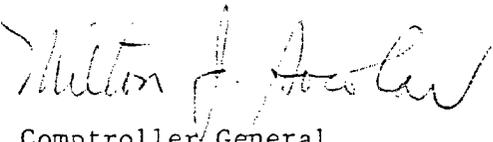
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The Department assumes that the second group is eligible for a retroactive promotion under the guidelines of our decision, Turner-Caldwell, 55 Comp. Gen. 539, affirmed 56 id. 427 (1977), since that group performed only the duties of State Director. However, the Department questions the entitlement of the first group, since the persons in that group acted as State Director in addition to their regular duties.

The employees in the second group are entitled to a retroactive temporary promotion beginning on the 121st day of their detail. We held in Leonard J. McEnnis, Jr., 56 Comp. Gen. 982 (1977), that an employee in the competitive service may be granted a retroactive temporary promotion for an extended detail to a position in the excepted service. However, in view of Whitten Amendment time-in-grade restrictions, which were in effect at the time of the details, these employees are not entitled to be promoted to grade GS-15. Instead, they are eligible for promotion to the highest grade to which they could have been promoted under the Whitten Amendment and other applicable requirements. See: Robert Rann, B-191768, October 2, 1978.

The employees in the first group are entitled to a retroactive promotion under the same conditions set forth for group two. The Department does not question that the employees in group one performed the duties of State Director. Although a detail involves the temporary performance of the duties of a different position with a subsequent return to regular duties, the fact these employees continued to perform the duties of their regular position is no bar to a retroactive promotion where they performed the duties of the higher grade position as well.

The Department's questions are answered accordingly.

  
For the Comptroller General  
of the United States