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**DECISION**



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

**FILE:** B-196731

**DATE:** April 22, 1980

**MATTER OF:** Jerrold Oppenheim, Robert L. Shayon, Sylvia M. Siegel, and Ann Murphy - Compensation for Services Prior to Appointment

**DIGEST:**

Four experts may be compensated as de facto employees for services performed prior to their appointment. The experts were requested to prepare and present instructional materials at a workshop sponsored by the agency, and specific salary commitments were made to them. Although the agency was unable to complete processing of the necessary forms prior to the date of the workshop, the services requested were performed in good faith and under color of authority, and with a reasonable expectation of payment. See decisions cited.

We have been asked by Thomas M. King, Director, Division of OS Personnel, Department of Health, Education, and Welfare (HEW) to issue a decision as to whether four experts may be compensated for services rendered prior to the effective date of their appointments.

In December 1978, the U.S. Office of Consumer Affairs co-sponsored a Consumers' Telephone Workshop. In preparation for the conference, the agency contacted Jerrold Oppenheim, Robert L. Shayon, Sylvia M. Siegel, and Ann Murphy, and requested that they prepare certain instructional materials for presentation and distribution at the conference. While other experts who participated in the panel discussions received only travel expenses, commitments for specific salaries were made to these four individuals because each was to be responsible for the preparation and presentation of a whole block of instruction. The four experts agreed to perform the work and the appropriate employment forms were mailed to them.

The forms were mailed several weeks before the conference. Oppenheim and Shayon returned their completed forms approximately two weeks before the conference, and Siegel and Murphy returned them the day before the conference. In each case, however, the agency was unable to complete processing of the forms prior to the conference.

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We have previously held that where services are performed prior to the actual date of appointment, but are rendered in good faith and under color of authority, and there is a reasonable expectation of payment, an individual may be considered a de facto employee. 55 Comp. Gen. 109 (1975); William A. Keel, Jr., et al., B-188424, March 22, 1977; Jane Hartley, et al., B-189351, August 10, 1977; Dr. Frank von Hippel, B-196088, November 1, 1979.

The record indicates that the employees were hired by HEW with the expectation that they would receive a salary and that they did, in fact, perform the agreed upon services in good faith and under color of authority. Accordingly, in view of the facts in this case, we are of the opinion that the four experts named above were de facto employees and may be paid compensation equal to the reasonable value of services rendered while in a de facto status.



Acting Comptroller General  
of the United States