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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

FILE: B-193734

DATE: May 21, 1980

MATTER OF: Authority of the General Services Administration to certify for payment claims against expired agencies

DIGEST: General Services Administration (GSA) may certify for payment claims and debts of an expired Federal agency so long as agency and GSA have specific written agreement for this service prior to the agency's expiration, and obligation for payment also arose prior to agency's expiration. Under 31 U.S.C. § 82b GSA would become "agency concerned" for purpose of certifying vouchers pertaining to obligations of expired agency. 44 Comp. Gen. 100 modified.

The General Services Administration (GSA) has asked for guidelines concerning its authority to certify for payment claims that are debts of Federal agencies which have expired. In this regard, it suggests it be allowed to continue to certify claims or legal debts as part of its service of closing out the routine affairs of defunct agencies. GSA states that its authority to perform this function is section 601 of the Economy Act of 1932, as amended, 31 U.S.C. § 686. For the reasons indicated below, we agree that GSA can certify for payment claims that are debts of an expired Federal agency so long as the agency, prior to its expiration, has authorized GSA, in writing, to carry out this function and the debt was incurred before expiration.

Pursuant to agreements entered into under the Economy Act, 31 U.S.C. § 686, GSA frequently provides administrative support services to Government agencies (for purposes of this case, the term "agency" includes Federal departments, independent establishments, commissions, etc.). These services include the audit and certification for payment of agency obligations. See 55 Comp. Gen. 388, 389 (1975). GSA also carries out certain "close-out" functions on behalf of expired agencies. These functions include the certification for payment of valid claims against an agency, based on obligations incurred prior to the agency's expiration but not presented for payment until after its expiration.

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GSA has been providing this service for a number of years. Prior to the time that GSA undertook this service, at least some of the post-expiration claims were settled by the General Accounting Office. See 33 Comp. Gen. 384, 386 (1954); 14 Comp. Gen. 490, 491 (1934); 3 Comp. Gen. 123, 124 (1923).

At first glance, it would appear that 31 U.S.C. § 82b is an obstacle to GSA undertaking the above-described close-out function. That section provides, in part:

"* * * disbursing officers under the executive branch of the Government shall (1) disburse moneys only upon, and in strict accordance with, vouchers duly certified by the head of the department, establishment, or agency concerned, or by an officer or employee thereof duly authorized in writing by such head to certify such vouchers."

We have held that this section requires that a certifying officer be an officer or employee of the agency whose funds are to be disbursed. 44 Comp. Gen. 100, 101 (1964). We have found this requirement is met where the agency whose funds are being disbursed designates an employee of another agency to act as its certifying officer. *Id.*, at 101. However, these principles were formulated in instances, in which one agency performed administrative functions for a still existing agency. We never directly considered whether an agency can contract to have another agency undertake its certification responsibilities after its expiration.

On the other hand, it has been our longstanding rule that after an agency expires, the services of all its members and employees terminate and neither its members nor employees can undertake activities on its behalf for the purpose of concluding the agency's affairs or otherwise. B-182081, January 26, 1977; 14 Comp. Gen. 738, 739 (1935). Accordingly, it would appear that a GSA employee designated to serve as a certifying officer of a functioning agency could not continue to act in that capacity after that agency's expiration. Thus, if GSA certifying officers may lawfully certify for payment debts of expired agencies, they must do so as GSA employees.

The act of which 31 U.S.C. § 82b is a part, in great measure, was intended to meet the urgent need of the Government to fix definitely the responsibilities of disbursing and certifying officers. See S. Rept. No. 916, 77th Cong. 1st Sess. 4 (1941). We acknowledge that the phrase in section 82b, "vouchers duly certified by the head of the department, establishment or agency concerned," was understood as referring to existing departments, establishments or agencies, the proper certification of whose vouchers enabled a disbursing officer to disburse monies. However, there is no evidence that the Congress intended to limit the section's coverage to functioning agencies. It is quite possible that in enacting section 82b, the Congress neither considered nor contemplated situations in which one agency would certify for payment claims against an expired agency.

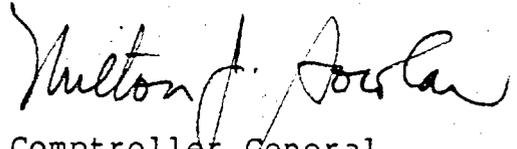
Accordingly, we find nothing in section 82b or its legislative history to prevent our viewing the "department, establishment or agency concerned" as the agency actually performing the certification in instances in which the agency whose funds are being disbursed no longer exists. We think this view is consistent with section 82b and our decisions because an agency which has expired can no longer be considered the "department, establishment or agency concerned". Moreover, to interpret the phrase "department, establishment, or agency concerned" as referring solely to the agency whose funds are being disbursed even when that agency no longer exists would, under our decisions, preclude the payment of the agency's accounts, a result we are sure the Congress did not intend.

Therefore, for the purposes of section 82b, GSA becomes the "agency concerned" after the expiration of the agency for which it performs administrative services. Thus, GSA certifying officers can continue to certify the agency's vouchers after the agency has expired.

GSA has no independent authority to certify the vouchers of other agencies. Therefore, our conclusion is limited to instances in which an agency, as part of a written Economy Act agreement, has authorized GSA to continue the function of certifying its vouchers for payment after it expires.

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Further, the vouchers must represent obligations properly incurred prior to the agency's expiration. As a practical matter, we understand that GSA certifying officers would merely be performing the essentially ministerial function of insuring that a claimant had fulfilled its obligation to the Government and was thus entitled to be paid.

A handwritten signature in cursive script, appearing to read "Milton J. Rosen".

For the Comptroller General
of the United States