

**DECISION**

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

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**FILE:** B-211592**DATE:** April 11, 1984**MATTER OF:** U.S.D.A. Forest Service--Claim by Student Conservation Association**DIGEST:**

1. Under a Servicewide Agreement between the Forest Service and the Student Conservation Association (SCA), the Forest Service was required to reimburse SCA only for actual subsistence expenses incurred by volunteers. Where the volunteers were stationed in remote Forest Service field camps and incurred no subsistence expenses, no duty to reimburse arose. The obligation to reimburse was not triggered by the advance by SCA of subsistence payments to the volunteers.
2. The Forest Service is not responsible for the unauthorized receipt and distribution of SCA checks by one of its employees. In the absence of specific statutory authority the Government is not liable for the negligent or unauthorized acts of its employees. 56 Comp. Gen. 943, 950 (1977).

A certifying officer for the USDA Forest Service has requested an advance decision on whether a claim for reimbursement submitted by the Student Conservation Association (SCA) should be paid. The SCA seeks reimbursement in the amount of \$2,088 for subsistence payments to three students whom the SCA assigned to serve as Forest Service volunteers in the Ketchikan Area, Tongass National Forest, Alaska. As explained below, it is our opinion that the Servicewide Agreement between the SCA and the Forest Service required the Forest Service to reimburse the SCA only for actual subsistence expenses incurred by the volunteers. Although the SCA gave subsistence checks to the volunteers, these volunteers did not actually incur subsistence expenses. The SCA's claim for reimbursement should accordingly be disallowed.

According to the Forest Service report, no subsistence expenses were incurred by the volunteers because the volunteers were directly provided all items normally considered part of subsistence expenses. According to the report, it is long-standing Forest Service policy in the Alaska Region to provide employees and volunteers stationed in remote camps with food,

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lodging and other necessities, since there is nowhere for the individuals to pay for such items on their own. Due to a misunderstanding on the part of both the SCA and the Forest Service, however, the SCA sent subsistence payment checks to a Forest Service employee which were erroneously distributed to the volunteers.

Section 2 of the Volunteers in the National Forests Act of 1972, Pub. L. No. 92-300, 86 Stat. 147, May 18, 1972, authorized the Secretary of Agriculture to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence incurred by volunteers serving in areas administered by the Forest Service. 16 U.S.C. § 558b (1982). In a Servicewide Agreement between the Student Conservation Association and the Forest Service, the SCA agreed to provide the Service cooperating areas with an itemized periodic invoice for actual expenses incurred by the volunteers, while the Forest Service agreed to reimburse the SCA for "all actual expenses incurred by them in payment of [the] following incidental expenses of the Forest Assistants: Transportation, uniforms and subsistence." The two parties also agreed that the SCA would not assign nor would the Service accept sponsored volunteers until the execution of Forest Service Form 1800-8 (Agreement for Sponsored Voluntary Services) by the SCA with a Service cooperating area. A Form 1800-8 was signed by a Forest Service representative for the Ketchikan Area on June 30, 1982, and by an SCA representative on July 6, 1982.

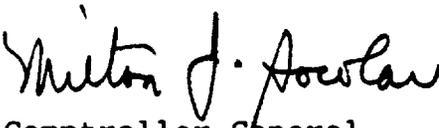
The Student Conservation Association argues that it is entitled to reimbursement of the \$2,088 which was distributed to the volunteers since the Servicewide Agreement contemplated that the SCA would provide subsistence payments to the volunteers and then seek reimbursement from the Forest Service, and the Forest Service did not inform the SCA of its intention to provide subsistence directly. The SCA also argues that since it was a Forest Service employee who improperly distributed the subsistence payments, the Forest Service should return these funds to the SCA.

We agree that the Forest Service should have informed the SCA that it intended to provide the volunteers with subsistence, and that this misunderstanding could have been avoided if proper communication had been made. We further agree that the arrangement between the two parties contemplated that the Forest Service would reimburse the SCA for amounts which it provided to the volunteers for subsistence. We do not agree, however, that the SCA could trigger this reimbursement obligation by advancing subsistence payments to the volunteers. No obligation to reimburse arose in this case since no actual expenses were incurred by the volunteers. We do not read

16 U.S.C. § 558b as authorizing payments except for actual subsistence expenses. The contract clearly establishes that SCA will be paid on a reimbursable basis. This contract provision is consistent with the prohibition against advance payments contained in 31 U.S.C. § 3324. Accordingly, the burden was on SCA to assure that volunteers received subsistence payments based on out-of-pocket subsistence expenses of the volunteers. The SCA should have required its volunteers to submit documentation establishing their actual subsistence expenses before seeking reimbursement from the Forest Service. Had the SCA required such documentation, it would have been alerted to the fact that the volunteers were being provided subsistence directly.

We also disagree with the argument that since a Forest Service employee distributed the SCA checks to the volunteers, the Forest Service is responsible for the SCA checks and should restore the amount paid to SCA. The Forest Service indicates that the receipt and distribution of SCA checks by its employee violated agency directives, and correctly argues that in the absence of specific statutory authority, the Government is not liable for the negligent or unauthorized acts of its employees. 56 Comp. Gen. 943, 950 (1977). The Forest Service also points out that although it could have considered ratifying the sums in question if subsistence had not actually been furnished to the volunteers, ratification at this point would result in a payment for an expense already paid for.

This claim should not be paid.

  
for Comptroller General  
of the United States