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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Government Printing Office Retirement Incentive Plan

File: B-251107

Date: December 21, 1992

DIGEST

Government Printing Office may not use appropriated funds to provide cash retirement incentives to eligible employees as part of its Retirement Incentive Plan without express statutory authority.

DECISION

The Public Printer requests our opinion on the legality of a Retirement Incentive Plan for the Government Printing Office (GPO) under federal appropriations law. Under the proposed plan, GPO would offer cash retirement incentives to eligible management, supervisory, and nonbargaining unit support employees in order to reduce overhead costs associated with government printing, allow GPO to operate within approved budget levels, and reduce staff in excess of GPO's current needs. As discussed below, we conclude that the proposed expenditure of appropriated funds is not authorized.

BACKGROUND

GPO has concluded that the revenue generated by its printing and binding activities is insufficient to support its current level of management and supervisory staff and that such staff can be reduced. GPO has also determined that the present number of nonbargaining unit support employees is excessive to its needs. Further, while GPO has experienced substantial attrition, it does not expect future attrition to enable it to reach appropriate staff levels.

The proposed Retirement Incentive Plan is designed to address this surplus of management, supervisory, and nonbargaining unit support employees. Under the proposed plan, GPO would offer managerial and supervisory employees throughout GPO and nonsupervisory, nonbargaining unit employees in the Washington metropolitan area cash incentives to retire early under 5 U.S.C. §§ 8336(d)(2) and

8414(b)(1)(B) (1988).[1] Specifically, employees in the designated positions would be offered cash payments equivalent to the higher of either 50 percent of their 1992 base pay, or the difference between their approved retirement annuity for 1993 and their 1992 base pay. The cash payments would be made from the revolving fund established by the Legislative Appropriation Act of 1954, Pub. L. No. 83-178, 67 Stat. 318, 330-331 (1953) (codified at 44 U.S.C. § 309 (1988)), available for GPO's operations and maintenance.

We understand that the Joint Committee on Printing has approved the concept of the Retirement Incentive Plan. In addition, GPO's Office of General Counsel recently informed us that the Office of Personnel Management (OPM) had approved voluntary early retirement for the designated classes of GPO employees; OPM's letter of approval did not address the proposed cash retirement incentives.

DISCUSSION

Under 31 U.S.C. § 1301(a) (1988), appropriated funds may be used only for authorized purposes. GPO lacks authority to to pay cash incentives to employees eligible for early retirement. Therefore, appropriated funds are not available for purposes of such payments.

As part of the statutory scheme establishing requirements for personnel administration, Congress has specifically authorized various types of payments to employees separated from service incident to staff reductions. See, e.g., 5 U.S.C. § 5595(b) (authorizing severance pay for employees involuntarily separated from service under certain circumstances). In particular, Congress has provided that eligible employees who separate from service voluntarily are entitled to receive immediate annuities when the Office of Personnel Management concurs in an agency determination that the agency is undergoing a major reorganization, reduction in staff, or transfer of functions. See 5 U.S.C. §§ 8336(d), 8414(b). Sections 8336(d) and 8414(b) clearly express Congressional intent regarding voluntary early retirement. Since these provisions include no reference to cash retirement incentives, we conclude that GPO is not

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[1]GPO initially proposed abolishing management, supervisory, and nonbargaining unit support positions, and offering eligible employees cash incentives to take discontinued service retirements. We understand from GPO's Office of General Counsel that GPO revised its plan after consulting with the Office of Personnel Management.

authorized to make such payments to achieve desirable staff reductions.

Moreover, Congress has specifically authorized separation incentives for particular agencies implementing radical reductions in staff. For example, 10 U.S.C. § 1174a (Supp. III 1991) temporarily authorizes the secretaries of the military departments to offer involuntary separation pay and monetary benefits to certain personnel electing voluntary separation. In addition, section 1175 temporarily authorizes the Secretary of Defense to provide financial incentives to certain personnel volunteering for appointment, enlistment, or transfer to a Reserve component. More recently, Congress authorized similar financial incentives for civilian employees of the Department of Defense. Section 4436 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. No. 102-484, 106 Stat. 2315, 2723-2724 (1992), added new section 5597 to title 5, United States Code, authorizing the Secretary of Defense to offer separation pay to eligible employees of defense agencies "[i]n order to avoid or minimize the need for involuntary separations due to a reduction in force, base closure, reorganization, transfer of functions, or other similar action . . .."

Accepted principles of statutory interpretation compel us to conclude that Congress enacted provisions authorizing incentives for voluntary separation because those provisions were necessary for the agency to make the payments. See United States v. Menasche, 348 U.S. 528 (1955) (holding that effect must be given to every provision of a statute); see also Jackson v. Kelly, 557 F.2d 735 (10th Cir. 1977) (noting that Courts should not suppose that Congress intended to enact unnecessary statutes). Further, we find no relevant basis for distinguishing GPO from the agencies for which Congress has specifically authorized separation incentives. Therefore, we conclude that GPO may not make incentive payments as part of its proposed Retirement Incentive Plan without similar statutory authority.[2]

fr Milton J. Socolar
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of the United States

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[2]The approval of the Joint Committee on Printing does not constitute the authority required for GPO's proposed plan.