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

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B-172594

August 16, 1973

The Honorable James E. Johnson
Assistant Secretary of the Navy
Manpower and Reserve Affairs

Dear Mr. Johnson:

We refer to your letter of May 2, 1973, assigned FDTATAC Control Number 73-19, by which you request reconsideration of our decision of December 14, 1972, B-172594, 52 Comp. Gen. 345, concerning the funding of travel and transportation expenses and other benefits paid to employees who have been reemployed in the Federal service within one year after being separated due to a reduction in force or transfer of function. You also ask, in the event the decision remains unchanged, whether for the purposes of the DOD Program for Stability of Civilian Employment, the Department of Defense may be considered a single agency and thereby authorize the losing DOD activity to pay relocation expenses within the United States.

You state that the Department of Defense Program for Stability of Civilian Employment is a comprehensive program for locating civilian positions within the Department in which displaced career and career-conditional employees may be placed. As an integral part of this program, the losing activity is required to fund the allowable relocation expenses for employees who are reemployed in another DOD activity within one year after being separated due to a reduction in force, transfer of function, or base closure. You state that "In the operation of the DOD Program for Stability of Civilian Employment, about eighty percent of the displaced employees who are placed in other positions within the United States and require relocation are placed after separation." Accordingly, our decision of December 14, 1972, adversely affects the operation of this program because prospective receiving activities are reluctant to accept displaced employees if they are required to fund the relocation expenses of such employees.

Section 5724a(c) of title 5, United States Code, provides:

"(c) Under such regulations as the President may prescribe, a former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred

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> may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) and (b) of this section, in the same manner as though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated."

As to the obligation of an agency to fund or pay the allowable relocation expenses of an employee transferring from one agency to another, as distinguished from a former employee reemployed by a different agency within one year after his separation, 5 U.S.C. 5724(e) provides:

> "When an employee transfers from one agency to another, the agency to which he transfers pays the expenses authorized by this section. However, under regulations prescribed by the President, in a transfer from one agency to another because of a reduction in force or transfer of function, expenses authorized by this section and sections 5726(b) and 5727 of this title (other than expenses authorized in connection with a transfer to a foreign country) and by section 5724a(a), (b) of this title may be paid in whole or in part by the agency from which the employee transfers or by the agency to which he transfers, as may be agreed on by the heads of the agencies concerned."

Our decisions of July 7, 1971, 51 Comp. Gen. 14, and June 8, 1972, B-172594, involved the funding of relocation expenses of overseas employees who are returned to the United States after their separation due to a reduction in force, but are reemployed within a year after their separation. In 51 Comp. Gen. 14 we noted that 5 U.S.C. 5724a(c) relates only to an employee's entitlement to reimbursement for relocation expenses and that it is silent as to whether these expenses are to be funded by the losing or receiving agency. However it was noted in the June 8, 1972 decision that under 5 U.S.C. 5722(a)(2) the losing agency's liability for such expenses is terminated when the employee is removed from its rolls and separated at his actual place of residence upon his return from an overseas assignment. Accordingly we concluded that the receiving agency should, consistent with the general authority of 5 U.S.C. 5724a, pay the expense of any additional travel required by the reemployment of a former employee within one year after his separation due to a reduction in force or transfer of function. On the basis of these decisions, we held in our

decision of December 14, 1972, that there is imposed by statute upon the department which employs a former employee within one year after his separation due to a reduction in force or transfer of function an obligation to fund the allowable relocation expenses to the new duty station. In so holding we took the position that the procedural provisions of 5 U.S.C. 5724(e) relating to the funding or payment of relocation expenses are applicable only to transfer situations and not to reemployment situations where an employee is entitled to relocation expenses under 5 U.S.C. 5724a(a).

Upon reconsideration we now conclude that our prior decisions were unnecessarily restrictive. In this regard section 5724a(c) expressly provides that a former employee separated by reason of reduction in force or transfer of function who is reemployed within 1 year may be allowed travel, transportation and relocation benefits "in the same manner as . . . though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated." Under section 5724(e) the travel, transportation and relocation expenses of an employee who is transferred from one agency to another because of a reduction in force or transfer of function may be paid in whole or in part by the gaining or losing agency as the heads of such agencies may agree upon.

It is now our view that the language "in the same manner" appearing in section 5724a(c), above, reasonably may be construed not only as authorizing payment of the same substantive benefits to employees transferred in reduction-in-force proceedings and to those who are separated and reemployed by a different agency within 1 year, but also as authorizing payment of such benefits by the gaining or losing agency to the same extent whether the reduction in force involves a direct transfer or a separation and rehiring by a different agency with the 1-year period.

We note that the statutory regulations promulgated under the statutory provisions in question make no provision governing funding of the benefits paid to employees involved in reduction-in-force proceedings. In the absence thereof we would have no objection to funding authorized expenses in reduction-in-force situations in any manner authorized by the cited statute.

To the extent that our decisions of December 14, 1972, June 8, 1972, and July 7, 1971, are inconsistent with this conclusion, they no longer should be followed.

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From the foregoing it follows that no reply is required to the second question.

Sincerely yours,

Paul G

cc: Captain William D. Fries, USN, Executive
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REFERENCE: PDTATAC 73-19