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*Cir Paul  
Hambert*

**DECISION**



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

**FILE:** B-186449

**DATE:** January 24, 1977

**MATTER OF:** Community Services Administration -  
Liability of Certifying Officer

- DIGEST:**
1. Although no voucher accompanied request, decision is rendered because the problem may be recurring and the Comptroller General has broad authority under 31 U.S.C. 74 to render decisions to heads of departments on any question involved in payments which may be made by their department.
  2. Employees who resigned from Federal employment and accepting employment with Federally-funded Legal Services Corporation were paid bonuses equal to portion of accrued annual and sick leave. Certifying officer of Community Services Administration, the agency from which employees resigned, may certify sick leave balances and approve lump sum payments for annual leave without liability for subsequent bonus payment by Corporation since by statute employees of Corporation are not Federal Government employees for leave purposes.

This decision is in response to a request dated April 30, 1976, from Mr. Roy B. Hogg, an authorized certifying officer of the Community Services Administration (CSA), concerning the propriety of processing lump sum payments for accumulated annual leave to certain former CSA employees, and of certifying to the Civil Service Commission the sick leave balances of such employees.

The personnel affected by this action were formerly employed in the Legal Services Division of CSA. Upon the creation of the Legal Services Corporation by Public Law 93-355, 42 U.S.C. 2996 et seq., these persons resigned from their employment with CSA to accept positions with the Corporation. Upon resignation, they were to be paid for accumulated annual leave and their sick balances were certified to the Civil Service Commission for retirement purposes or for possible recredit. When hired by the Corporation, the individuals were paid a cash bonus in an amount

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equal to 2/3 of their accumulated sick leave and, in the case of those employees who had earned 26 days of annual leave per year, an amount equal to 6 days of annual leave. In addition, if such individuals are re-employed by the Federal Government within 3 years after leaving CSA, they may receive double compensation by using recredited sick leave after having received the "bonus" from the Corporation. In view of these circumstances, the certifying officer asks whether he may without liability continue to certify sick leave balances of employees who resign from CSA to accept employment with the Corporation and to process lump sum payments for accumulated annual leave to such employees.

Under the authority contained in 31 U.S.C. 74 and 82d, a certifying officer is entitled to a decision by the Comptroller General on a question of law involved in the payment of a specific voucher which should accompany the request to our Office. While no voucher accompanied the instant request for a decision, the problem raised by the request may be recurring, and we are rendering a decision under the broad authority of 31 U.S.C. 74 authorizing decisions to the heads of departments on any question involved in payments which may be made by that department. 52 Comp. Gen. 83, 84 (1972); 53 Comp. Gen. 71, 72 (1973).

The Legal Services Corporation was established in the District of Columbia as a private nonmembership, nonprofit corporation for the purpose of providing financial support for legal assistance in noncriminal matters to persons financially unable to afford legal assistance. Section 1005(e)(1) of Public Law 93-355, which created the Corporation, provides:

"Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government."

Section 1005(f) specifically provides that the officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of compensation for work injuries, civil service retirement, life insurance, and health insurance. With respect to compensation, however, section 1005(d) provides:

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"Officers and employees of the Corporation shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code."

Further, section 1006(a) states that the Corporation shall exercise the powers conferred upon a nonprofit corporation by title 29 of the District of Columbia Code, which provides at section 29-1005, inter alia:

"Each corporation shall have power--

(k) to elect or appoint officers and agents of the corporation, and define their duties and fix their compensation."

It is unnecessary in this decision to determine the legality of the bonuses or whether the possible subsequent use of recredited sick leave upon re-employment would constitute double compensation. The sole function required of the certifying officer here is to certify for lump sum payment the separated employee's accrued annual leave and to certify to the Civil Service Commission his sick leave balance. These actions are mandated by 5 U.S.C. 5551 and 5 U.S.C. 8339(n) respectively. The actions taken by the CSA certifying officer are unrelated to those of the Corporation. As noted above, the employees of the Corporation, which has the power to fix compensation, are not employees of the Federal Government for purposes of compensation and leave. Accordingly, the CSA certifying officer may certify the subject sick leave balances to the Civil Service Commission and certify for lump sum payment the accrued annual leave, if otherwise proper.

*R. F. King*  
Deputy Comptroller General  
of the United States