

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

00784

FILE: B-187727

DATE: December 14, 1976

MATTER OF: Dai Vo-Duc et al. - Unpaid Compensation -  
Lost payroll

**DIGEST:** Vietnamese nationals, listed on Vietnam employee payrolls lost in evacuation of Saigon, claim unpaid compensation. Where paying agent for relevant payrolls state that only portion of payroll was paid and they are unable to identify employees paid, claims may be paid because employees listed had entitlement, payrolls were lost under unusual circumstances and claims are not administratively disputed. Where, however, paying agents state that entire payroll was paid or are able to identify paid individuals, claims of persons listed on such payrolls may not be paid since claims are disputed.

This action concerns a letter dated April 28, 1976, from Joe L. Harman, Director, Finance Department, Navy Regional Finance Center, Washington, D.C., forwarding for settlement the claims of seven persons of Vietnamese nationality for compensation which they claim was not paid to them for the period from April 6 through 19, 1975, when they were employees of the Defense Attache Office in Saigon, Vietnam. These claims were forwarded to our Office since payrolls applicable to such claims were lost in the evacuation of Saigon in April 1975. The claims before us are a portion of approximately 200 similar claims pending in our Office.

The claims in our Office are divisible into 2 categories, the first class of which includes the 7 claims referred by Mr. Harman. With respect to this first category, the paying agents for the relevant payrolls state that a portion of their payrolls were paid, but they are unable to identify which employees were or were not paid. It is, therefore, not known whether the claimants were among those paid. With respect to the second class of claims, however, the paying agents either state that the entire payroll was paid, or are able to identify with reasonable certainty those individuals who have been paid. Whether the claims of any of the employees on the lost payrolls may properly be paid is the question presented to the General Accounting Office.

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We have consistently held that one who asserts a claim against the Government has the burden of furnishing substantial evidence to clearly establish liability on the part of the Government. See B-187060, October 15, 1976 (56 Comp. Gen. \_\_\_\_). Concerning disputes of fact between the claimant and the Government, we have consistently accepted the agency's administrative statement of facts in the absence of a preponderance of the evidence to the contrary. Id.

In the present matter, the Defense Attache conducted an investigation into the circumstances surrounding the loss of the payrolls and the possible identification of persons who received payment. As a result thereof, the Navy Regional Finance Center determined that, where the paying agent for a lost payroll states that only a portion of the payroll was paid but is unable to identify which employees were paid, the claims of individuals listed on such payrolls cannot be disputed. The persons listed on these payrolls were in fact employees of the United States who had rendered services for which the Government is justly obligated to pay compensation. In view of this, considering the highly unusual circumstances surrounding the evacuation from Vietnam and the loss of records caused thereby, and since the Navy Department does not dispute the fact of nonpayment as alleged by the claimants in this category, the claims of such persons are considered established and properly payable.

With respect to the second category of claims, the paying agents for the applicable payrolls either state that the entire payroll was paid, or are able to identify with reasonable certainty the individuals who have been paid. The claims of persons on such payrolls, therefore, have been administratively disputed. Since responsible officers of the United States have controverted such claims, the burden is placed upon the claimants to present further evidence in support of their claims of nonpayment. In the absence thereof, such claims should be denied.

We understand similar claims are pending in the Navy Regional Finance Office. Therefore, in the interest of uniform settlement action, the individual claims and supporting materials will be

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returned to the Navy Regional Finance Center under separate cover  
for administrative disposition in accordance with this decision.

  
Deputy Comptroller General  
of the United States