

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

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FEB 17 1964

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Dear Mr. Secretary:

On January 31, 1964, you requested our decision whether the employment of a retired officer of the Commissioned Corps of the Public Health Service by the Gorgas Memorial Laboratory would violate one of the dual employment or dual compensation statutes applicable to Federal employees.

The Gorgas Memorial Laboratory is operated by the Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc., a private corporation. The Laboratory is supported largely by grants from the United States under the act of May 7, 1928, ch. 505, 45 Stat. 491, as amended, 22 U.S.C. 2778, but has a private endowment, receives private contributions, and is operated on premises originally provided by the Government of Panama. Employees of the Laboratory are paid from the accumulated fund derived from the above services.

A retired officer of the Public Health Service holds an "office" within the meaning of the act of July 31, 1894, ch. 174, 28 Stat. 205, as amended, 5 U.S.C. 22. 36 Comp. Gen. 243. Such an officer is also subject to the restriction upon the receipt of additional compensation imposed by section 212 of the "Economy Act" approved June 30, 1932, ch. 111, 47 Stat. 406, as amended, 5 U.S.C. 559a. However, since those provisions place restrictions upon individuals who hold more than one Government office or position and since the Gorgas Memorial Laboratory is not a part of the United States Government but is a private institution it does not appear that those provisions restrict the employment of a retired Public Health Service officer by the Gorgas Memorial Laboratory.

The act of May 10, 1916, ch. 117, 39 Stat. 120, as amended, 5 U.S.C. 53, places a restriction upon the disbursement of appropriated funds. It provides:

"Unless otherwise specifically authorized by law, no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum."

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Federal funds granted to a private institution when paid over to and expended by the institution are not subject generally to Federal laws applicable to the expenditure of appropriated funds unless there is a special condition of the grant to the contrary. See 25 Comp. Gen. 668, 28 id. 54, 36 id. 221. Our view is that the amounts appropriated to Gorgas Memorial Laboratory are in that category and consequently outside the purview of 5 U.S.C. 58. X The decision of March 30, 1943, A-23261, does not appear to be controlling.

Therefore, a retired officer of the Public Health Service is entitled to receive his full retired pay even though he is employed and compensated by the Gorgas Memorial Laboratory.

Sincerely yours,

Joseph Campbell,

Comptroller General  
of the United States

The Honorable  
The Secretary of Health, Education,  
and Welfare

**COMPENSATION**

**Double**

Holding two offices  
Military retired status and  
grants-in-aid activities

1963-64

**FUNDS**

Federal grants, etc., to other  
than States

Applicability of Federal statutes  
Double compensation and  
or employment

... of ...  
... out of ...  
... of ...  
... of ...  
... of ...

**COMPENSATION**

**Double**

Concurrent military retired  
and civilian service pay  
Public Health Service officers

... of ...  
... of ...  
... of ...

**PUBLIC HEALTH SERVICE**

Commissioned personnel  
Dual employment

**APPROPRIATIONS**

Funds which lose identity as Federal  
Gorgas Memorial Laboratory

... of ...  
... of ...  
... of ...

**DEPARTMENTS AND ESTABLISHMENTS**

**Status**

Gorgas Memorial Laboratory

**GORGAS MEMORIAL LABORATORY**

**Status**