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United States General Accounting Office
Washington, DC 20548

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Office of
General Counsel

In Reply
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John H. Sims, Jr.
Chief, Fiscal Service
Veterans Administration Hospital
5901 East Seventh Street
Long Beach, California 90822

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Dear Mr. Sims:

This is in response to your letter dated November 24, 1978 (file reference 600/04B) requesting a clarification of the term "employee" as it is defined in 5 U.S.C. 5701 in connection with the payment of employee's travel and subsistence expenses.

Specifically you have asked whether the term "employee" applies to:

(a) Temporary appointment - full time

(b) Temporary appointment - part time

(c) Temporary appointment - Student Trainee

(d) Temporary appointment - Stipend

Although a formal decision of the Comptroller General is not being issued, the following information may be useful to you.

The criteria basic to any determination of whether an individual is a Federal employee are set forth in 5 U.S.C. 2105(a) (1976). The test is whether the employee is:

1. Appointed in the civil service by a Federal officer or employee,

2. Engaged in the performance of a Federal function under authority of law or an Executive act,

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3. Subject to the supervision of a Federal officer or employee while engaged in the performance of duties of his position. All these criteria must be present to qualify as a Federal employee.

However "temporary employees" are not specifically excluded from the definition of "employee", in either 5 U.S.C. 2105 or 5701. Thus, temporary employees would be entitled to travel and transportation benefits under 5 U.S.C. 5701-5709 if otherwise meeting the qualifications as set forth therein or as set forth in the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973).

We regret the delay in responding to your request.

Sincerely yours,

Edwin J. Monsma

Edwin J. Monsma
Assistant General Counsel