



United States  
General Accounting Office  
Washington, D.C. 20548

Office of the General Counsel

B-225958

February 19, 1987

Mr. James M. Peirce, President  
National Federation  
of Federal Employees  
1016 16th Street, N.W.  
Washington, D.C. 20036

Dear Mr. Peirce:

This is in further reference to your letter of December 18, 1986, your reference 1124-RE-600017, regarding the claim of [redacted], for relocation expenses. Your request for a decision from this office was made pursuant to 4 C.F.R. Part 22, which governs requests for decisions on matters of mutual concern to Federal agencies and labor organizations.

Section 22.7(b) of title 4, Code of Federal Regulations, provides that the Comptroller General will not issue a decision or comment on the merits of a matter subject to a grievance procedure unless the request is made by the certifying or disbursing officer of an agency or unless the request is made jointly by the agency and the labor organization. A request will be considered joint unless the other party to the dispute objects to the request.

Shortly after your request was acknowledged by this office, an official of the Army Corps of Engineers, New Orleans District, contacted us and objected to our involvement in the matter. The agency official indicated that he received a copy of the acknowledgement letter from our office to you, and that he wished to inform us that the agency objected to GAO's involvement in the matter. He also indicated that his receipt of the copy of our acknowledgement letter was his first indication of our involvement in the matter.

By letter dated January 22, 1987, the Army Corps of Engineers formally objected to our consideration of this matter on the ground that it is covered by a negotiated grievance procedure. You responded by letter dated January 29, 1987, urging that we disregard the agency response due to the fact that the agency's response was not submitted within 20 calendar days of service of your request.

We do not view the 20-day time period for submission of responses as a rigid limitation. When our rules concerning labor-management decisions were first published in the Federal Register we made the following comments concerning the time period for filing written comments:

"Some suggested that the time in § 21.5(b) for filing written comments be extended, or the regulations provide for extensions of time in certain circumstances. In response to these comments, the 15 day period has been extended to 20 days, but it was not considered necessary to provide formally for extensions of time. The final rule insures consideration of comments received within 20 days, but does not preclude consideration of comments received at a later date." 43 Fed. Reg. 32395 (1978).

The purpose of the establishment of the 20-day period was to assure the parties to the dispute that we would not decide the issue for 20 days and would definitely consider any comments submitted to us within that time period. However, we have retained our discretion to consider comments received after the 20-day period. See Lawrence L. Longsdorf, 61 Comp. Gen. 513 (1982).

We have decided to exercise that discretion in this case and consider the agency's comments even though they were not submitted within the 20-day period. We do so because the circumstances of this case fall within the restrictions we have placed on our jurisdiction. In view of the agency's objection to our review of the claim on the basis that it is subject to a negotiated grievance procedure, we will not

assert our jurisdiction. Thus a decision will not be issued on this matter.

Sincerely yours,



Robert L. Higgins  
Assistant General Counsel

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