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DECISION



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

FILE: B-191329

DATE: April 28, 1978

**MATTER OF: Request for Advance Decision by Certifying
Officer, National Park Service**

DIGEST:

The Comptroller General will not render a decision on the merits of a request from a certifying officer for a decision under the provisions of 31 U.S.C. 82d where a specific voucher is not in question unless the matter is one of a general and recurring nature which is not the case here.

This is a response to a request for a decision from an Authorized Certifying Officer of the National Park Service, Department of the Interior, concerning contract No. 14-10-3-930-96, dated September 20, 1965, entered into with the Buckhorn Rural Water Corporation for the construction of a water system and the furnishing of water to the Arbuckle Recreation Area (now part of the Chickasaw National Recreation Area), Murray County, Oklahoma.

The statutory authority under which this Office renders decisions to certifying officers is 31 U.S.C. 82d (1970) which provides as follows:

"§ 82d. Same; enforcement of liability. The liability of certifying officers or employees shall be enforced in the same manner and to the same extent as now provided by law with respect to enforcement of the liability of disbursing and other accountable officers; and they shall have the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment on any vouchers presented to them for certification. * * *"

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Under the above-quoted authority, a certifying officer is entitled to a decision by the Comptroller General on a question of law involved in a payment on a specific voucher which has been presented for certification prior to payment of the voucher, which should accompany the submission to this Office. 21 Comp. Gen. 1128 (1942); 55 Comp. Gen. 652 (1976).

No voucher accompanied the request for decision in this case and this Office has been orally advised that no specific voucher is in existence. Cf. 55 Comp. Gen. 1237 (1976) where we assumed the certifying officer had vouchers before him pertinent to the request for decision; 54 Comp. Gen. 284 (1974).

When the question presented for decision is general in nature and appears to be one which will be of a recurring nature, this Office will treat the request as one from the head of the agency and will provide a decision to the head of the agency under the broad authority contained in 31 U.S.C. 74 (1970). 55 Comp. Gen. 652 (1976); 52 Comp. Gen. 83 (1972).

The question presented by the certifying officer is not one of a general nature and one that should recur; thus it does not fall within the exception set forth above which dispenses with the requirement for a specific voucher before a decision by this Office may be given. See General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 1, Chapter 3, Section 11, paragraph 11.1, December 17, 1970.

The question presented by the certifying officer appears to be the result of a difference of opinion between the certifying officer and the Field Solicitor, Santa Fe, Department of Interior, as to the best course of action to take to resolve a problem concerning contract No. 14-10-3-930-96. While a certifying officer is not "bound" by conclusions of law rendered by agency counsel (55 Comp. Gen. 297 (1975)), the question presented here appears to be a matter which should be referred through departmental channels for resolution. In the event the matter is not resolved within the department, the department head may refer the matter to this Office for a decision in accordance with 31 U.S.C. 74 (1970).

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Accordingly, we must decline to render a decision
on the merits of the request.

Paul G. Dembling
Paul G. Dembling
General Counsel



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

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APR 28 1970

The Honorable
The Secretary of Interior

Dear Mr. Secretary:

Enclosed is a copy of our decision of today declining to consider on the merits a request for advance decision by a Certifying Officer of the National Park Service. As indicated in the decision, the request did not pertain to a specific voucher as required by 31 U.S.C. 82d (1970) and General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 1, Chapter 3, Section 11, paragraph 11.1. We therefore, are returning the matter for possible resolution within your Department.

It is suggested that your certifying officers be reminded of the requirements for requesting a decision under the provisions of 31 U.S.C. 82d.

Sincerely yours,

~~Paul G. Dembling~~

Paul G. Dembling
General Counsel

Enclosure

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