

7134
DECISION



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

FILE: B-191329

DATE: July 27, 1978

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

DIGEST:

Certifying officer's request for advance decision under 31 U.S.C. 82d will not be honored where it appears there has been no administrative decision by agency to incur expense and no voucher presented to certifying officer for payment.

On April 28, 1978, we declined to render an advance decision under 31 U.S.C. 82d (1970) to a certifying officer of the National Park Service because no specific voucher accompanied his request. Request for Advance Decision by Certifying Officer, National Park Service, B-191329, April 28, 1978, 78-1 CPD 322. The certifying officer has now prepared a voucher and has re-submitted his request.

The Comptroller General renders advance decisions to certifying officers pursuant to 31 U.S.C. 82d (1970), which states that certifying officers:

" * * * 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."

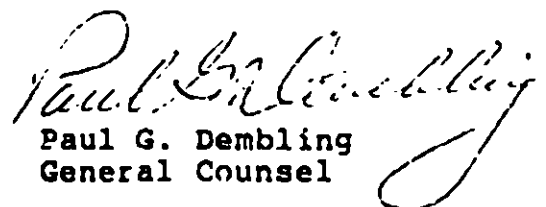
Thus, when a certifying officer has doubts about the legality of an expenditure which he has been asked to certify, he should request a decision from the Comptroller General under 31 U.S.C. 82d. 55 Comp. Gen. 297 (1975). However, before such a decision is appropriate, the certifying officer must have been asked to certify the payment. Obviously, that must be preceded by an internal agency decision to incur the expense listed on the voucher.

In this case, the certifying officer's original letter to this Office indicates that no decision has yet been made within the Park Service to incur any expense. Instead, the certifying officer, disagreeing with the advice received from his Regional Counsel, merely seeks our advice on whether the Park Service should negotiate a termination agreement in connection with a water service contract which would provide for the payment by the United States of \$11,814.00 or some "other agreed to settlement," or to simply terminate the contract and "take our chances on a suit for damages and the amount thereof."

If a decision is ultimately made to settle the matter for a specific sum, then the certifying officer will be presented with a voucher for that amount. It is at this point--when the certifying officer has been presented with a specific voucher for payment--that the certifying officer must decide whether or not the payment is legal, and a request for a Comptroller General decision becomes appropriate.

Under the circumstances, the question presented to us is not an appropriate subject for an advance decision to a certifying officer under 31 U.S.C. 82d. 21 Comp. Gen. 1128 (1942); see B-168907, March 13, 1970.

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


Paul G. Dembling
General Counsel