



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Trevor V. Davis, et al.
File: B-227411.2
Date: August 21, 1990

DECISION

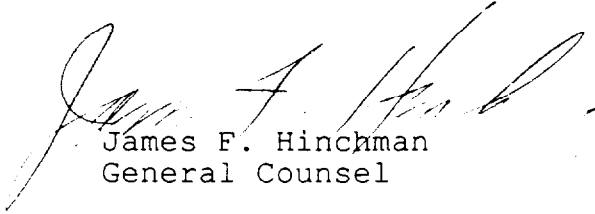
The United States Information Agency requests waiver of overpayment of salary on behalf of three Foreign Service Nationals employed by the Voice of America on the Island of Antigua. The employees, Trevor V. Davis, Samuel Kentish, and Archibald Alexander James, were overpaid night differential pay of \$677.46, \$1,460.87, and \$1,113.46, respectively.

This matter was the subject of our decision VOA Relay Station, Antigua, B-227411, May 19, 1988, wherein we held that there was no authority for such payment.

Absent any fraud, misrepresentation, fault or lack of good faith on the part of an employee receiving an erroneous payment, the Comptroller General may waive collection of such payment if collection would be against equity and good conscience and not in the best interests of the United States. 5 U.S.C. § 5584 (1988). The Comptroller General has held that Foreign Service Nationals employed by the United States in foreign areas pursuant to local labor agreements are considered employees for the purpose of the waiver statute. 50 Comp. Gen. 329 (1970). Thus, the three employees involved in this case are entitled to relief under the provisions of the waiver statute.

There is no indication of fraud, misrepresentation, or lack of good faith on the part of the employees. The employees received night differential pay in early 1985 under the terms of what they believed was a valid labor agreement. Nor can fault be imputed to the employees since the first time there was any evidence that an overpayment had occurred was May 19, 1988, the date of our decision, VOA Relay Station, Antigua, B-227411, supra. Waiver has been granted where there is no indication of fault on the part of the employees. Richard G. Anderegg, 68 Comp. Gen. 629 (1989); James F. McGovern, B-235467, Oct. 24, 1989.

Accordingly, the request of the United States Information Agency for waiver of overpayments made to Trevor V. Davis, Samuel Kentish, and Archibald Alexander James in the amount of \$677.46, \$1,460.87, and \$1,113.46, respectively, is hereby granted.



James F. Hinchman
General Counsel