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GAO

Office of the General Counsel

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December 12, 1989

Roy J. Heinbuch, Chief  
Office of Financial Management  
Department of the Interior  
Geological Survey

Dear Mr. Heinbuch:

This responds to your letter of September 25, 1989 asking for our opinion on whether the U.S. Geological Survey (USGS) can institute a "budget plan" bill paying system with local gas and electric utility companies. In our view, such a system would involve unauthorized advance payments and thus be prohibited by 31 U.S.C. § 3324(a).✓

In your letter you stated that the USGS's accounting system, the Federal Financial System, has the capability to automatically process recurring payments such as the utility bills sent to your many widespread facilities and processed monthly by your central payment office. You stated that you are seeking to use this feature to reduce paperwork and the time and effort involved in processing payments by using "budget plans" with local utility companies wherever possible. "This would involve agreements with the companies for automatic monthly or quarterly payments of predetermined amounts, with an end-of-year 'adjustment' if necessary." You raise the question whether this method of processing utility bills would constitute a form of impermissible advance payment.

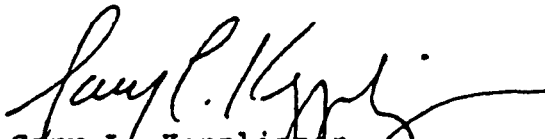
31 U.S.C. § 3324(a)✓(1982) prohibits the U.S. Government from paying in advance for goods and services. "[A] payment under a contract to provide a service . . . for the United States Government may not be more than the value of the service already provided . . . ." In the case of utility service this means that the government can pay only for service already rendered rather than on an advance basis, as utility companies often arrange with other customers.  
B-158453, Feb. 10, 1966.

In 42 Comp. Gen. 659✓(1963) we held that a proposed billing change to provide for the advance payment of local telephone service may not be approved. We noted that exceptions to Section 3324 have been extended only when provided for in

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authorization or appropriation acts, or for state or local governments because of their established financial responsibility. "Exceptions to the prohibition . . . have not been extended by this Office to any other group, including those rendering public utility services to the Government." 42 Comp. Gen. at 660X More recently, we refused to apply the exception permitting advance payment to a state government where the proposed services provided by the state are commercially available to the federal government in the marketplace. 58 Comp. Gen. 29,32 (1978).

Although your submission indicates that the government would make each payment after receipt of service for that period, a "budget plan" would necessarily entail payment not only for services actually rendered, but also for future services, such as when the high cost of winter heating is spread throughout the remainder of the year. Since 31 U.S.C. § 3324 prohibits advance payment, it is thus impermissible for the USGS to pay for utility service via a "budget plan" before that service is rendered.

Sincerely yours,

  
Gary L. Kepplinger  
Associate General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT  
Appropriation Availability  
Time availability  
Time restrictions  
Advance payments