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

OFFICE OF GENERAL COUNSEL

B-201702

September 14, 1981

Mr. George B. Fineberg, Chief
Financial Systems Division, AAA 400
Office of Accounting
Federal Aviation Administration
Mike Monroney Aeronautical Center
Post Office Box 25082
Oklahoma City, Oklahoma 73125

Dear Mr. Fineberg:

This refers to your letter in which you requested that we review your computations of the equalization allowance payable to employees of the Federal Aviation Administration (FAA) on their reemployment after being employed by an international organization under 5 U.S.C. 3581-3584. You ask if these computations are correct and if not whether the FAA should take corrective action on a retroactive basis. If computations made in the past were erroneous, you ask whether any resulting overpayments may be waived, presumably under 5 U.S.C. 5584.

While this is not a decision of the Comptroller General, we will try to provide information which will assist you in this matter.

Under subchapter IV, chapter 35, of title 5, United States Code, an employee who transfers from an agency to an international organization has certain rights, including reemployment. Further, he is entitled to an equalization allowance under 5 U.S.C. 3582(b), equal to the difference between pay and allowances he receives from an international organization and that he would have received had he remained employed with the agency and been detailed to the international organization. That section provides that the amount payable will be equal to the difference between the pay, allowances, post-differentials and other monetary benefits paid by the international organization and the pay, allowances, post-differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under 5 U.S.C. 3343.

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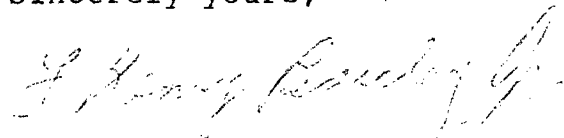
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The law vests authority to prescribe regulations for the administration of these sections in the President. The President in turn has redelegated this authority to the Office of Personnel Management (OPM). Regulations issued by OPM are found at 5 C.F.R. 352.301 et seq. (1981). Section 352.310 sets out specifically what will be considered in computing an equalization allowance. Therefore, while our review indicates that the computations are consistent with the regulations, we feel that the proper agency to provide official guidance in the application of the regulations is OPM.

Concerning your question as to possible errors in past computations resulting in erroneous payments and whether FAA needs to take action, we are unable to comment since we have not been provided with any information concerning these computations. Again, we suggest that OPM would be the more appropriate agency to review past computations under the regulations. However, if a determination is made that past payments were erroneous then collection action could be taken. We are enclosing a copy of decision 58 Comp. Gen. 501 (1979), which explains the actions available with regard to the collection action when a substantial period of time has elapsed since the erroneous payments were made. Any erroneous payments which occurred through pay computation errors made by the agency could be considered for waiver under 5 U.S.C. 5584.

We trust this will be helpful to you.

Sincerely yours,



F. Henry Barclay, Jr.
Associate General Counsel

Enclosure