



19182 Mr. Stec

UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

In Reply

Refer to: B-203723 (MS)

August 12, 1981

John W. Wesson
950 Crescent Drive
Vista, California 92083

Dear Mr. Wesson:

This is in response to your letter, dated June 1, 1981, regarding consideration of uncontrollable overtime as regular pay for purposes of an employee's retirement annuity computations. You ask whether an employee, grade GS-13, can be unwillingly transferred from a position where he is drawing overtime pay to a position in which overtime is not available since this transfer reduces his retirement annuity.

In conformity with applicable statutes, 31 U.S.C. §§ 74 and 82d (1976), we are not providing you with a formal decision. However we are providing the following information which you may find useful. For purposes of computing the high-3 years average pay for retirement benefits, most overtime and premium pay is not included in the basic pay rate under applicable rules and regulations. However, if you are a law enforcement officer, premium pay for irregular, unscheduled overtime is included for periods after December 31, 1974. See 5 U.S.C. §§ 8331 (3) and Federal Personnel Manual Supp. 831-1, S14-3 (copy enclosed). Any further questions regarding retirement should be directed to the Office of Personnel Management which administers, adjudicates, and determines retirement benefits under the Civil Service Retirement Act. See 5 U.S.C. §§ 8331 and 8347.

In regard to your question relating to transfers, each agency has the discretion to assign employees to duties and positions to carry out its mission, and the General Accounting Office is without jurisdiction in this area. If you believe that you are being transferred improperly, you will have to pursue the matter under your agency's grievance system.

Sincerely yours,

Marc Stec

Marc Stec
Attorney-Adviser

Enclosures

000311 / 518142