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OGC 70-1033

23 June 1970

MEMORANDUM FOR: Deputy Director for Support

SUBJECT: Administrative Adoption of Statutory  
Benefits

1. We understand that as a result of several cases which have recently arisen you are interested in our views as to the legality of extending certain benefits to a portion of the Agency employees who do not now have them.

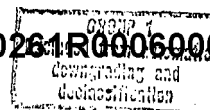
2. As early as 1956 the Agency had adopted by administrative action statutory benefits available elsewhere in Government. There have been at least seven other similar adoptions since that time. In two situations, however, application of benefits was limited to participants in the Central Intelligence Agency Retirement and Disability System (CIARDS):

a. By memorandum of 30 April 1968 the Executive Director-Comptroller approved adoption of the Foreign Service travel and transportation authority for retirees (retiree travel benefits).

b. By memorandum of 21 May 1968 the Executive Director-Comptroller approved adoption of the Foreign Service travel and transportation authority in case of death of an employee (death travel benefits).

Prior to these two actions, all Agency personnel in the CIARDS or the Civil Service Retirement System (CSRS) who were stationed PCS abroad enjoyed substantially similar but not identical benefits.

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These actions gave the retiree and death travel benefits to CIARDS participants stationed PCS in the United States but did not extend the benefits to CSRS participants.

3. Available documents which have discussed the merits of extending retiree and death travel benefits to CSRS participants placed great weight on the fact that the CIARDS participants had met measurable standards which distinguished them from normal CSRS participants. It appears to us that this may not be a valid distinction, inasmuch as these benefits had previously been granted to both CIARDS and CSRS participants stationed PCS abroad; therefore, there is an apparent inequity in connection with employees who are stationed PCS in the United States. This is emphasized by the Agency policy that all employees are equally subject to assignment anywhere as determined by the Agency. The inequity may be demonstrated by a specific case:

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4. By memorandum to the Director of Central Intelligence, dated 23 August 1967, the Office of Legislative Counsel and the Office of General Counsel recommended that the Director, . . . approve the principle that the Agency may adopt the administrative authorities (except salary) of the Foreign Service Act, as amended, or as it may hereafter be amended, or of any other laws when it is determined by the Executive Director-Comptroller to be necessary for the proper administration of all employees of the Agency.

The Director approved this recommendation.

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5. The Executive Director-Comptroller provided further guidance to the Deputy Director for Support concerning the review of existing Agency authorities by memorandum of 10 October 1967. Part of the guidance provided was as follows:

The principle involved is to make sure that the travel expenses, allowances and other fringe benefits provided to Agency employees are as favorable as those provided in existing laws or in laws hereafter enacted for other government employees in similar circumstances.

6. It would appear that action under these authorities to extend death and retiree travel benefits to CSRS participants would not differ from other actions already taken. Therefore, this office would have no legal objection to such an extension if it is deemed necessary for the proper administration of all employees of the Agency.

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LAWRENCE R. HOUSTON  
General Counsel

cc: Director of Finance  
Director of Personnel

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