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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

July 27, 1981

OFFICE OF GENERAL COUNSEL

In Reply
Refer to: B-199744(BRP)

Mr. Meyer Klein
Near East Project Office
Corps of Engineers
Department of the Army
APO New York 09673

Dear Mr. Klein:

We refer to your letter of July 9, 1980, with enclosures, in which you request a determination by the Comptroller General of the United States as to whether employees of the Corps of Engineers, Department of the Army, involved in the construction of the Ramon Air Base in the Negev Desert, Israel, are entitled to holiday pay for working on Friday, July 4, 1980, and whether the designation of July 7, 1980, a non-workday, as an administrative holiday by the agency was proper.

Pursuant to statutory authority, the Comptroller General, in most instances, renders formal decisions only to disbursing and certifying officers, to the heads of Executive agencies, and to individuals whose claims have been disallowed by our Claims Group. However, the following information is offered in order to assist you in this matter.

You state, and the record shows, that the Department of the Army issued a memorandum dated June 26, 1980, to all Corps of Engineers employees at Ramon which stated that Monday, July 7, 1980, would be observed at the Ramon Air Base as an administrative holiday, in lieu of Friday, July 4, 1980. In your letter you report that all personnel are working 6 days a week, Monday through Saturday, with Saturday as an overtime day. You state that you and other Corps employees worked your regular tour of duty on Friday, July 4, and that no work was performed by the U.S. contractor, third country nationals, or Department of the Army personnel on

- [Entitlement to Holiday Pay]

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Monday, July 7. You further report that Army headquarters in Tel Aviv took exception to the payment of holiday pay for work performed on July 4 and designated the administrative holiday on the time and attendance reports as being July 7 to preclude the payment of holiday pay for work performed on July 4. The record also contains a memorandum dated May 24, 1980, issued by the Department of the Army, which lists past and scheduled holidays and administrative holidays for Corps of Engineers and Management Support Associates at Ramon for the 1980 calendar year. Independence Day, July 4, 1980, is listed for observance on Friday, July 4, 1980.

With respect to compensation payable on a holiday, 5 U.S.C. § 5546(b) (1980) provides that an employee who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of his basic pay, plus premium pay at a rate equal to the rate of his basic pay for that holiday work which is not in excess of 8 hours or overtime work. See also 5 C.F.R. § 550.131 (1980). This Office has interpreted section 5546 to permit payment of holiday pay for those hours of work which were performed on holidays during the employee's regular tour of duty, i.e., the hours of his regular shift of duty. Robert C. Austin, B-188686, May 11, 1978, copy enclosed. 5 U.S.C. § 6103(a) (1980) lists Independence Day, July 4, as a legal public holiday for Federal employees.

Inasmuch as Friday, July 4, 1980, was a legal holiday for employees of the United States Government and you and other Corps of Engineers employees did in fact work your regular tour of duty on that date, from the statement of facts and documents you have presented, it would appear that you and other Corps employees who worked on Friday, July 4, 1980, would be entitled to holiday pay for such work, irrespective of the fact that the Department of the Army designated Monday, July 7, 1980, as an administrative holiday, in lieu of Friday, July 4, 1980. Since Monday, July 7, 1980, was designated as an administrative holiday by the designee of the Secretary of the Army who possessed the authority to grant

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a short period of excused absence for certain employees of the Corps of Engineers, it would appear that you and other Corps employees are entitled to receive your regular rate of pay for that day. 5 U.S.C. § 6104 (1980); 5 C.F.R. Part 610, Subpart C (1980); Federal Personnel Manual Supplement 990-2, Book 610, subchapter 3; and B-192104, September 1, 1978, copy enclosed.

We would suggest that you file a formal claim for holiday pay for work performed on July 4, 1980, with the Corps of Engineers, Department of the Army. If such claim is denied, you may file a claim therefor with our Claims Group whose address is:

Associate Director, Claims Group
Accounting and Financial Management Division
Room 5858
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

See 4 C.F.R. Part 31 (1980).

We hope that the foregoing information will be of assistance to you in the resolution of this matter. We regret the delay in replying to your inquiry.

Sincerely yours,



Robert L. Higgins
Assistant General Counsel

Enclosures