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APPROPRIATIONS/FINANCIAL MANAGEMENT - CLAIMS BY GOVERNMENT - ILLEGAL/IMPROPER PAYMENTS - DEBT COLLECTION - RECEIPTS - DEPOSIT DIGEST: AN AGENCY MADE ERRONEOUS PAYMENTS UNDER INVALID CONTRACTS TO SEVERAL ASSOCIATIONS. THE AGENCY HAS AN OBLIGATION TO COLLECT THE ERRONEOUS PAYMENTS. THE AMOUNTS COLLECTED SHOULD BE DEPOSITED TO THE APPROPRIATIONS FROM WHICH THE CONTRACTS WERE FUNDED OR THEIR SUCCESSOR ACCOUNTS. IF THE FUNDS CANNOT BE IDENTIFIED AS A REFUND OF MONIES PAID FROM PARTICULAR APPROPRIATIONS, THEN THE AGENCY WOULD BE UNDER A REQUIREMENT TO DEPOSIT THE AMOUNTS COLLECTED IN THE GENERAL FUND OF THE TREASURY AS MISCELLANEOUS RECEIPTS.

THE HONORABLE JACK BROOKS:

WE REFER TO YOUR LETTER DATED MARCH 31, 1987, CONCERNING ARRANGEMENTS MADE IN RECENT YEARS BY UNITED STATES EMBASSIES TO OBTAIN SUPPORT SERVICES FROM LOCAL EMPLOYEE ASSOCIATIONS. YOU QUESTION WHETHER THE DEPARTMENT OF STATE HAS AN OBLIGATION TO RECOVER AND RETURN TO THE TREASURY EXCESS AMOUNTS SET ASIDE BY THE ASSOCIATIONS TO COVER SEVERANCE BENEFIT PAYMENTS FOR PERSONNEL EMPLOYED IN FURTHERANCE OF THESE ARRANGEMENTS, AND WHETHER THE DEPARTMENT IS ALSO DIRECTLY LIABLE FOR MAKING SEVERANCE PAYMENTS TO THE PERSONNEL. WE CONCLUDE THAT THE DEPARTMENT DOES HAVE THESE OBLIGATIONS AND RESPONSIBILITIES.

BACKGROUND

THE LAWS GOVERNING THE ADMINISTRATION OF THE DEPARTMENT OF STATE PROVIDE THAT THE SECRETARY OF STATE "MAY AUTHORIZE AND ASSIST IN THE ESTABLISHMENT, MAINTENANCE, AND OPERATION BY CIVILIAN OFFICERS AND EMPLOYEES OF THE GOVERNMENT OF NON-GOVERNMENT-OPERATED SERVICES AND FACILITIES AT POSTS ABROAD ***." 22 U.S.C. SEC. 2703(A) (1982). UNDER THIS PROVISION OF LAW THE SECRETARY OF STATE HAS AUTHORIZED THE ESTABLISHMENT OF EMPLOYEE ASSOCIATIONS AT POSTS ABROAD, AND THE SECRETARY HAS PUBLISHED REGULATIONS FOR THEIR OPERATION WHICH APPEAR IN CHAPTER 500, VOLUME 6 OF THE FOREIGN AFFAIRS MANUAL (6 FAM). THE REGULATIONS STATE THAT THE ASSOCIATIONS ARE AUTHORIZED PRIMARILY FOR THE PURPOSE OF OPERATING COMMISSARY, EXCHANGE, CLUB, RESTAURANT, AND RECREATIONAL FACILITIES FOR UNITED STATES PERSONNEL. 6 FAM SEC. 525.1. AN ASSOCIATION ESTABLISHED AT A FOREIGN SERVICE POST IS TO BE CONTROLLED AT THE LOCAL LEVEL BY UNITED STATES PERSONNEL RESIDING AT THAT POST. 6 FAM SEC. 524.3. THE REGULATIONS FURTHER PROVIDE THAT WHILE PERSONS EMPLOYED BY AN ASSOCIATION TO WORK IN THE ASSOCIATION'S FACILITIES ARE NOT UNITED STATES GOVERNMENT EMPLOYEES, THEY SHOULD BE EXTENDED COMPARABLE BENEFITS. THIS REGARD, THE REGULATIONS REQUIRE THE ASSOCIATIONS TO MAINTAIN CONTINGENT LIABILITY FUNDS TO PROVIDE FOR SEVERANCE PAY AND RELATED BENEFITS FOR ASSOCIATION EMPLOYEES WHO ARE FOREIGN NATIONALS. 6 FAM

SECS. 526.3, 527.5.

IN RECENT YEARS UNITED STATES FOREIGN SERVICE POSTS IN MANY LOCALITIES ABROAD ADOPTED THE POLICY OR PRACTICE OF OBTAINING SUPPORT SERVICES THROUGH CONTRACTUAL ARRANGEMENTS WITH THE EMPLOYEE ASSOCIATIONS. CONTRACT FOREIGN NATIONAL PERSONNEL EMPLOYED IN THIS FASHION INCLUDED SECRETARIES, INTERPRETERS AND TRANSLATORS, CHAUFFEURS, GUARDS, MESSENGERS, GARDENERS, AND GENERAL LABORERS. IN A TYPICAL CONTRACT, AN EMPLOYEE ASSOCIATION WOULD AGREE TO HIRE AND MANAGE PERSONS TO PERFORM SUPPORT SERVICES AT A UNITED STATES EMBASSY; THE EMBASSY, IN TURN, WOULD AGREE TO PAY THE ASSOCIATION AMOUNT FROM APPROPRIATED FUNDS TO PROVIDE FOR THE SALARIES OF THE SUPPORT PERSONNEL AND TO COVER THE COSTS OF ADMINISTERING THE CONTRACT. ALTHOUGH THERE WERE VARIATIONS IN THE WRITTEN CONTRACT TERMS AMONG FOREIGN POSTS, CONTRACT PROVISIONS CONCERNING THE ADMINISTRATIVE COSTS GENERALLY INCLUDED A MANAGEMENT FEE FOR THE ASSOCIATION AND OFTEN INCLUDED A SEPARATE PAYMENT COVERING CONTINGENT LIABILITY FUNDS FOR SEVERANCE BENEFITS OF THE CONTRACT PERSONNEL.

IN OUR REPORT TO YOU, EMBASSY CONTRACTING-- CONTRACTS WITH EMPLOYEE ASSOCIATIONS SHOULD BE TERMINATED (GAO/NSIAD-86-57, B-217775, MARCH 18, 1986), WE CONCLUDED THAT THESE CONTRACTS WERE IMPROPER IN THAT THEY CONTRAVENED THE APPLICABLE PROCUREMENT REGULATIONS AND, MORE FUNDAMENTALLY, WERE ESSENTIALLY SHAM TRANSACTIONS. OUR CONCLUSION THAT THE CONTRACTS WERE A SHAM WAS BASED ON INFORMATION PRODUCED BY OUR REVIEW WHICH ESTABLISHED THAT, IN FACT, UNITED STATES EMBASSY OFFICIALS RESPONSIBLE FOR THE SUPPORT ACTIVITIES WERE DIRECTLY INVOLVED IN THE HIRING, SUPERVISION, AND TERMINATION OF EMPLOYEES UNDER THE CONTRACTS. GENERALLY, AT THE POSTS WE VISITED, THE POST ADMINISTRATIVE SECTIONS HAD ALMOST EXCLUSIVE CONTROL OVER THE HIRING OF EMPLOYEES, HANDLING THE VACANCY ANNOUNCEMENTS, APPLICATION PROCESSING, INTERVIEWING, AND SELECTION OF THE EMPLOYEES. SIMILARLY, THE DAY-TO-DAY SUPERVISION OF THE CONTRACT EMPLOYEES WAS THE RESPONSIBILITY OF PERMANENT EMBASSY PERSONNEL. THAT IS, THE CONTRACT EMPLOYEES WORKED SIDE-BY-SIDE WITH DIRECT-HIRE EMPLOYEES AND WERE SUPERVISED ALMOST EXCLUSIVELY BY EMBASSY PERSONNEL, AND NOT BY THE ASSOCIATIONS. THE ASSOCIATIONS PERFORMED MINIMAL SERVICES, GENERALLY AMOUNTING TO NOTHING MORE THAN THE MAINTENANCE OF PAYROLL RECORDS AND THE DISBURSEMENT OF THE FUNDS SET ASIDE AS SALARY AND SEVERANCE PAYMENTS FOR THE EMPLOYEES. WE RECOMMENDED THAT THE DEPARTMENT OF STATE TERMINATE THESE CONTRACTS AND RECOVER FOR RETURN TO THE TREASURY ANY AMOUNTS WHICH HAD BEEN SET ASIDE UNDER THE ARRANGEMENTS IN CONTINGENT LIABILITY FUND ACCOUNTS BY THE ASSOCIATIONS, TO THE EXTENT THAT THE ASSOCIATIONS WERE NOT REQUIRED TO MAKE SEVERANCE PAYMENTS.

THE DEPARTMENT OF STATE IS NOW IN THE PROCESS OF PHASING OUT THE ARRANGEMENTS WITH THE EMPLOYEE ASSOCIATIONS FOR SERVICES IN SUPPORT OF FOREIGN POST OPERATIONS. YOU INDICATE THAT THE DEPARTMENT PLANS TO COLLECT EACH ASSOCIATION'S CURRENT SEVERANCE PAYMENT RESERVES AND "POOL" THESE FUNDS FOR USE IN MAKING SEVERANCE PAYMENTS TO FOREIGN NATIONALS WHO WERE EMPLOYED UNDER THESE ARRANGEMENTS. IT IS ALSO YOUR UNDERSTANDING THAT THE DEPARTMENT PLANS TO ASSUME THE RESPONSIBILITY FOR THE SEVERANCE PAYMENTS AND TO MAKE THE PAYMENTS FROM APPROPRIATED FUNDS IF NECESSARY.

BASED ON THE FOREGOING, YOU PRESENT 3 SPECIFIC QUESTIONS RELATING TO THE DEPARTMENT'S CURRENT PLANS. YOUR QUESTIONS AND OUR ANSWERS ARE SET OUT BELOW.

I. LIABILITY FOR SEVERANCE PAYMENTS

"DOES THE STATE DEPARTMENT HAVE THE AUTHORITY TO ASSUME THE EMPLOYEE

ASSOCIATIONS' SEVERANCE LIABILITIES FOR WORKERS COVERED BY ASSOCIATION CONTRACTS WITH THE U.S. GOVERNMENT?"

WE HAVE REVIEWED A MEMORANDUM OF LAW DATED NOVEMBER 25, 1986, IN WHICH THE STATE DEPARTMENT'S OFFICE OF LEGAL ADVISOR EXPRESSED THE OPINION THAT THE DEPARTMENT WAS LIABLE FOR THE SEVERANCE PAYMENTS. THIS OPINION OBSERVED THAT THE EMPLOYEES PERFORMED "NECESSARY SERVICES IN SUPPORT OF THE OFFICIAL ACTIVITIES" OF THE FOREIGN MISSIONS AND THAT SERVICES INVOLVED "NECESSARY EXPENSES OF POST OPERATION FOR WHICH FUNDS APPROPRIATED TO THE DEPARTMENT ARE AVAILABLE FOR PAYMENT." IT ALSO NOTED THAT THE CONTRACTUAL ARRANGEMENTS WERE ONLY "ADMINISTRATIVE MECHANISMS RATHER THAN GENUINE ARM'S LENGTH BARGAINS." THE OPINION PREDICTED THAT IF THE DEPARTMENT ATTEMPTED TO DISCLAIM LIABILITY FOR THE SEVERANCE PAYMENTS, "THE UNITED STATES GOVERNMENT WILL BE HELD LEGALLY LIABLE FOR THEM (AND WILL BE SUBJECT TO SUIT IN THE LOCAL LABOR COURTS IF THEY ARE NOT PAID)."

WE AGREE THAT THE DEPARTMENT OF STATE IS LIABLE FOR THE SEVERANCE BENEFIT PAYMENTS IN QUESTION SINCE THE EMPLOYEES WERE, IN FACT, WORKING DIRECTLY FOR THE UNITED STATES GOVERNMENT AND THE ARRANGEMENTS MADE WITH THE ASSOCIATIONS WERE NOT GENUINE CONTRACTS BUT WERE INSTEAD "ADMINISTRATIVE MECHANISMS" ONLY. FURTHER, WE HAVE NO REASON TO QUESTION THE CORRECTNESS OF THE PREDICTION MADE THAT THE UNITED STATES WILL BE HELD LIABLE FOR THE PAYMENTS IN THE LOCAL LABOR COURTS IF THE DEPARTMENT ATTEMPTS TO DISCLAIM LIABILITY. HENCE, WE CONCUR WITH THE DEPARTMENT WITH RESPECT TO THIS ISSUE.

II. OBLIGATION TO RECOVER FUNDS

"DOES THE STATE DEPARTMENT HAVE THE AUTHORITY TO REQUIRE ASSOCIATIONS TO RELINQUISH THEIR SEVERANCE LIABILITY RESERVES TO THE DEPARTMENT?"

AS INDICATED PREVIOUSLY, OUR MARCH 1986 REPORT CONCLUDED THAT THE CONTRACTS NEGOTIATED BY FEDERAL OFFICIALS WITH THE EMPLOYEE ASSOCIATIONS WERE ESSENTIALLY SHAM TRANSACTIONS. WE FOUND THAT STATE DEPARTMENT OFFICIALS FREELY ACKNOWLEDGED THIS AND REFERRED TO THE ASSOCIATIONS AS "SHADOW" CONTRACTORS. IN THESE CIRCUMSTANCES, AND FOR THE REASONS DISCUSSED ABOVE, IT IS LIKELY THAT THE UNITED STATES GOVERNMENT, RATHER THAN THE ASSOCIATIONS, WILL HAVE TO ASSUME LIABILITY FOR SEVERANCE PAYMENTS TO THE EMPLOYEES. TO THE EXTENT THAT THIS OCCURS, WE BELIEVE THAT THE STATE DEPARTMENT HAS THE RIGHT TO RECOVER BACK ANY PAYMENTS MADE TO THE ASSOCIATIONS FOR THE PURPOSE OF FUNDING SUCH LIABILITY. IN THIS REGARD, OUR MARCH 1986 REPORT POINTED OUT, AT PAGES 17-18:

"AS THESE CONTRACTS ARE TERMINATED, ASSOCIATIONS MAY BE REQUIRED TO PAY SEVERANCE AND RETIREMENT BENEFITS FOR CONTRACT EMPLOYEES WHO LOST THEIR JOBS. HOWEVER, IF THE EMPLOYEES ARE TRANSFERRED DIRECTLY TO INDIVIDUAL EMBASSY CONTRACTS WITHOUT A CHANGE IN EMPLOYMENT STATUS, THERE MAY BE NO NEED TO PAY THOSE BENEFITS. IF ASSOCIATIONS ARE NOT REQUIRED TO MAKE SEVERANCE PAYMENTS, THERE WOULD BE NO BASIS FOR THE ASSOCIATIONS TO KEEP THESE FUNDS. THEREFORE, THESE FUNDS, WHICH WERE ACCUMULATED THROUGH USE OF APPROPRIATED MONIES, SHOULD BE RETURNED TO THE TREASURY."

WE HAVE NO REASON TO REVISE THIS CONCLUSION REACHED IN OUR MARCH 1986 REPORT. HENCE, IN RESPONSE TO YOUR SECOND QUESTION, THE STATE DEPARTMENT HAS AN OBLIGATION TO REQUIRE THE ASSOCIATIONS TO RETURN ANY SEVERANCE LIABILITY FUNDS THAT WILL NOT BE PAID OUT BY THE ASSOCIATIONS TO THE EMPLOYEES FOR THIS PURPOSE.

III. RETURN OF FUNDS TO THE TREASURY

"DOES THE DEPARTMENT HAVE THE AUTHORITY TO 'POOL' THE SEVERANCE LIABILITY RESERVES COLLECTED FROM THE ASSOCIATIONS IN EITHER A SPECIAL FUND OR THE CENTRAL COMMISSARY AND RECREATION FUND SO THAT THE EXCESS RESERVES OF SOME ASSOCIATIONS MAY BE USED TO PAY THE UNFUNDED LIABILITIES OF OTHERS, OR MUST SUCH EXCESS RESERVES BE RETURNED TO THE TREASURY?"

OUR MARCH 1986 REPORT INDICATED AT PAGES 16 AND 17 THAT ON AUGUST 26, 1985, THE DEPARTMENT OF STATE'S OFFICE OF LEGAL ADVISOR HAD ISSUED AN OPINION TO THE EFFECT THAT A FOREIGN SERVICE POST COULD PROPERLY REQUIRE A LOCAL EMPLOYEE ASSOCIATION TO RETURN, IN THE FORM OF A GIFT OF FURNITURE AND EQUIPMENT TO THE POST, THE CONTINGENT SEVERANCE LIABILITY FUNDS THE ASSOCIATION HAD RECEIVED AS A CONTRACTOR UNDER THE ARRANGEMENTS HERE IN QUESTION. WE DISAGREED AND INSTEAD CONCLUDED THAT THE FUNDS SHOULD BE RETURNED TO THE UNITED STATES TREASURY. THIS CONCLUSION WAS BASED ON OUR VIEW THAT THE FUNDS BELONGED TO THE UNITED STATES; THEREFORE, THE ASSOCIATION COULD NOT PROPERLY MAKE A GIFT TO THE EMBASSY OF SOMETHING IT DID NOT OWN.

ON NOVEMBER 25, 1986, THE DEPARTMENT OF STATE'S OFFICE OF LEGAL ADVISOR ISSUED ANOTHER OPINION TO THE EFFECT THAT THE FUNDS COULD BE REPAID BY THE ASSOCIATIONS FOR DEPOSIT IN THE CENTRAL COMMISSARY AND RECREATION FUND UNDER THE PROVISIONS OF 6 FAM SEC. 514, WHICH PROVIDES IN PART:

"(A) CENTRAL COMMISSARY AND RECREATION FUND HAS BEEN ESTABLISHED IN THE DEPARTMENT TO ASSIST IN THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF NON-GOVERNMENT-OPERATED POST EMPLOYEE SUPPORT SERVICES OR FACILITIES ABROAD. THE CENTRAL FUND IS CAPITALIZED BY VOLUNTARY CONTRIBUTIONS FROM EMPLOYEE ASSOCIATIONS, FROM NET PROCEEDS UPON LIQUIDATION OF SUCH ASSOCIATIONS, OTHER GIFTS OR DONATIONS, AND, IF REQUIRED, BY DIRECT ASSESSMENT AGAINST EMPLOYEE ORGANIZATIONS UNDER CONDITIONS AND PROCEDURES AS MAY BE DETERMINED BY THE BOARD OF DIRECTORS OF THE CENTRAL COMMISSARY AND RECREATION FUND. THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE, PRIMARILY IN THE FORM OF LOANS, TO EMPLOYEE ORGANIZATIONS ABROAD."

THE OFFICE OF LEGAL ADVISOR'S NOVEMBER 25, 1986 OPINION CONCLUDED THAT THE CONTINGENT LIABILITY FUNDS COULD BE TRANSFERRED TO THE CENTRAL FUND AS A CONTRIBUTION, GIFT, OR DONATION, AND FURTHER CONCLUDED--

"IN THE PRESENT CASE, THE ASSOCIATIONS LAWFULLY RECEIVED PAYMENTS FROM THE USG (UNITED STATES GOVERNMENT) TO COVER ANTICIPATED CONTINGENT LIABILITIES ARISING FROM PERFORMANCE OF SUPPORT SERVICE CONTRACTS. TO THE EXTENT SUCH FUNDS BECOME SURPLUS TO THE NEEDS OF THE PARTICULAR ASSOCIATION, THERE WOULD APPEAR TO BE NO LEGAL OBJECTION TO POOLING THEM IN A CENTRAL FUND TO ENABLE OTHER ASSOCIATIONS TO MEET SIMILAR LIABILITIES."

WE DO NOT AGREE THAT THE ASSOCIATIONS MAY TRANSFER THE FUNDS THROUGH VOLUNTARY DONATION OR INVOLUNTARY LEVY TO THE CENTRAL FUND.

AS NOTED PREVIOUSLY, IT APPEARS THAT AS A GENERAL RULE THE UNITED STATES GOVERNMENT WILL BE LIABLE FOR THE SEVERANCE PAYMENTS AND, THEREFORE, IS ENTITLED TO RECOVER THE FUNDS PAID TO THE ASSOCIATIONS FOR SEVERANCE PAY PURPOSES. THE ONLY CLAIM AN ASSOCIATION COULD HAVE ON THESE FUNDS IS TO USE THEM TO DISCHARGE THE SEVERANCE PAY LIABILITY FOR WHICH IT RECEIVED THE FUNDS ORIGINALLY. SUBJECT TO THIS ONE EXCEPTION, THE SEVERANCE PAY CONTINGENCY FUNDS BELONG TO THE UNITED

STATES. THE ASSOCIATIONS MAY NOT DONATE THOSE FUNDS TO THE CENTRAL FUND ANY MORE THAN THEY COULD DONATE THEM TO THE STATE DEPARTMENT SINCE THEY DO NOT OWN THEM.

ANOTHER PROPOSAL THAT HAS BEEN ADVANCED BY REPRESENTATIVES OF THE DEPARTMENT OF STATE IS TO DEPOSIT THE FUNDS IN QUESTION IN AN ACCOUNT ESPECIALLY ESTABLISHED IN THE TREASURY TO BE USED BY THE DEPARTMENT FOR PAYMENT OF SEVERANCE BENEFITS TO THE EMPLOYEES WHOSE SERVICES WERE OBTAINED THROUGH THE ASSOCIATIONS. DEPARTMENTAL REPRESENTATIVES HAVE INFORMALLY ACKNOWLEDGED THAT THEY ARE NOT AWARE OF ANY STATUTE OR REGULATION SPECIFICALLY SANCTIONING SUCH A PROCEDURE. THEY NOTE, HOWEVER, THAT IN OUR REPORT GAO/FGMSD-76-25, B-179343, OCTOBER 17, 1975, WE POINTED OUT THAT THE DEPARTMENTS OF STATE AND DEFENSE HAD NOT PROPERLY RECORDED OBLIGATIONS FOR SEPARATION ALLOWANCES FOR THEIR FOREIGN NATIONAL EMPLOYEES AS THE EMPLOYEES' RIGHTS TO SUCH PAYMENTS ACCRUED; INSTEAD, THE ALLOWANCES WERE PAID IN FULL FROM CURRENT APPROPRIATIONS WHEN THE EMPLOYEES LEFT. RECOMMENDED THAT THE DEPARTMENTS RECORD OBLIGATIONS FOR SEPARATION ALLOWANCES FOR ALL FOREIGN NATIONAL EMPLOYEES AS THE EMPLOYEES EARNED RIGHTS TO BE PAID IN THE FUTURE. ALTHOUGH THE DEPARTMENT OF DEFENSE AGREED WITH OUR RECOMMENDATION AND ADOPTED IT IN 1975, THE DEPARTMENT OF STATE NEVER DID. STATE OFFICIALS HAVE ASKED IF THEY MIGHT NOW ESTABLISH A SPECIAL ACCOUNT FOR THE DEPOSIT AND RETROACTIVE OBLIGATION OF THE FUNDS RECOVERED FROM THE ASSOCIATIONS TO COVER THE DEPARTMENT'S LIABILITY FOR SEPARATION PAYMENTS. IN EFFECT, THE STATE DEPARTMENT OFFICIALS NOW SEEK TO COMPLY SELECTIVELY AND RETROACTIVELY WITH OUR 1975 RECOMMENDATION BY OBLIGATING THE AMOUNTS RECOVERED FROM THE ASSOCIATIONS FOR FUTURE SEPARATION PAYMENTS, NOT FOR ALL FOREIGN NATIONAL EMPLOYEES BUT ONLY FOR THOSE INDIVIDUALS WHOSE SERVICES WERE OBTAINED THROUGH THE CONTRACTS WITH THE ASSOCIATIONS.

WE DO NOT BELIEVE THAT THIS IS AN APPROPRIATE OPTION. SUCH PARTIAL AND SELECTIVE ACTION WOULD NOT ACHIEVE SUBSTANTIVE COMPLIANCE WITH OUR 1975 RECOMMENDATION. INSTEAD, IT APPEARS TO REPRESENT ONLY AN ARTIFICIAL BOOKKEEPING DEVICE TO ENABLE THE STATE DEPARTMENT TO RETAIN THE USE OF FUNDS RECOVERED FROM THE ASSOCIATIONS FOR SEPARATION PAYMENTS. MOREOVER, EVEN IF THE STATE DEPARTMENT DECIDED TO IMPLEMENT OUR 1975 RECOMMENDATION WITH RESPECT TO SEPARATION PAYMENTS FOR ALL FOREIGN NATIONAL EMPLOYEES, NOT JUST THOSE FORMERLY EMPLOYED BY THE ASSOCIATIONS, IT IS QUESTIONABLE WHETHER THIS SHOULD BE ACCOMPLISHED RETROACTIVELY THROUGH A SERIES OF ADJUSTMENTS TO PRIOR YEAR APPROPRIATION ACCOUNTS.

OF COURSE, WE WOULD ENCOURAGE THE STATE DEPARTMENT TO ADOPT FULLY THE RECOMMENDATION IN OUR 1975 REPORT AND WE ARE AVAILABLE TO WORK WITH THEM IN DETERMINING HOW BEST TO ACHIEVE COMPLIANCE WITH OUR RECOMMENDATION. HOWEVER, WE DO NOT REGARD THE STATE DEPARTMENT'S PROPOSAL HERE AS A USEFUL STEP IN THIS DIRECTION.

IN SUM, WE CONTINUE TO BELIEVE THAT ANY AMOUNTS RECOVERABLE BY THE STATE DEPARTMENT FROM THE ASSOCIATIONS' RESERVES FOR SEVERANCE PAYMENTS MUST BE PAID INTO THE TREASURY.

WE TRUST THIS WILL SERVE THE PURPOSE OF YOUR INQUIRY.