

November 19, 1976

Dear :

We have further considered your letters of February 19 and March 3, 1976, concerning certain supplemental ("gratuitous") payments to pensioners. Pursuant to oral conversations with you, we understand that you have discontinued making such payments to the group of approximately 1,200 pensioners referred to in the two letters who had first started receiving such supplemental payments in late 1974. We understand, also, that payments to approximately 9,600 employees and survivors who were receiving such payments prior to September 2, 1974, have been approved for another year, effective April 1, 1976.

As you know, we announced in USDL 76-707, issued April 26, 1976, that the definition in the regulations of those supplemental payments to retirees that will not constitute pension plans is being revised. Based on the information furnished to us, your program of supplemental payments meets the requirements to be established in the final regulations concerning such plans, as follows:

1. Payments come from the general assets of the employer.
2. The practice is not part of an employee benefit plan.
3. The individuals are not notified prior to their retirement that they will be receiving such payments.
4. Payments are not granted for more than a year at a time.

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5. The employer is under no legal obligation to make such payments.
6. Recipients are informed in writing of such conditions.
7. Recipients all retired prior to the end of 1976.

Therefore, you may again commence payments to the 1,200 pensioners, effective retroactive to April 1, 1976. Payments under your practice may, if you wish, be extended to any other pensioner retiring prior to the end of 1975, if the above conditions are met. Payments meeting these conditions will not constitute an employee pension plan, an employee welfare plan, or an employee benefit plan within the meaning of section 3(1), (2) and (3) of ERISA and, therefore, are not covered by Title I of ERISA.

Sincerely,