

FLSA 1215

December 2, 1986

This is further response to your letter of September 4 concerning the application of the Fair Labor Standards Act (FLSA) to members of the *** Volunteer Fire Department. The City of *** (the City) proposes to provide certain benefits to its volunteer firefighters as a reward for their services. The City would like some assurance that the furnishing of the proposed benefits would not create an employment relationship and, therefore, a liability under FLSA.

You enclosed a proposed City resolution which provides that qualified active members of the volunteer fire department would receive minimum City water and sewer allotments without charge; a membership in the City swimming pool without charge; and a City contribution to a retirement/investment fund. In order to qualify for these benefits, a volunteer would have to meet certain length of service and attendance requirements.

A member of my staff contacted you on October 8 in order to obtain more information as to the monetary value of these benefits, and information as to the average hours of service contributed by the typical volunteer to the fire department.

You stated that the minimum City water charge is \$9.00 per month and the minimum sewer allotment charge is \$5.50 per month. The monetary value of a swimming pool membership for a single person is \$20.00 per month and a family swimming pool membership is valued at \$30.00 per month. The swimming pool season is approximately three months.

Under the proposed benefit resolution, the City would contribute \$250 per year to a retirement/investment fund for qualifying volunteer firefighters. The City would increase its contribution by \$25 per year for each qualifying volunteer to a maximum limit of \$500 per year. You also stated that no other benefits or compensation of any kind will be furnished to the volunteers.

Section 3(e) of FLSA provides that individuals performing volunteer services for units of State and local governments should not be regarded as employees under the statute. Congress did not intend to discourage or impede volunteer activities undertaken for civic, charitable, or humanitarian purposes. Examples of services which might be performed on a volunteer basis include firefighting. See sections 553.100 through 553.104 of the proposed regulations.

As indicated in section 553.106, volunteers may be paid expenses, reasonable benefits, a nominal fee, or any combination thereof, for their service without losing their status as volunteers. Whether such payments to volunteers are nominal must be considered in context of the economic realities of the total situation.

Based upon the information you have furnished, it is our opinion that the benefits which the City proposes to furnish its volunteer firefighters for their services are nominal in value. Consequently, the payment of such benefits by the City would not affect the volunteer status of the firefighters under FLSA.

We trust that the above discussion is responsive to your inquiry. Please let us know if we may be of further assistance.

Sincerely,

Paula V. Smith
Administrator

Enclosures