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JOSEPH F. FINNEGAN, FEDERAL MODIATION AND CONCILIATION SERVICE:

YOUR LETTER OF OCTOBER 29, 1959, ACKNOWLEDGED NOVEMBER 13, REQUESTS OUR DECISION AS TO WHETHER, UNDER THE PROVISIONS OF SECTION 202(B) OF THE LABOR MANAGEMENT RELATIONS ACT, 1947, APPROVED JUNE 23, 1947, 61 STAT. 53 (29 U.S.C. 172(B) 1958 EDITION), YOU LEGALLY MAY AUTHORIZE OR DIRECT PAYMENT FOR ACTUAL EXPENSES WHICH MEDIATORS OF THE SERVICE FREQUENTLY ARE REQUIRED TO INCUR FOR TAXICAB FARES, HOTEL ROOM RENTALS, AND MEALS, WHEN PERFORMING OFFICIAL ASSIGNMENTS AT THEIR PERMANENT DUTY STATIONS.

SECTION 202(B) OF THE LABOR MANAGEMENT RELATIONS ACT, 1947, APPROVED JUNE 23, 1947, READS, IN PERTINENT PART AS FOLLOWS:

"*** THE DIRECTOR IS AUTHORIZED TO MAKE SUCH EXPENDITURES FOR SUPPLIES, FACILITIES, AND SERVICES AS HE DEEMS NECESSARY. SUCH EXPENDITURES SHALL BE ALLOWED AND PAID UPON PRESENTATION OF ITEMIZED VOUCHERS THEREFOR APPROVED BY THE DIRECTOR OR BY ANY EMPLOYEE DESIGNATED BY HIM FOR THAT PURPOSE."

YOU SAY THAT THE WORK OF MEDIATORS ASSIGNED TO THE SERVICE TO ASSIST REPRESENTATIVES OF BOTH PARTIES IN RESOLVING DISPUTES GROWING OUT OF LABOR -MANAGEMENT CONTRACT NEGOTIATIONS, CANNOT BE CONFINED TO THE NORMAL EIGHT- HOUR WORKDAY. EVEN THOUGH REGIONAL AND FIELD OFFICES HAVE BEEN ESTABLISHED IN LOCALITIES WHERE LABOR DISPUTES MOST FREQUENTLY OCCUR AND THE MAJOR PORTION OF THEIR WORK IS PERFORMED AT THEIR OFFICIAL DUTY STATIONS, IN MANY INSTANCES SERVICE MEDIATORS ARE COMPELLED TO WORK IRREGULAR HOURS IN THAT THEY MUST REMAIN IN A DUTY STATUS "AT THE PLEASURE OF THE PARTIES." MOREOVER, WHENEVER IT IS DETERMINED THAT AN AGREEMENT MIGHT BE EXPEDITED IF DISCUSSIONS WERE TO CONTINUE, THEY MUST INSIST THAT NEGOTIATIONS BE CONTINUED TO COMPLETION.

YOU POINT OUT THAT MEDIATOR SESSIONS FREQUENTLY CONTINUE BEYOND MIDNIGHT OR THROUGHOUT THE NIGHT, AND IN AN EXTREMELY CRITICAL OR DIFFICULT SITUATION, NEGOTIATIONS HAVE CONTINUED FOR DAYS WITH ONLY A MINIMUM AMOUNT OF RECESS TIME FOR MEALS AND SLEEP. WHEN THE DURATION OF THE RECESS PERIOD BETWEEN SESSIONS IS NOT SUFFICIENT TO PERMIT TRAVEL TO AND FROM THEIR RESIDENCES (FOR SUBSISTENCE AND SLEEP), AND PLACE OF CONFERENCE, MEDIATORS ARE REQUIRED TO EXPEND PERSONAL FUNDS FOR HOTEL ROOM RENTALS AND MEALS. ANOTHER PERSONAL EXPENSE ITEM INVOLVES FARES FOR TAXICAB USED BY MEDIATORS IN RETURNING TO PLACES OF RESIDENCE AT THE CONCLUSION OF CONFERENCE SESSIONS WHICH RECESS AT 2 A.M., OR LATER, WHEN THE USUAL MEANS OF PUBLIC TRANSPORTATION IS INADEQUATE OR UNAVAILABLE.

THE AUTHORITY GIVEN TO YOU "TO MAKE EXPENDITURES FOR SUPPLIES, FACILITIES, AND

SERVICES AS HE DEEMS NECESSARY" IS TO BE EXERCISED IN ACCORDANCE WITH OTHERWISE APPLICABLE LIMITATIONS. IN THAT REGARD, IT MAY BE SAID THAT THE CONGRESS, IN SPECIFIC INSTANCES, HAS AUTHORIZED THE EXERCISE OF STATUTORY PROVISIONS SIMILAR TO THAT IN SECTION 202(B) OF YOUR ACT TO BE WITHOUT REGARD TO LAWS AND PROCEDURES APPLICABLE TO FEDERAL AGENCIES. SEE, FOR EXAMPLE, SECTION 4(B) OF PUBLIC LAW 85-262, 71 STAT. 588, AND SECTION 4(A), PUBLIC LAW 705, 68 STAT. 965. - 8-30 54

AS YOU INDICATE, THE GENERAL RULE IS THAT SUBSISTENCE EXPENSES (INCLUDING MEALS, LODGINGS, FEES, AND TIPS) AT HEADQUARTERS OF EMPLOYEES ARE NOT PAYABLE BY THE GOVERNMENT. MOREOVER, THE LONG ESTABLISHED RULE THAT GOVERNMENT EMPLOYEES ARE REQUIRED TO PLACE THEMSELVES AT THEIR REGULAR PLACES OF EMPLOYMENT AND RETURN TO THEIR HOMES AT THEIR OWN EXPENSE IS APPLICABLE EVEN THOUGH SUCH EXPENSE MAY BE INCREASED BY OVERTIME OR EMERGENCY SITUATIONS. 16 COMP. GEN. 64; 27 ID. 1.

WE FIND NO STATUTORY PROVISION WHICH WOULD AUTHORIZE USE OF APPROPRIATIONS OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE WITHOUT REGARD TO THOSE RESTRICTIONS.

THEREFORE, YOUR QUESTION IS ANSWERED IN THE NEGATIVE.