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B-27441, August 25, 1942

Number: B-27441

Date: 1942-08-25

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National Housing Administrator, National Housing Agency.

My dear Mr. Blandford:

There has been received your letter of July 14, 1942 as follows:

"The Federal Savings and Loan Insurance Corporation, in accordance with the provisions of Title IV of the National Housing Act, as amended, has insured share accounts in over 2,300 home-financing institutions throughout the United States with assets approaching three and one-half billion dollars. This creates a potential liability giving the corporation a vital interest in their financial condition. The Corporation is authorized by the statute to protect itself by limited regulation. In the case of state-chartered associations, the Corporation's regulatory power is so limited as to make it desirable and in its interest to work in close cooperation with state officials wherever possible. This is made more important by the extra hazards created under war conditions. Furthermore, the stability of uninsured state-chartered associations has a direct economic influence on the financial soundness of insured institutions.

"Since home-financing associations, both Federal and state-chartered, are engaged primarily in long-term financing, it is essential not only to take temporary steps during the war to insure their financial stability, but also to make long-range plans for future safeguards. The Corporation has, therefore, determined that it is desirable and in its best interest to call a conference of its executives, state supervisory officials, and executives of the United States Savings and Loan League. The conference would have for its primary purpose the formulation of sound policies for the guidance of the Corporation during and after the war. Under such circumstances, I am advised funds would not be available for states to send representatives to national meeting for the benefit of the Insurance corporation. There are several statutory provisions relating to the use of funds of the Insurance Corporation. Those which appear to be pertinent for consideration in this instance are hereafter presented and correlated.

"The Joint Resolution of February 2, 1935 (49 Stat. 19) reads in part as follows:

"'*** That, unless specifically provided by law, no moneys from funds appropriated for any purpose shall be used for the purpose of lodging, feeding conveying, or furnishing transportation to, any conventions or other form of assemblage or gathering to be held in the district of Columbia or elsewhere.

This section shall not be construed to prohibit the payment of expenses of any officer or employee of the Government in the discharge of his official duties.'

"Section 402(c)(5) of Title IV of the National Housing Act, as amended, makes the following provision in regard to expenditures of the Corporation:

"'***The corporation*** shall determine its necessary expenditures under this Act and the manner in which the same shall be incurred, allowed, and paid, without regard to the provisions of any other law governing the expenditure of public funds.'

"Reference is made to the decision of your office No. A-98289 of January 20, 1939, which held that the above-quoted section of the National Housing Act permitted the Corporation to pay the expenses of employees incident to attendance at meetings or conventions which would otherwise have been prohibited by the Act of June 28, 1912 (37 Stat. 184). The principles there involved would appear to be applicable to the present situation.

"The Independent Offices Appropriation Act, 1942, contains the following provisions in regard to expenses of the Corporation. Special reference is made to the provisions regarding expenses of attendance at meetings:

"'Not to exceed $389,874 of the funds of the Federal Savings and Loan Insurance Corporation, established by title IV of the National Housing Act of June 27, 1934, (48 Stat. 1246), shall be available during the fiscal year 1942 for administrative expenses of the Corporation, including personal services in the District of Columbia and elsewhere; travel expenses, in accordance with the Standardized Government Travel Regulations and the Act of June 3, 1926, as amended (5 U.S.C. Sec 821- 833); expenses (not to exceed $2,500) of attendance at meetings concerned with the work of the Corporation when specifically authorized by the Board of Trustees***.' (Underscoring supplied.)

"In the light of the above facts and statutory provisions, your opinion is requested as to whether the Federal Savings and Loan Insurance Corporation is authorized, under the provisions of Title IV of the National Housing Act, as amended, and the Independent Offices Appropriation Act, 1942,

"(1) to pay the travel expenses of state building and loan supervisors or persons acting in a similar capacity for the state to a conference of the nature indicated;

"(2) to pay subsistence expenses of such persons while traveling to and from and in attendance at such a conference; and

"(3) to pay the cost of a dinner to be held in connection with the final meeting of the conference.

"If it is your opinion that questions (1) and (2) above should be answered affirmatively, your opinion is requested as to whether the Standardized Government Travel Regulations should be applied to the expenses or whether the Corporation may pay the actual expenses of travel and subsistence without regard to the Standardized Government Travel Regulations. In the amount which the Corporation may spend for these purposes limited by the Independent Offices Appropriation Act, 1942, to a total of $2,500?"

Since the conference to which you refer apparently is to be held in the future the provisions in the appropriation for the fiscal year 1942, art 11. 5 911, 55 Stat. 101 referred to and quoted in your letter, would have no application to the matter. However, the appropriation for the Federal Savings and Loan Insurance Corporation, fiscal year 1943, as made by the Independent Offices Appropriation Act, 1943, Public Law 630, approved June 27, 1942, 56 Stat. 402, though different in amount, contains provisions similar to those in the 1942 appropriation, including the limitation of "not to exceed $2,500" for expenses of attendance at meetings concerned with the work of the Corporation when specifically authorized by the Board of Trustees, with a proviso as follows:

"*** Provided further, That, except for the limitations in amounts hereinbefore specified, and the restrictions in respect to travel expenses, the administrative expenses and other obligations of the Corporation shall be incurred, allowed, and paid in accordance with the provisions of said Act of June 27, 1934, as amended 12 U.S.C. Sec 1725- 1723)."

Section 402 (e)(5) of the National Housing Act of June 27, 1934, 48 Stat. 1246, as amended, referred to in the appropriation, contains the provision quoted in your letter to the effect that the Corporation shall determine its necessary expenditures under said act and the manner in which the same shall be incurred, allowed, and paid, without regard to the provisions of any other governing the expenditure of public funds. While such provision vests in the Federal Savings and Loan Insurance Corporation authority to determine its expenditures and the manner in which they shall be incurred, allowed and paid without regard to the provisions of any other law governing the expenditure of public funds, such authorization is, of course, limited by the stated purposes and limitations contained in the appropriation. In this connection, see section 7 (a) of the First Deficiency Appropriation Act of June 22, 1936, 49 Stat. 1647, Sec. 7, which provides that, notwithstanding any other provision of law, the Federal Savings and Loan Insurance Corporation, among others, shall not after June 30, 1937, incur any obligation for administrative expenses except pursuant to an annual appropriation specifically therefor.

The appropriation here involved includes provisions for administrative expenses, travel expenses and expenses of attendance at meetings such as therein described. The travel provision authorizes expenses for travel in accordance with the Standardized Government Travel Regulations and the act of June 3, 1926, as amended (5 U.S.C. 821-833), the latter relating to subsistence of civilian officers and employees of the Government while traveling on official business. Therefore, it would appear that the travel provision in the appropriation was intended to be applicable only with respect to employees of the Corporation and not to others-- such as the State and other employees referred to in your letter. It likewise seems apparent that the provision for expenses, not to exceed $2,500, for attendance at meetings such as and under conditions therein stated refers to such expenses of employees of the Corporation only -- and it may be added that a conference or meeting such as referred to in your letter would bit appear to be a meeting within the meaning of the appropriation provision referred to. See 17 Comp. Gen. 838.

Of course, the transportation and subsistence expenses of the State and other employees to attend a meeting under the circumstances such as referred to in your letter -- if otherwise payable by the Government -- would have to be considered as administrative expenses of the Federal Savings and Loan Insurance Corporation; and since such expenses are not covered either by the provison in

the appropriation relating to travel expenses or that authorizing attendance at meetings, they are necessarily for consideration only under the proviso of the appropriation relating to expense and obligations which the Corporation may incur, allow and pay in accordance with the provisons of the act of June 27, 1934, as amended.

As herein pointed out, the amended provisions of section 402(c)(5) of said act of June 27, 1934, generally authorize the Corporation to determine its expenditures and the manner in which they may be incurred, allowed and paid, without regard to provisions of any other law governing the expenditure of public funds. However, there is nothing in that section or elsewhere in the National Housing Act, as amended, specifically providing for the payment of expenses such as are prohibited by the Joint Resolution of February 2, 1935, which provides in unequivocal terms that "no moneys from funds appropriated for any purpose shall be used" for purposes prohibited thereunder "unless specifically provided by law." Under such specific language as used in this resolution, there would seem to be no doubt of the clear intent of the Congress to reserve to itself the authority to determine where and under what circumstances public funds may be used for the expenses referred to in that law; and in view of the provisions of section 7 of the First Deficiency Appropriation Act of June 22, 1936, supra, to the effect that obligations incident to the administrative expenses of the Corporation may be incurred only pursuant to annual appropriations specifically therefor "notwithstanding any other provison of law," it must be held that the Federal Savings and Loan Insurance Corporation is clearly subject to the provisions of the Joint Resolution of February 2, 1935, 49 Stat. 19.

The decision of January 20, 1939, A-98239, to which your letter refers, involved the payment of expenses of attendance at meetings or conventions by employees of the corporation and not the payment of attendance expenses by state and other employees such as involved in the present matter. Therefore, said decision has no application to this case.

In view of the foregoing I have to advise that since the provisions of the Joint Resolution of February 2, 1935, are applicable to the Federal Savings and Loan Insurance Corporation, and since the appropriation for the Corporation for the fiscal year 1943 does not specifically provide for the payment of the expenses such as referred to in the submission, there is no authority of law for the payment of such expenses. Accordingly, the questions submitted are answered in the negative.

Respectfully,

(signed) Lindsay C. Warren Comptroller General of the United States