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B-70247 January 9, 1948

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Housing and Home Finance Administrator, Housing and House Finance Agency

My dear Mr. Foley:

I have your letter of December 8, 1947, requesting decision as to whether terminal leave payments to employees of the Defense Homes Corporation who are separated from the service during the fiscal year 1948, properly may be charged as expenses in the various fiscal years in which the leave accrued; also, as to whether the salaries of such administrative personnel as now are required to devote a part or all of their time to project inventory and sales work properly may be allocated between the funds authorized for use for administrative expenses and those available for other purposes.

Title II of the Government Corporations Appropriation Act, 1948, Public Law 268, 80th Congress, approved July 30, 1947, provides, in pertinent part, as follows:

"The following corporations and agencies, respectively, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the programs set forth in the Budget for the fiscal year 1948 for each such corporation or agency, except as hereinafter provided.

"Defense Homes Corporation, not to exceed $12,300 for the purposes of liquidation, including $3,000 for payment of terminal leave, shall be available for administrative expenses, which shall be on a accrual basis; Provided, that such administrative expenses shall be exclusive of interest paid, depreciation, properly capitalized expenditures, repayment of loans, property operating expenses (including project inventory), charges to surplus and operating reserve, and cost of sales of commodities, services, and property: Provided further, That advances of funds made in connection with the operation of housing properties are hereby authorized."

At the time of the Congressional hearings on the Government Corporations Appropriation Act, 1948, supra, it appears that the Senate Appropriations Committee was apprised of the fact that the accrued leave as of June 30, 1947, for which the Defense Homes Corporation was obligated, amounted to $19,370.

The general rule is that terminal leave payments are chargeable to the fiscal year appropriation available for the payment of salary at the time an employee

is separated from the service regardless of when the leave accrues. However, as pointed out by you, the language used in the foregoing statutory provisions stipulating that the amount authorized for administrative expenses of the Defense Homes Corporation including terminal leave payments in the fiscal year, 1948, "shall be on an accrual basis" evidences an intent on the part of the Congress that such operating costs of the Corporation for prior fiscal years as might be paid in 1948, should be allocated as items of expense for the prior years rather than for 1948.

Moreover, as further pointed out by you, the decision dated April 2, 1946, of this Office to the Secretary of the Treasury, 25 Comp. Gen. 667, is of special importance in the consideratins of the present matter. There, the question presented was whether the above-mentioned genral rule with respect to terminal leave payments necessarily was for application in the case of employees paid from the General Supply Fund--a revolving fund as is the Defense Homes Corporation fund here involved--and it was held that there was no legal objection" to the charging of compensation for unused annual leave accrued during any fiscal year to the operating cost applicable to that fiscal year, if it be determined adminstratively that such procedure will result in core accurately reflecting the annual operating expenses of the fund and in insuring the maintenance of its integrity. Also, see 17 Comp. Gen. 571.

On the basis of the foregoing, and since the annual leave earned by employees of the Defense Homes Corporation is in a particular fiscal year must be regarded as a operating cost in that year, I have to advise that terminal leave payments to such employees as may be separated from the service during the fiscal year, 1948, should be allocated to the years in which the leave accrued and only such payments as may be made on account of leave earned in the fiscal year, 1948, charged as items of administrative expenses for that year.

With respect to the further question proponded by you concerning the allocation of the salaries of certain employees of the Defense Homes Corporation, you state that it has beed found "necessary to shift some of our administrative personnel to project inventory and sales work, some of them part time and some full time, depending on the extent to which their 'administrative' functions have decreased." Obviously, the above-quoted provisions of the Government Corporations Appropriation Act, 1948, excluded items relating to project inventory, and sales work from the limitation placed thereby upon the administrative expenses; and, such being the case, the salaries of employees for such time as they devote to project inventory, and sales work should not be charged as a part fo the administrative expenses. Consequently, no objection is perceived to the procedure now being followed by you of allocating the salaries of employees between the funds authorized for administrative expenses and those available for other purposes in accordance with the time spent by them in performing administrative work, project inventory, and sales work, respectively.

Respectfully,

Lindsay C. Warren Comptroller General of the United States