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B-81321 November 19, 1948

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The Honorable, The Secretary of Commerce

My dear Mr. Secretary:

Reference is made to your letter of November 3, 1948, in which a decision is requested on the question as to whether the value of land, labor, materials and equipment donated or loaned to a sponsor of a project under the Federal Airport Act, 60 Stat. 170, 49 U.S.C. 1101 st seq., and used in accomplishing such project, is a project cost within the meaning of the act for which the sponsor is entitled to receive, to the extent that such cost is found to be allowable, a grant payment.

Your letter quotes in part from various sections of the act and exhaustively considers the provisions thereof in the light of the legislative history of the act and the rules of statutory construction.

Under section 10 of the act 60 Stat. 175 the share of the United States payable under any approved project under the act is established at varying percentages of allowable project costs. Section 13 of the act 60 Stat. 175 provides that a project cost shall be allowable if it meets certain conditions set forth therein. However, the act is silent with respect to whether contributions made to sponsors, other than Federal Agencies, may be considered as allowable costs if used in accomplishing the construction and completion of an approved project. Also, the legislative history of the act does not indicate, with any degree of clarity, the intent of Congress with respect to the use of contributions made to State agencies and instrumentalities acting as sponsors under the act.

It appears, however, that, since the sources of the funds to be used by such agencies or instrumentalities are not limited, contributed moneys could be accepted and used on the projects, subject to proper enabling legislation having been enacted by the states. Hence, it reasonable would follow that the fair value of land, labor, etc., donated to the agencies or instrumentalities could be considered a part or all of the sponsor's share of allowable project costs. A contrary holding would result in the receipt by sponsors in a locality where the public spirited citizens made contributions to airport projects of lesser grants of Federal funds than sponsors in localities where no such contributions were received.

With respect to the reasonableness of costs represented by items donated, contributed or loaned, the duty of the Administrator, Civil Aeronautics Administration would seem to be no different than with respect to the

reasonableness of other costs, since the provisions of section 13 of the act make it the duty of the Administrator to determine that all costs allowed are reasonable in amount.

Accordingly, this Office would not be required to object to the allowance, as a part or all of the sponsor's share of project costs, of the value of land, labor, materials and equipment donated, contributed, or loaned to the sponsor and the making of grant payments on the basis thereof, provided (1) the items donated, contributed of loaned are items for which the contributor otherwise would have made a charge, (2) the items donated, contributed, or loaned are items for which the sponsor otherwise would have paid and the cost of which properly could be included in project costs, and (3) proper safeguards are taken to determine that the value placed on such land, labor, materials or equipment is fair and reasonable.

Respectfully

Frank L. Yates Acting Comptroller General of the United States