

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

61223

FILE: B-114827

DATE: JUL 28 1976

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MATTER OF: Federal Home Loan Bank Board building insurance

DIGEST: Federal Home Loan Bank Board may purchase insurance covering risk of loss to new building. Government policy of insuring its own risks of loss, based on wide distribution of type and geographical location of its risks, does not apply here since total loss may be ultimately sustained by Federal Home Loan Bank System due to nature of funding for building.

The Federal Home Loan Bank Board (the Board) requests our decision as to whether it has authority to purchase insurance covering risk of loss on its new office building. Although the property in question is to be held in the name of the United States, the Board indicates that it could find no authority for concluding that general funds of the Treasury would be available to replace or repair the structure for the benefit of the Board in the event of loss. The Board recognizes that it is established Government policy that, unless expressly authorized by statute, an agency may not expend funds for insurance to cover loss or damage to Government property. It suggests, however, that this rule is inapplicable because any loss or damage would be payable from Federal Home Loan Bank System funds and not from appropriated funds.

Pursuant to section 18(c) of the Federal Home Loan Bank Act, as amended, 12 U.S.C. § 1438(c)(1970), the Board was authorized to acquire a site in the District of Columbia and to construct thereon suitable buildings and facilities for the Board and the agencies under its administration or supervision. The subject building is expected to be completed early in 1977.

Although the property is to be held in the name of the United States (see 12 U.S.C. § 1438(c)(1)(A)), we have been advised that funds for its construction are being obtained from the Federal Home Loan Banks under the Board's administration or supervision through assessments made by the Board pursuant to 12 U.S.C. § 1438(b). The proceeds from such assessments, as well as other receipts of the Board, are deposited in a special account in the United States Treasury and are made available to the Board pursuant to annual appropriation acts. See 12 U.S.C. §§ 1439, 1439a (1970); 15 U.S.C. § 712 (1970); see, e.g., the

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Department of Housing and Urban Development--Independent Agencies
Appropriation Act, 1976, Pub. L. No. 94-116, 89 Stat. 581, 598-99
(October 17, 1975).

It appears, therefore, that while sums are appropriated to the Federal Home Loan Bank Board every fiscal year for its administrative expenses, the original source of these funds is the Federal Home Loan Banks themselves, and the costs of construction of the building are actually being borne by the Banks. If a deficiency occurs in the amount available for the Board's expenses, it is authorized under 12 U.S.C. § 1438(b), supra, to make an immediate additional assessment. Similarly, it would appear that if deficiencies occurred due to loss or damage to the property, additional assessments could also be made against the Banks. Therefore, any loss occurring to the building, could be ultimately borne by the Banks under the administration or supervision of the Federal Home Loan Bank Board.

It has been a long-standing policy of the Government to self-insure its own risks of loss. As far back as February 9, 1892, the first Comptroller of the Treasury so advised the Department of State. This policy has been restated and followed in numerous decisions ever since that time. See, e.g., 13 Comp. Dec. 779 (1907); 21 Comp. Gen. 928, 929 (1942). It is important to note, however, that the Government's practice of self-insurance is one of policy, not law. This policy arose because it was felt that the magnitude of the Government's resources and the wide dispersion of the types and geographical location of the risks made a self-insurance policy generally more advantageous to the Government, in that it would save the items of cost and profit which private insurers have to include in their premiums. See B-175086, May 16, 1972; 19 Comp. Gen. 211, 214 (1939); 21 id. 928, 929 (1942). Nevertheless, when the economy sought to be obtained under this rule would be defeated, when sound business practice indicates that a saving can be effected, or when services or benefits not otherwise available can be obtained by purchasing insurance, exceptions to the general rule have been made. See B-151876, April 24, 1964; B-35379, July 17, 1943; B-59941, October 8, 1946. While not precisely on point, these cases indicate that the self-insurance policy need not be applied where the reasons for the policy would not be carried out by applying it in the particular circumstances involved.

Moreover, the policy of self-insurance has not been strictly applied against Government corporations. See, e.g., 21 Comp. Gen. 928, 929 (1942) citing to 23 Comp. Dec. 297, 298 (1916). While the Board is a supervisory Federal agency, rather than a Government corporation (see 12 U.S.C. § 1437(b)(1970)), it is treated as a corporation for purposes

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of the activities here involved. 12 U.S.C. § 1438(c)(6)(1970). Moreover, as noted previously, while its funds are made available by appropriation acts, they derive originally from assessments against the Banks. Thus since any loss on the building would be ultimately sustained by the Federal Home Loan Bank System, the basic rationale for the self-insurance policy, of lessening the burden of individual losses by a wide distribution of risks, would not apply here.

It is our view that under all the foregoing circumstances, an exception to the general rule against the purchase of insurance by Government agencies should be made, so that the Federal Home Loan Bank Board can, if it determines it is in the best interest of the Government to do so, purchase insurance to cover loss or damage to its new building.

R.F.KELLER

Deputy

Comptroller General
of the United States