



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-55181

FEB 15 1946

Mr. Keith Neilson, Authorized Certifying Officer,
National Park Service,
United States Department of the Interior,
Chicago 54, Illinois.

Dear Mr. Neilson:

Reference is made to your letter of January 11, 1946, transmitting a voucher stated in favor of the Washington Title Insurance Company, of Seattle, Washington, in the amount of \$400, as a proposed payment for certificates of title issued by that company for lands being acquired for the Olympic Public Works Project (F. P. 723) under appropriation 14-443/50811 National Industrial Recovery, Public Works Administration (Allotment to Interior, National Park Service), 1933-1945, and requesting decision as to whether the voucher may be certified for payment under that appropriation.

Your letter, in material part, is as follows:

"The charges are in accordance with the schedule of fees set out in contract No. I-47np-2, dated August 8, 1945, copy attached. Special Attorney Charles H. Heighton of the Department of Justice has certified upon each invoice that the certificates of title have been received and are satisfactory. The allocation of funds for the project by the Public Works Administration provides as follows:

"For the construction of roads, trails, firebreaks, lookout towers, ranger cabins, public beach facilities and utilities, including sewers, water and telephone systems necessary for the conservation of natural resources and for the employment of fire protection personnel and the purchase of fire protection supplies and equipment in the corridor along the Queets River from Olympic National Park to

the ocean; in the ocean strip from the mouth of the Queets River to the Ozette Indian Reservation and in the approximately 1,820 acres of privately owned land west of Lake Crescent and Rosemary Inn Property within the Olympic National Park including the purchase of these areas and expenses incident thereto; also expenses incident to a determination of availability of timber in these areas and elsewhere within the Olympic National Park for logging in connection with the war program including cruises, selection of trees for cutting, supervision of sales, etc.'

"You will note that the authorization specifically provides for 'the purchase of these areas and expenses incident thereto.' The Attorney General, by letter of June 21, 1945, copy attached, was requested to acquire the necessary lands by condemnation. The cost of the certificates of title, as covered by the enclosed voucher, is a necessary part of the expense of acquiring the lands by condemnation. In a similar case, your decision A-88353 of June 18, 1938, to the Secretary of the Interior, you held that 'funds made available for such acquisition may be considered as obligated by the institution of condemnation proceedings for such lands not only for the price to be paid for the lands but also for the expenses incident to the condemnation proceedings.' Accordingly, please advise me whether I may properly certify the attached voucher covering the cost of the certificates of title which is a necessary expense incident to the condemnation proceedings even though contract No. I-47np-2 was entered into after the date the appropriation lapsed for obligation."

When an appropriation is by its terms made available until a specified date, the general rule is that the availability relates to the authority to obligate the appropriation and does not necessarily prohibit payment after the available date for obligations previously incurred, unless the payment is otherwise expressly prohibited by statute. 23 Comp. Gen. 862; ^{82;} id. $\sqrt{20}$ Comp. Gen. 436; 19 Comp. Gen. 863. Also, it has been held that an appropriation is obligated when a definite commitment is made or liability incurred to pay funds from such appropriation, regardless of when payment of the obligation is required to be made. B-190, June 12, 1939.

In the present case, it appears that, by letter of June 21, 1945, the Secretary of the Interior requested the Attorney General to institute

condemnation proceedings for the acquisition of the lands involved.

The letter further advised the Attorney General that:

"Public Works funds are available for payment of the awards (Appropriation: 11-443/50811, National Industrial Recovery, Public Works Administration, Allotment to Interior, National Park Service, 1933-1945).

"Mr. Preston P. Macy, Superintendent, Olympic National Park, Port Angeles, Washington, will furnish the United States Attorney with ownership data, plats, and such other information as may be desired in connection with the preparation of the petition for condemnation."

Thus, the appropriation referred to in said letter then became obligated for the acquisition of the lands. 17 Comp. Gen. 664.

While the contract with the Washington Title Insurance Company for the title services here involved was not entered into until August 8, 1945--which was subsequent to June 30, 1945, the last date on which the appropriation was available for obligation--yet, the title services appear to involve necessary expenses in connection with the condemnation proceedings and, therefore, are incident to the proceedings for the acquisition of the lands by condemnation. Hence, the appropriation may be regarded as having been obligated therefor at the time the request was made for the institution of the proceedings, or on June 21, 1945. See decision of June 18, 1938, A-88353, to the Secretary of the Interior, referred to by you.

Accordingly, this office will interpose no objection to certification of the voucher for payment under the appropriation mentioned, if otherwise free from objection.

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The voucher and related papers are returned herewith.

Respectfully,

(Signed) Lindsay C. Warren

Comptroller General
of the United States

Enclosures