

Office Correspondence

FEDERAL RESERVE
BOARD

Date February 6, 1935.

To Governor Eccles

Subject: Housing subsidies under Emergency

From Mr. Vest, Assistant Counsel.

Relief Appropriation Act of 1935.

O.P.C. 16-852

It is understood that you wish to be advised as to whether, under the provisions of the proposed Emergency Relief Appropriation Act of 1935 (H.J.Res. 117), the President would have authority to use a part of the fund thereby appropriated in making grants or gifts to individuals or others who will use such funds in the construction of residences or other buildings and whether he may utilize some Government agency for this purpose. Under such a plan, presumably a certain percentage of the cost of a building, for example, 20 per cent, would be advanced by the Government in the form of an outright gift upon condition that the donee provide from his own funds or from funds obtained elsewhere the remainder of the amount necessary for the building to be constructed.

OPINION

In my opinion, under the provisions of H. J. Res. 117 in the form in which it passed the House of Representatives, the President would have the authority to use a part of the fund appropriated therein for making grants or gifts to individuals or others to provide a part of the expense of the construction of residences or other buildings and that if he so desired he might delegate this authority to any Governmental agency.

O. K.
G.W.

DISCUSSION

The joint resolution as it passed the House of Representatives provides in section 1 that "in order to protect and to promote the general welfare by (1) providing relief from the hardships attributable to widespread unemployment and conditions resulting therefrom, (2) relieving economic maladjustments, (3) alleviating distress, and/or (4) improving living and working conditions, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used in the discretion and under the direction of the President in such manner, and for such purposes and/or such projects, Federal or non-Federal, as shall be adapted to the accomplishment" of any of the four objectives above mentioned, the sum of \$4,000,000,000 and additional sums aggregating \$880,000,000, to remain available until June 30, 1937. Section 5 of the resolution authorizes the President, in carrying out its provisions, "to make grants and/or loans and/or contracts". The provisions of section 1 and section 5 referred to confer upon the President broad powers in the use of the funds appropriated and seem clearly to be sufficiently inclusive to authorize the President to make grants or gifts of the funds appropriated for any one of the four purposes named in section 1 of the bill. One of these purposes is to relieve unemployment and another is to improve living conditions. The construction of residences and other buildings would seem to fall squarely within the purposes mentioned and I think there can be little doubt of the legal authority of the President in his discretion to make grants or gifts for construction purposes under

the provisions of the resolution as it passed the House. It may be suggested that the phrase, in Section 1, "Federal or non-Federal" qualifying the purposes and projects for which the funds may be used, is intended to mean that funds shall be used for public purposes or projects only, that is for Federal, State, county or municipal purposes or projects, and should not be used for making loans or grants to individuals. However, the language of the section is in my opinion clearly broad enough to authorize grants or loans to individuals and to corporations or institutions other than States or political subdivisions.

The President is also authorized by section 4 of the joint resolution to delegate the powers conferred upon him under the resolution to any Governmental agency. He might, therefore, delegate his authority to make grants for construction purposes to any Governmental agency which he might select for the purpose.

It is understood that certain changes in the joint resolution are under consideration in the Senate Committee on Appropriations and it is possible that as a result of these changes the President's power will be somewhat limited. Further consideration of this question, therefore, may be necessary in the light of any such changes which may be made in the resolution.

Respectfully,

George B. Vest

George B. Vest,
Assistant Counsel.