

**BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON**

R--760

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

January 2, 1941



Dear Sir:

There is enclosed for your information a copy of a letter addressed to the American Bankers Association by the Comptroller General of the United States with regard to the advice which that office, upon request, will give as to whether or not any prior notice of assignment of a claim under a Government contract has been filed in that office.

You will recall that in our letter of December 4, 1940, relating to procedure under the Assignment of Claims Act of 1940, it was suggested that banks which consider it necessary to ascertain whether previous assignments of particular claims have been made may wish to address inquiries to the Comptroller General of the United States or to the disbursing officer, if any, designated in the contract to make payment. At that time we had not received written advice of the action which the office of the Comptroller General would take upon such inquiries, and the enclosed letter confirms our informal understanding of the position of the Comptroller General's office with respect to this matter.

It may be noted that we have received a suggestion from one individual that in each case where notice of assignment is filed it would be desirable for the assignee bank to obtain advice from all of the places where such notice is filed that no prior notice of assignment under the particular contract has been filed. This possible procedure was considered when Circular No. 447 of the Director of Procurement was prepared but it was felt that it would be unduly burdensome to suggest that in every case advice be obtained from all of the places where the notice of assignment is filed that no prior notice of assignment under the particular contract had been filed. It was felt that in most cases, as a practical matter, the obtaining of advice of no prior notice of assignment from one of the places where the bank filed notice of its assignment would be sufficient. However, if in any particular case an assignee bank feels that it is not adequately protected by such advice, it may wish to request



advice as to whether or not there is any such prior notice of assignment from all of the places at which it files notice of its assignment.

A copy of this letter is being mailed to each officer designated as a field representative at your Bank and branches, if any.

Very truly yours,

Chester Morrill,
Secretary

Enclosure

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS
COPY TO FIELD REPRESENTATIVES

November 18, 1940

The American Bankers Association
22 East 40 Street
New York, New York

Gentlemen:

There has been received from the office of your General Counsel, Washington, D. C., a letter of November 15, 1940, in which, with reference to the assignability of Government contracts, it is stated:

"If you will be kind enough to write me what Regulation O. M. 13208 sets forth as to the proper procedure, we shall appreciate it. We would also like to know what steps your office will take to notify a bank as to the existence of prior assignments, if any.

"Inasmuch as we are endeavoring to get out a communication to our members as soon as possible, we are having a meeting in New York Monday morning, November 18. I would appreciate it if you could send me this information to our New York office by Monday."

The Assignment of Claims Act of 1940, Public No. 811, 76th Congress, approved October 9, 1940, provides:

"That sections 3477 and 3737 of the Revised Statutes be amended by adding at the end of each such section the following new paragraph:

"The provisions of the preceding paragraph shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating \$1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency: Provided,

"1. That in the case of any contract entered into prior to the date of approval of the Assignment of Claims Act of 1940, no claim shall be assigned without the consent of the head of the department or agency concerned;

"2. That in the case of any contract entered into after the date of approval of the Assignment of Claims Act of 1940, no claim

shall be assigned if it arises under a contract which forbids such assignment;

"3. That unless otherwise expressly permitted by such contract any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing;

"4. That in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of assignment with--

"(a) the General Accounting Office,

"(b) the contracting officer or the head of his department or agency,

"(c) the surety or sureties upon the bond or bonds, if any, in connection with such contract, and

"(d) The disbursing officer, if any, designated in such contract to make payment.

Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to the Assignment of Claims Act of 1940 shall constitute a valid assignment for all purposes.'

"Any contract entered into by the War Department or the Navy Department may provide that payments to an assignee of any claim arising under such contract shall not be subject to reduction or set-off, and if it is so provided in such contract, such payments shall not be subject to reduction or set-off for any indebtedness of the assignor to the United States arising independently of such contract.

"Sec. 2. This Act may be cited as the 'Assignment of Claims Act of 1940'."

This office has not prescribed, and does not contemplate prescribing standard forms of notice or assignment for use in connection with assignments under the said act, and any requests for information concerning an assignment under a contract should be addressed, generally, to the particular Government agency involved. It should be noted, in this connection, that the act specifically requires that the consent of the head of the department or agency concerned must be obtained to the assignment of a claim under a contract entered into prior to the date of approval of the act, October 9, 1940.

The act provides that, in the event of an assignment thereunder, the assignee shall file written notice thereof, together with a true copy of the assignment, with this office, but there is no requirement that this office acknowledge receipt of such notice and assignment or that it furnish information as to prior assignments. Obviously, this office cannot undertake to furnish conclusive information to assignees or prospective assignees as to whether there have been any prior assignments. However, upon request, this office will by letter--or by telegraph, collect, if specifically requested--acknowledge receipt of the notice and true copy of an assignment filed here and advise whether it appears from an examination of the pertinent contract records of this office that a notice of any prior assignment has been filed here.

Respectfully,

(Signed) Lindsay C. Warren

Comptroller General
of the United States.