
CONSTRUCTION OF TEMPORARY BUILDINGS FOR STORAGE OF ROAD MATERIALS.

An appropriation for general purposes may be used to construct buildings of a temporary character not intended or designed for permanent use or occupation, provided the buildings are necessary instrumentalities in the administration and execution of the appropriation act.

The appropriation made by section 8 of the act of February 28, 1919, 40 Stat., 1201, for the survey, construction, and maintenance of roads and trails within or partly within national forests, is available for the construction of temporary buildings, either on Government-owned land, if available, or on land leased for that purpose, to provide proper storage facilities for such part of the surplus war materials, supplies, and equipment transferred from the War Department to the Department of Agriculture under authority of the acts of February 28, 1919, 40 Stat., 1201, and March 15, 1920, 41 Stat., 530, as the Secretary of Agriculture is authorized to reserve from distribution to the States for improvement of highways, for use in the construction of national forest roads. If it is necessary to lease land upon which to erect such buildings, their construction should be of such character as to facilitate their removal when no longer needed, provision for which to be made in the lease.

Comptroller Warwick to the Secretary of Agriculture, April 14, 1920:

I have your letter of March 31, 1920, requesting decision whether your department may erect on land owned by the Government temporary structures for the storage of materials, equipment, and supplies transferred by the War Department for its use under the provision of section 7 of the act of February 28, 1919, 40 Stat., 1201,

and the act of March 15, 1920, 41 Stat., 530, and whether, if suitable land owned by the Government is not available, such buildings may be erected on land leased for that purpose, the lease to provide that the buildings may be removed by the department.

Section 7 of the act of February 28, 1919, provides:

"That the Secretary of War be, and he is hereby, authorized in his discretion to transfer to the Secretary of Agriculture all available war material, equipment, and supplies not needed for the purposes of the War Department, but suitable for use in the improvement of highways, and that the same be distributed among the highway departments of the several States to be used on roads constructed in whole or in part by Federal aid, such distribution to be made upon a value basis of distribution the same as provided by the Federal aid road Act, approved July 11, 1916: *Provided*, That the Secretary of Agriculture, at his discretion, may reserve from such distribution not to exceed 10 per centum of such material, equipment, and supplies for use in the construction of national forest roads or other roads constructed under his direct supervision."

Section 2 of the act of March 15, 1920, authorizes and directs the Secretary of War to transfer to the Secretary of Agriculture, under the provisions of section 7 of the act of February 28, 1919, certain war material, supplies, and equipment as set forth in the later act.

It appears from your submission that your department has no storage facilities adequate for the accommodation of the 10 per cent of these materials, supplies, and equipment authorized to be reserved by your department for use in the construction of national forest roads or other roads constructed under the direct supervision of your department. No specific provision for storing this material, etc., has been made, and as it is to be used to a great extent at remote points where rented storage room is not available, it is stated that it will be necessary to construct storage rooms if it is to be protected from loss or deterioration in the hands of your department.

It is well settled that an appropriation for general purposes may be used to construct buildings of a temporary character necessary to the accomplishment of the purpose for which the appropriation was made, provided that the building is in fact of a temporary character and not one intended or designed for permanent use or occupation and is a necessary instrumentality in the administration and execution of the appropriation act and not a permanent public building within the inhibition of section 3733, Revised Statutes.

If the proposed storage structures are of this temporary character they may be erected upon Government land, provided that there is an appropriation available for that purpose.

Section 8 of the act of February 28, 1919, makes an appropriation to be expended by the Secretary of Agriculture under conditions

specified therein in the survey, construction, and maintenance of roads and trails within or partly within the national forests. Proper storage of the material, supplies, and equipment transferred for use in this behalf is an expense directly incident to this work and therefore is properly chargeable to this appropriation. If the construction of a temporary building is the only practicable means of obtaining proper storage facilities necessary expense of such construction may be charged to this appropriation.

If no Government-owned land upon which to erect these buildings is available they may be erected upon land leased for that purpose, provided that their construction is of such a character that they may be removed when no longer needed, and the lease of the land makes proper provision for such removal.

It would seem that your submission relates principally, if not wholly, to storage room for material, supplies, and equipment for use in the construction of national forest roads. What appropriation, if any, is available for storage expense in connection with other roads constructed under the direct supervision of the Secretary of Agriculture can not be determined upon the statement of facts now before me.

It is understood that storage is to be provided for only such part of the material, supplies, and equipment as the Secretary of Agriculture is authorized to reserve from distribution to the States.