

October 4, 2000
OPINION NUMBER 00-317

Ms. Helena R. Cunningham
Vice-President
Louisiana Housing Finance Agency
200 Lafayette Street, Suite 300
Baton Rouge, LA 70801

Dear Ms. Cunningham:

You requested the opinion of this office concerning whether the Louisiana Housing Finance Agency (the "LHFA"), which is a non-budgetary unit of the State and does not receive appropriated funds, is required to adhere to the State Travel Guidelines (PPM-49). PPM-49 was adopted pursuant to R.S. 39:231, which provides in pertinent part as follows:

A. Except as provided in Subsection B, Subsection C, and Subsection D, the commissioner of administration, with the approval of the governor, shall, by rule or regulation, prescribe the conditions under which each of various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

Subsections B, C and D pertain to statewide elected officials, meal allowances and higher education and are not pertinent to the LHFA.

Section I(A) of PPM-49 states that the regulations "apply to **all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.**" Section II of PPM-49 contains various definitions, including "**Authorized Persons**" which is defined as "**members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.**" (Emphasis added)

PPM-49 applies to all state departments, boards and commissions created by the legislature and operating from appropriated or self-sustaining funds or funds generated from any other source. PPM-49 applies to even non-budget entities. Therefore, in the absence of a specific statutory exception, the members of the Board of the LHFA and the staff would be subject to the travel regulations contained in Division of Administration PPM 49.

LHFA's enabling legislation is contained in R.S. 40:600.1, et seq. R.S. 40:600.5 provides in pertinent part as follows:

C. **Appointed commissioners** may receive fifty dollars per diem for attendance at meetings of the agency and **may be reimbursed by the agency for actual expenses incurred in the performance of their duties as commissioners. All other commissioners shall be reimbursed by the agency for actual expenses incurred in the performance of their duties as commissioners**, but shall not receive a per diem allowance.

G. The agency shall operate from self-generated revenues and shall not be a budget unit of the state. The agency may, however, receive state appropriations at any time it is deemed advisable by the legislature, and **only the expenditure of such appropriated funds shall be subject to budgetary controls or authority of the Division of Administration.** The agency shall establish its own operating budget for the use of its self-generated revenues or unencumbered fund balances subject to a two-thirds approval of the board of commissioners of the agency. Any budget adopted shall be effective for a fiscal year commensurate with that of the state. (Emphasis added).

R.S. 40:600.5(C) is a legislative exception to PPM-49 and the commissioners may be reimbursed for their actual expenses incurred in the performance of their duties. Staff of the agency, however, would be subject to PPM-49 in the event the LHFA receives and expends State appropriated funds. It is our understanding that the LHFA does not receive an appropriation from the legislature.

While LHFA commissioners and staff may not be subject to PPM-49 and are entitled to be reimbursed their actual expenses, we would suggest, and we are sure that the commissioners would concur, that expenses are subject to a "reasonableness" test. Unreasonably high actual expenses should not be reimbursed. Reasonable will depend upon the particular factual situation. See enclosed Op.Atty.Gen. No. 91-43 to Mr. Bill Lynch.

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Trusting this adequately responds to your request, we remain

Yours very truly,

RICHARD P. IEYOUNG
Attorney General

BY:

MARTHA S. HESS
Assistant Attorney General

RPI/MSH
Enclosure

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Syllabus

3 Appropriations
R.S. 39:231 and 40:600.5

LHFA Commissioners are exempt from PPM-49. LHFA staff are subject to PPM-49 if appropriated funds are used for travel.

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Date Received:

Date Released: October 4, 2000

Martha S. Hess
Assistant Attorney General