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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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B-170454

June 19, 1973

Mr. J. E. Perry  
Authorized Certifying Officer  
Bonneville Power Administration  
United States Department of the Interior  
P. O. Box 3621  
Portland, Oregon 97208

Dear Mr. Perry:

We refer to your letter of April 12, 1973, requesting the opinion of this Office as to the propriety of reimbursing Mr. Edmund R. Savoie \$115 paid by him and characterized as a "loan service fee" incident to the purchase of residence in December of 1972 at his new duty station, Portland, Oregon.

The loan in connection with which the service fee was charged was made to Mr. Savoie by the Department of Veterans Affairs of the State of Oregon. The Disclosure Statement prepared by the Department characterizes the \$115 service fee as a "prepaid finance charge." You quote from a publication issued by that Department entitled "Oregon Veterans Farm and Home Loans" which explains that the service fee covers the cost of appraisal and other costs of closing the loan and is based on the type and location of the property and the amount of the loan.

You request to be advised whether the loan service fee is a reimbursable expense or whether it is a finance charge for which reimbursement is expressly precluded by subsection 4.2d of Office of Management and Budget Circular No. A-56, which, as in effect at the date of the transaction here involved and presently provides:

\*\*\* Notwithstanding the above, no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.  
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As authority for his contention that the service fee is a reimbursable expense, Mr. Savvie relies on our holding in 47 Comp. Gen. 727 (1968) that the Veterans Administration "funding fee," required by 38 U.S.C. 1818(d) as a condition precedent to the guarantee of loan, was reimbursable under section 4.2d of Bureau of the Budget Circular No. A-56, revised October 12, 1966, as then in effect. Your doubt as to the propriety of reimbursement stems from our more recent holding in 49 Comp. Gen. 483 (1970) wherein we concluded that the Veterans Administration "funding fee" is a finance charge incident to the extension of credit as contemplated by the Truth in Lending Act and as such is not reimbursable under section 4.2d of Office of Management and Budget Circular No. A-56, revised June 26, 1969. The pertinent language of section 4.2d, as in effect at the date of the transactions involved in the latter decision, is identical to the language of section 4.2d, quoted above, in effect at the time of Mr. Savoie's real estate transaction. As noted in your letter the language of section 4.2d considered in 47 Comp. Gen. 727 was superseded. Such holding is therefore no longer controlling.

Regulation Z (12 CFR, Part 226.4), referenced in section 4.2d above, provides the following guidance for determining whether a particular charge is a finance charge within the definition thereof contained in section 106 of the Truth in Lending Act:

226.4 Determination of finance charge.

(a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges:

(1) Interest, time price differential, and any amount payable under a discount or other system of additional charges.

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(2) Service, transaction, activity, or carrying charge.

(3) Loan fee, points, finder's fee, or similar charge.

(4) Fee for an appraisal, investigation, or credit report.

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(a) Excludable charges, real property transactions. The following charges in connection with any real property transaction, provided they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this part, shall not be included in the finance charge with respect to that transaction:

(1) Fees or premiums for title examination, abstract of title, title insurance, or similar purposes and for required related property surveys.

(2) Fees for preparation of deeds, settlement statements, or other documents.

(3) Amounts required to be placed or paid into an escrow or trustee account for future payments of taxes, insurance, and water, sewer, and land rents.

(4) Fees for notarizing deeds and other documents.

(5) Appraisal fees.

(6) Credit reports.

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Under the above guidelines we have held that a service charge or fee, not identified as being in payment of an otherwise allowable expense, is to be considered a finance charge, B-176481, August 11, 1972. Where an itemization of amounts included in the service charge or fee is furnished, excludable charges as defined in subsection 226.4(e), above, may be reimbursed to the extent that they are bona fide, reasonable in amount and not for the purpose of circumventing or evading Regulation Z (12 CFR, Part 226).

Although the record indicates that appraisal costs, an allowable item, was included in the fee, no portion of the \$115 service fee paid by Mr. Savoie may be reimbursed in the absence of an itemization. Accordingly, the voucher and attachments, returned herewith, may not be certified for payment on the basis of the present record.

Sincerely yours,

Paul G. Demblinē

For the Comptroller General  
of the United States