



Carole Keeton Strayhorn
Texas Comptroller of Public Accounts

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The Honorable Greg Abbott
Attorney General
State of Texas
Post Office Box 12548
Austin, Texas 78711-2548

Re: Opinion No. GA-0324

Dear General Abbott:

The purpose of this letter is to seek clarification of the analysis and conclusion set forth in the above-referenced opinion regarding repurchase agreements as an authorized investment under Chapters 404 and 2256 of the Texas Government Code.

Sections 404.001 and 404.024 of the Government Code permit the Comptroller of Public Accounts to invest state funds in direct security repurchase agreements, among other investments. A direct security repurchase agreement is an agreement under which the state buys, holds for a specified time, and then sells back any of the following securities, obligations, or participation certificates:

- (A) United States government securities;
- (B) direct obligations of or obligations the principal and interest of which are guaranteed by the United States; or
- (C) direct obligations or obligations guaranteed by agencies or instrumentalities of the United States government.

Similarly, Sections 2256.016 and 2256.011 of the Government Code permit an investment pool, such as Texas Local Government Investment Pool (TexPool), to invest in fully collateralized repurchase agreements, among other investments. A fully collateralized repurchase agreement is an authorized investment if it:

- (A) has a defined termination date;
- (B) is secured by obligations described by Section 2256.009(a)(1);¹

¹ Obligations described in Section 2256.009(a)(1) include obligations of the United States or its agencies or instrumentalities.

EXECUTIVE ADMINISTRATION
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January 27, 2006

RQ-0438-GA

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OPINION COMMITTEE

FILE # ML-44584-06

I.D. # 44584



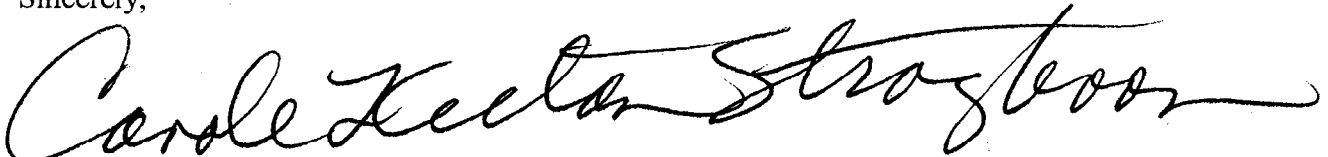
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January 27, 2006
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- (C) requires the securities being purchased by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and
- (D) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas.

In our previous inquiry to your office we requested advice as to whether cash would constitute a permitted form of collateral for purposes of Sections 404.001 and 404.024, and Sections 2256.011 and 2256.016, of the Texas Government Code. As a result of conversations and correspondence with Federated Investors, Inc., which provides investment services to TexPool and the Federal Reserve Board, we hereby request confirmation that Federal Reserve notes constitute eligible collateral for repurchase agreements under these sections, in that pursuant to the provisions of Section 16 of the Federal Reserve Act, they constitute obligations of the United States. In this regard, please see the enclosed letter from the Associate General Counsel of the Federal Reserve Board to Goodwin Procter, counsel to Federated Investors, Inc.

Thanks for all that you do for Texas.

Sincerely,



Carole Keeton Strayhorn
Texas Comptroller

Enclosure

OCT-12-2005 14:05 FROM:LEGAL DIVISION

202 452 3101

TO:202-346-4444

P.002/002



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 12, 2005

Melanie Fein, Esq.
Goodwin Proctor LLP
901 New York Ave., N.W.
Washington, DC 20001

Dear Ms. Fein:

This responds to your letter to me dated September 20, 2005, concerning the status of Federal Reserve notes. In your letter, you requested confirmation that Federal Reserve notes are obligations of the United States.

Federal Reserve notes are authorized by Section 16 of the Federal Reserve Act, 12 U.S.C. § 411. Section 16 provides:

Federal reserve notes, to be issued at the discretion of the Board of Governors of the Federal Reserve System for the purpose of making advances to Federal reserve banks through the Federal reserve agents as hereinafter set forth and for no other purpose, are hereby authorized. The said notes shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in lawful money on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or at any Federal Reserve bank.

12 U.S.C. § 411 (emphasis added). Accordingly, Section 16 of the Federal Reserve Act provides that Federal Reserve notes are obligations of the United States. I would note, however, that Federal Reserve notes are distinguishable from deposit account balances in a bank, which represent a liability of the bank to its customer. Such balances are not "Federal Reserve notes," even if they were originally created by a deposit with the bank in the form of Federal Reserve notes.

Sincerely,

Stephanie Martin
Associate General Counsel