

Pension Benefit Guaranty Corporation

75-45

June 30, 1975

REFERENCE:

[*1] 4021(b)(2) Plans Covered. Government Plans

OPINION:

This is to confirm our telephone conversations concerning the impending acquisition by * * * of the operating assets of the * * *. The * * * is presently covered under Title IV of the Employee Retirement Income Security Act of 1974 (hereinafter "the Act") and, as such, certain vested benefits provided by the plan would be guaranteed to participants in the event of a plan termination.

As you know, it is only within the past week that we received specific information concerning the arrangements for operation of the transit system following acquisition. Based on the facts made available to us, it appears that, pursuant to sec. 4021(b) (2) of the Act, the plan will become excluded from coverage under Title IV after the county acquires the assets, because thereafter the plan will be one

established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, or to which the Railroad Retirement Act of 1935 or 1937 applies and which is financed by contributions required under that Act. [Sec. 4021(b) (2)] [*2]

This conclusion is based in large part on our interpretation of the agreement (the "Agreement") to be executed between * * *, a private corporation which we understand is being created.

Accordingly, the guarantee of benefits under Title IV of the Act will cease upon the acquisition by * * * of the operating assets of the * * *

Steven E. Schanes
Acting Executive Director