Memorandum

TO: Harry J. Stahmer
    Acting Director

FROM: Contract Coverage Branch

SUBJECT: Modification No. 92, Rhode Island

Enclosed is the above identified modification and supporting documents for necessary action.

1 218(b) (5) Coverage Groups  unk. No. of Employees

___ 218(d) (4) Coverage Groups  No. of Employees

___ Other (See Remarks)  No. of Employees

___ Total No. of Coverage Groups  unk. Total No. of Employees Covered

Remarks:

Enclosure(s).

GButler: absolutely 11/7/75

[Signature] 11/9/75
MODIFICATION NO. 92

Rhode Island Port Authority and Economic Development Corporation
One Weybosset Hill
Providence, Rhode Island 02903

"It is hereby agreed that the reports and payments made pursuant to the provisions of the Federal Insurance Contributions Act with respect to wages paid to employees of Rhode Island Port Authority and Economic Development Corporation for the period in which the services of such employees are covered under the agreement between the State of Rhode Island and the Department of Health, Education, and Welfare pursuant to Section 216 of the Social Security Act will be considered as having been paid pursuant to the agreement. It is understood, however, that the State is not relieved of its liabilities with respect to the preparation of any supplemental wage reports and payment of contributions for such periods in the event such wage reports or contributions are necessary to conform old-age, survivors, and disability coverage of services of the employees involved in the prior periods to the terms of this agreement, or, in the event any refund should be made of amounts paid as Federal Insurance Contributions Act taxes when the same amount is payable under this agreement."

"If any refund is made of the amounts paid as taxes under the Federal Insurance Contributions Act with respect to wages paid for services which are covered under this agreement, the State will repay such amounts upon receipt of notice from the Social Security Administration. Interest will be charged with respect to any payment not paid within the time prescribed by Regulations No. 4, Section 404.1255."

[Signature]
General Treasurer
the power to: sue and be sued in its corporate name; have a seal; acquire, own, and dispose of real and personal property; make contracts and guaranties and incur liabilities; borrow, lend and invest money; elect or appoint officers and agents and define their duties and fix their compensation; accept assistance in any form from the United States, the State, or any other source; issue negotiable bonds and notes; fix, charge and collect rents and fees for the use of any port project; prescribe rules and regulations; and establish penalties for violations of any order, rule or regulation.

In view of its independent function and the aforementioned powers characteristic of a political subdivision, our opinion is that the Rhode Island Port Authority and Economic Development Corporation is a separate juristic entity and a separate 'political subdivision' within the meaning of Section 213 of the Social Security Act. Therefore, in order to extend coverage to the corporation's employees, the State must execute a modification to include the corporation as a coverage group pursuant to Section 215(a)(ii).

cc: Soc Sec Div. Balt
The designated state official for the State of Rhode Island has requested our assistance in securing an opinion as to the coverage of the Rhode Island Port Authority and Economic Development Corporation under Section 218 of the Act. Officials of this Corporation have expressed an interest in knowing if coverage for employees could be obtained other than under the provision for state and local coverage. This Corporation was created through an Act of the Rhode Island General Assembly in the January Session, 1974, and was approved by signature of the Governor on May 3, 1974.

We are enclosing for your review 2 copies of the amended Section 1, Title 42, of the general laws entitled "State Affairs and Government" which incorporates Chapter 64 creating this public corporation. Upon review, please advise us of your opinion regarding coverage for employees of this corporation so that the information can be made available to the designated official.

Enclosures
Date: October 3, 1975
Reply to: Charles R. Cote, District Manager
Ams of: Providence, Rhode Island

Subject: State and Local Coverage. Rhode Island Modification No. 92 to the Federal-State Agreement

To: Regional Commissioner
Boston, Massachusetts

Enclosed are the following:

1. Five copies of Modification No. 92, covering the services of employees of the Rhode Island Port Authority and Economic Development Corporation.

2. Two copies of the law establishing this governmental entity.

All enclosures were hand carried to this office on September 30, 1975, and were date stamped in immediately upon receipt.

Your assistance is appreciated in reviewing the enclosures and forwarding them for approval.

Enclosures
Mr. Alexander Capalbo  
Assistant District Office Manager  
Social Security Administration  
200 Dyer Street  
Providence, Rhode Island 02903

Dear Mr. Capalbo:

Enclosed is Modification #92 to extend Social Security coverage to the Rhode Island Port Authority and Economic Development Corporation.

For your convenience I have also enclosed 2 copies of the statute involved.

The reporting information is as follows:

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<thead>
<tr>
<th>COVERAGE</th>
<th>NAME</th>
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<tr>
<td>Rhode Island Port Authority and Economic</td>
<td>Executive Director</td>
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<td>Development Corporation</td>
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<td>and Economic Development</td>
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<td>Corp.</td>
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<td>One Weybosset Hill</td>
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[Signature]

Deputy Director of Social Security
MEMORANDUM

TO : Pasquale F. Caligiuri
     Acting Director, BRSI

FROM : Vincent G. Gavin
       Acting Regional Commissioner, Boston

DATE: October 16, 1975
     ICF-R1

SUBJECT: State and Local - Rhode Island Modification No. 92

We are enclosing for your approval five copies of Modification No. 92 submitted by the State of Rhode Island in connection with the Federal-State agreement under Section 218 of the Social Security Act.

This Modification was personally delivered to the Providence, Rhode Island District Office on September 30, 1975.

This Modification has been reviewed by this office and cleared for approval by the Regional Attorney.

Enclosures
MEMORANDUM

TO: Regional Commissioner, SSA

FROM: Office of the General Counsel
Boston Regional Office

DATE: October 14, 1975

SUBJECT: State and Local Coverage – Rhode Island Modification No. 92
–Rhode Island Port Authority and Economic Development Corporation

Cleared for Approval

In our memorandum of July 2, 1975, a copy of which is enclosed, we determined that the above-named corporation is a "political" subdivision within the meaning of Section 218 of the Social Security Act. However, the subject entity has erroneously filed wage reports and contribution returns with the Internal Revenue Service without having executed a modification to include the entity as a coverage group pursuant to Section 218 (c)(4) of the Act.

Modification No. 92 conforms with the procedures to correct this error and to provide coverage for the periods in which the erroneous reports were made. This error modification is therefore cleared for approval providing that there has been no request for or refund of amounts erroneously paid under the Federal Insurance Contributions Act. Handbook for State Social Security Administrators Sections 330, 360 – Exhibit 35.

George Eng
Assistant Regional Attorney

Enclosures: Modification No. 92
Memo dated 7-2-75
Social Security Division
6401 Security Blvd.
Baltimore, Maryland 21235
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<tr>
<th>QUARTER</th>
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Scouting Requested 10/22/75
Returned 11/4/75

Call 4-5582

REQUESTED BY: Charles Butler (BST)
SCOUT: 8238
DATE: 11/4/75
July 2, 1975

District Manager
Providence, Rhode Island

ATTN: John L. Vargas, Jr.
Assistant District Manager

George Eng
Assistant Regional Attorney

State and Local Coverage – Rhode Island Port Authority and Economic Development Corporation

You requested an opinion concerning the status of the above-named entity for purposes of Social Security Coverage for its employees. There is a question whether the coverage would fall within Social Security Act Sec. 213, Section 210(a)(7) of the Social Security Act specifically excludes from the definition of employment for Title II purposes "service performed in the employ of a state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned thereby" except for transportation service covered under Section 210(k) and service included by agreement under Section 213. Since the subject corporation is not within the transportation service exception, if it falls within any of the above mentioned governmental categories, Social Security Coverage can be extended to its employees only by agreement with the State under Section 213 of the Act.

The corporation was created by "The Rhode Island Port Authority and Economic Development Corporation Act", Chapter 100 P.L. 1974, State of Rhode Island, for the purposes of acquiring and developing real and personal property in order to promote the economic development of the State. Section 42-64-4(b) provides that performance by the corporation is deemed to be performance of an essential governmental function of the state for public purposes.

Section 42-64-4(a) designates the corporation a governmental agency and public instrumentality of the state. As an instrumentality of the state, the corporation is excluded from coverage under Section 210(a)(7) unless specifically included under the state and local provisions.

The corporation's status under Social Security is determined solely under Section 213 of the Act. The issue is whether the employees of the corporation are state employees or whether the corporation is an independent legal entity constituting a political subdivision.

Section 42-64-4 establishes the corporation as "... having a distinct legal existence from the State and not constituting a department of State government. ..." The Act confers on the corporation all powers, authority, rights, privileges and titles which may be necessary to accomplish its purposes specifically.