

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

✓✓

June 11, 1968

L. H. Stanley, Director

Civil Defense & Public Safety

Robert G. Fuller, Jr., Assistant Attorney General
Authority of Director to contract for personal services and use
of privately owned equipment.

SYLLABUS:

Absent approval by and authorization from the Governor, the Director of Civil Defense and Public Safety may not contract on behalf of the State for personal services and the use of privately owned equipment to be utilized during proclaimed emergencies.

FACTS:

An association of construction contractors is preparing a list of equipment and personnel which its members will make available in the event of natural disaster, civil disorder or similar statewide emergency condition. You wish to contract with the association on behalf of the State for the use of such equipment and personnel in the event of emergency.

QUESTION:

May the Director of Civil Defense and Public Safety contract on behalf of the State for personal services and privately owned equipment to be used during proclaimed emergencies?

ANSWER:

Not without approval by and authorization from the Governor.

OPINION:

The powers of the office of Director of Civil Defense and Public Safety are prescribed by statute and are set forth at 25 M.R.S.A. §303 (1964) in the last full paragraph. Such powers do not include the power to contract. The cited statute provides, however, that the Director "shall have such additional authority . . . as may be prescribed by the Governor."

In addition, 25 M.R.S.A. §313 (1964) provides in part that "[W]henver . . . any person, firm or corporation

shall offer to the State . . . services, equipment, supplies, material or funds by way of . . . loan, for purposes of civil defense and public safety, the State, acting through the Governor . . . may accept such offer and upon such acceptance the Governor of the State . . . may authorize any officer of the State . . . to receive such services, equipment, supplies, materials or funds on behalf of the State . . ., and subject to the terms of the offer . . ."

We interpret the above cited statutes, read in conjunction, to permit the Director to contract on behalf of the State for services and equipment, provided that such equipment and services are first offered to the State (upon whatever conditions the offeror chooses to attach); that the Governor accepts the offer on behalf of the State, and authorizes the Director to receive the equipment and services on behalf of the State, and subject to the terms of the offer, by execution of a contract embodying such terms.

ROBERT G. FULLER, JR.
Assistant Attorney General

RGFjr/p