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Plantations Accepting Federal Aid

5 M.R.S.A. § 3305
37-A M.R.S.A. § 53-4

Federal Aid Acceptance By one Agency For Another

STATE OF MAINE

Inter-Departmental Memorandum Date September 8, 1976

To Allen Pease, Director

Dept. State Planning Office

From S. Kirk Studstrup, Assistant

Dept. Attorney General

Subject Matinicus Island Plantation - Community Development Grant

Your memorandum of September 1, 1976, requested our opinion on whether certain state and local governmental units and agencies have statutory authority to accept and administer a Community Development Grant from the Department of Housing and Urban Development (HUD). It is our understanding that this grant would be intended to be used for a new electric generating facility in Matinicus Island Plantation. It is proposed that one of these bodies would accept the grant as an alternate sponsor if the plantation is unable to accept the grant on its own behalf.

The governmental units or agencies which were included in your memorandum, together with the answer in each case, are listed below:

1. The State Planning Office.

The State Planning Office does have the statutory authority to be an alternate sponsor on behalf of the Plantation to receive and administer a grant from HUD. The powers and duties of the State Planning Office include the following: "The State Planning Office may assist in planning and executing any public or private project involving grants or loans; . . ." (5 M.R.S.A. § 3305, sub-§ 1, F, emphasis provided), and: "Funds from the Federal Government or from any individual, foundation or corporation may be accepted by the State Planning Office and expended for purposes consistent with this chapter." (5 M.R.S.A. § 3305, sub-§ 2, D). It is our opinion that these statutory grants of authority, when read together, constitute sufficient authority for acceptance and administration of the grant in question. See also Opinion of the Attorney General dated March 13, 1968.

2. The Bureau of Civil Emergency Preparedness.

Title 37-A, M.R.S.A. § 62 provides, in pertinent part:

"Whenever the Federal Government or any agency or officer thereof or any person, firm or corporation, shall offer to the State or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense, the

State, acting through the Governor, or such political subdivision, acting through its executive officer or governing body, may accept such offer and upon such acceptance the Governor of the State or executive officer or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the State or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer."

If the Governor accepted such grant, he could designate the Bureau of Civil Emergency Preparedness as the agency to actually receive and administer the funds.

However, the question is whether grant funds designated for establishing an electric power generating facility on Matinicus Island can be construed as being for "purposes of civil defense." The definition of "civil defense" is "the preparation for and the carrying out of all emergency functions," which include a number of functions facilitated by ready electrical power. 37-A, M.R.S.A. § 53,1. Furthermore, the emergency preamble of P. & S.L. 1975, c. 25, which authorized the establishment of an electric power generating facility on Matinicus Island, clearly implies legislative concern over the availability of electrical power in emergency circumstances, a problem which is aggravated by the Island's geographical isolation. It is our opinion that one of the principal benefits of a new electrical generating facility on the Island would be better preparation for emergency functions, and, to this extent, a grant of funds for construction would be for "purposes of civil defense."

It should be noted that grant funds for purposes of civil defense may also be accepted by a "political subdivision" of the State. 37-A, M.R.S.A. § 62, supra. The definition of "political subdivision" for this purpose is very broad, including, inter alia, ". . . villages, townships, districts, authorities and other public corporations. . . ." 37-A M.R.S.A. § 53,4. "Plantations" are created within unorganized townships and are not individually composed of more than one township, 30 M.R.S.A. §§ 5602, 5603 and 5616. Therefore, plantations are political subdivisions for this purpose and Matinicus Island Plantation may accept directly Federal grants for purposes of civil defense.

3. The Land Use Regulation Commission.

The Land Use Regulation Commission is authorized to ". . . . accept contributions of any type from any source to assist it in carrying out its assigned tasks. . . ." 12 M.R.S.A. § 685. It is our opinion that even if a HUD grant were to be considered a "contribution," the grant in this case could not be considered to be assisting the Commission in carrying out its "assigned tasks." Therefore, the Land Use Regulation Commission does not have statutory authority to accept the grant in question.

4. Knox County.

"Counties may apply for and accept and expend Federal Government grants for any purpose for which Federal Government grants are made available to counties, either directly or through the State." 30 M.R.S.A. § 255, sub-§ 1. Knox County is clearly included in this authorization and, therefore, does have the authority to accept and administer the grant in question.

5. The Eastern Mid-Coast Regional Planning Commission.

Regional planning commissions, including the Eastern Mid-Coast Regional Planning Commission, are organized pursuant to Title 30 M.R.S.A. § 4511, et seq. The statutory section dealing with "finances" states that "The Commission may accept funds, grants, gifts and services from the government of the United States or its agencies from the State or its departments, agencies or instrumentalities, from any other governmental unit, whether a member or not, and from private and civic sources." 30 M.R.S.A. § 4515. Since the authority to accept such funds clearly implies the authority to administer those funds, it is our opinion that the Eastern Mid-Coast Regional Planning Commission does have the authority to accept and administer the grant in question.



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