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Federal Funds, Limits on Use

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January 18, 1977

Honorable David G. Huber
Senate Chairman
Committee on Appropriations and Financial Affairs
State House
Augusta, Maine

Honorable Kathleen W. Goodwin
House Chairman
Committee on Appropriations and Financial Affairs
State House
Augusta, Maine

Dear Senator Huber and Representative Goodwin:

This responds to your request for an opinion dated January 13, 1977. By that request you have asked us to review the proposed legislation (L.D. 95) relating to allocation of money from the Public Works Employment Act of 1976 in light of federal statutory provisions and guidelines specified for that Act. The relevant federal statutory provisions are 42 U.S.C. § 6721, et seq. and 31 C.F.R. § 52.0, et seq.

Briefly, our review finds no inconsistency between the uses proposed for the proceeds of the Public Works Employment Act of 1976 under L.D. 95 and the requirements of the federal statutes and regulations.

DISCUSSION:

The statute in question, 42 U.S.C. § 6724, reads as follows:

"Sec. 204. Each State and local government shall use payments made under this title for the maintenance of basic services customarily provided to persons in that

State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are to maintain basic services."

The regulations, 31 C.F.R. § 52.40, contain similar limitations. Basically these limitations impose three requirements:

1. That the expenditures be within certain defined categories as set out in 31 C.F.R. § 52.40(a). The categories are:

" * * * Education, Highways, Public Welfare, Health and Hospitals, Police and Corrections, Fire Protection, Sewerage and Sanitation, Natural Resources, Housing and Urban Renewal, Transportation, Libraries, Financial Administration, General Administration, General Public Buildings, Interest on General Debt, and Parks and Recreation. * * * ."

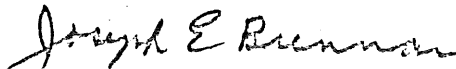
All of the proposed expenditures clearly fall within the general categories. The only expenditure about which there might be a question is the proposed expenditure for the Public Utilities Commission. In our view this expenditure would fall within the categories of either Natural Resources, Financial Administration, or General Administration.

2. The second basic criteria is that the expenditures be used to maintain basic services. The facts provided with the draft legislation indicate that all expenditures are to maintain and upgrade ongoing programs. This appears consistent with the requirements of the Act and the guidelines.

3. The third requirement places certain limitations on use of funds for purchase of supplies, structural repairs, etc. A question might arise as to whether the painting activities proposed for the Department of Transportation constitute structural repairs under the intent of the Act and the guidelines. However, in 31 C.F.R. § 52.41(a), the example used relating to wage rates and labor standards specifically contemplates painting and decorating costs. Therefore, it is clear that such activities as are proposed for the Department of Transportation, repainting bridge structures, is within the intent of the guidelines.

Accordingly, we advise that in our view all of the expenditures contemplated in L.D. 95 are consistent with the federal statute and the federal guidelines under which those funds are to be allocated. We would note in giving this opinion that we provide this advice based upon the facts stated in the legislation.

Very truly yours,


JOSEPH E. BRENNAN
Attorney General

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