

CIVIL DEFENSE: State agency may enter into federal matching fund agreement on behalf of a local political subdivision.

July 31, 1951

8-1-51

Mr. Ralph W. Hammond  
Director  
Office of Civil Defense  
Jefferson City, Missouri



Dear Mr. Hammond:

Your recent letter requesting an official opinion of this department reads in part as follows:

"We are faced with a rather immediate problem concerning the Federal matching fund program outlined in Public Law No. 920, Eighty-First Congress. Recently, the Congress passed appropriation measures implemented previous of this law, which granted \$20,000,000 to the Federal Civil Defense Administration for the purpose of matching funds from the states on the procurement of medical supplies and equipment. Of this amount, \$710,000 was tentatively allocated to the State of Missouri.

"As you know, this state agency has no funds for this purpose; however, it is known that at least one political subdivision has set aside the sum of \$5,000 for such purchase. Inasmuch as the Administrator, Federal Civil Defense Administration, has indicated that Federal money will be available for matching funds from any source, provided that the resulting purchase is specifically earmarked for civil defense, we were wondering if, in such instances, the Governor or the Director of Civil Defense, as designated by the Governor, may act as negotiator of such matching fund agreements."

The Civil Defense Matching Fund Program of the Federal government is provided for by Title 50, U.S.C.A., App., Section 2281(i), of the Federal Civil Defense Act, which reads in part as follows:

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"(1) make financial contributions, on the basis of programs or projects approved by the Administrator, to the States for civil defense purposes, including, but not limited to the, procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Administrator shall prescribe, including, but not limited to, the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities: \* \* \* \* \*

Provided further, That the amounts authorized to be contributed by the Administrator to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws: \* \* \* \* \*

It is therefore seen that the amounts which are matched by a state may be obtained from any source which such state determines is consistent with its laws.

Section 26.210 of Senate Committee Substitute for Senate Bill No. 66 of the Civil Defense Act, recently passed by the 66th General Assembly, provides for the establishment of local organizations for civil defense by political subdivisions of the state. Section 26.210 reads in part:

"2. In carrying out the provisions of this law each political subdivision may:

"(1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for civil defense purposes, provide for the health and safety of persons and property, including emergency assistance to victims of any enemy attack; and to direct and coordinate the development of civil defense plans and programs in accordance with the policies and plans of the federal and state civil defense agencies;"

Authority to enter into such agreements here under consideration is furnished by Section 26.200 of the Civil Defense Act, which reads:

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"Whenever the federal government or officer or agency thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for the purpose of civil defense, the state acting through the governor, or the political subdivision, acting with the consent of the governor and through its executive officer, may accept such offer and upon acceptance the governor or executive officer of the 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 the political subdivision subject to the terms of the offer."

It has been specifically provided by Section 26.180.2(5), RSMo 1949, that the governor may "delegate any administrative authority vested in him under this act, and provide for the sub-delegation of any such authority."

As you have stated in your letter, the Missouri Civil Defense Agency has no funds available to allow participation in this program. The state could, therefore, not obligate itself in any way by entering into a matching fund agreement with the Federal government. There remains the question, however, of whether or not the State of Missouri, acting on behalf of and as agent of a local political subdivision, may enter into an agreement with the Federal government whereby such local political subdivision puts up funds to be matched by the Federal government. You have stated in your request that at least one political subdivision has set aside funds for this purpose.

Section 26.200, supra, specifically provides that wherever a Federal Agency shall offer "through the state to any political subdivision thereof," funds for the purpose of civil defense, the political subdivision, acting with the consent of the governor and through its executive officer, may accept such offer. As we construe this section, any participation by a local political subdivision in the matching fund program must be effected through the state. This would allow the state agency to act on behalf of a local political subdivision in this matter.

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Therefore, the matching funds provided by a state may be from any source such state determines is consistent with its laws. Local political subdivisions have the authority to expend funds and enter into contracts for civil defense purposes, and also may accept funds from a Federal agency when the offer of such funds is made through the state. It is, therefore, our opinion that the State Civil Defense Agency may enter into a matching fund agreement with the Federal Government on behalf of and as agent of a local political subdivision and obligate funds of the local political subdivision pursuant to the agreement. Of course, proper authorization by such political subdivision to do so would be required.

#### CONCLUSION

It is, therefore, the opinion of this department that the Office of Civil Defense of the State of Missouri, may not enter into a matching fund agreement for civil defense purposes on behalf of the state with the Federal government, as the state has no funds available which it can obligate. The Office of Civil Defense may, however, enter into such agreement on behalf of a local political subdivision which has such funds available and wishes to obligate same pursuant to the terms of a matching fund agreement.

Respectfully submitted,

RICHARD H. VOSS  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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