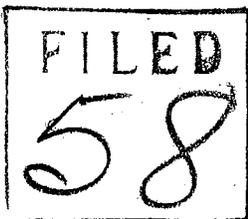


CIVIL DEFENSE:

Funds of the City of St. Louis deposited with the State Treasurer as trustee to be applied on a particular project application on civil defense and remaining unexpended on June 30, 1954, should be disbursed as directed by the proper authorized official of the City of St. Louis.



April 26, 1954

Mr. Arthur S. McDaniel
Director, Civil Defense Agency
Jefferson Building
Jefferson City, Missouri

Dear Mr. McDaniel:

This is in response to your request for opinion dated March 17, 1954, in which you have submitted a question with regard to the disposition of certain funds placed in your hands by the City of St. Louis. The background of this question is adequately covered by a letter which you enclosed directed to you by Brigadier General F. P. Hardaway, Director of Civil Defense for the City of St. Louis, a portion of which we here-with quote:

"As you pointed out in MOODA Bulletin No. 103, dated 26 January 54, the deadline on completing action on all fiscal year 1952 Matching Fund Requests, is on or before June 30. This deadline has been established by FCDA, we assume under the regulations of the Comptroller General, and is based on the use of federal funds for two years after the appropriation date.

"This deadline, however, poses two specific problems to the City of St. Louis, particularly in regard to those funds which the city has deposited with the State Treasurer as Trustee. As an example, under Project Application No. 7M2AW2, FCDA deposited \$65,079.50 as an advance, whereas the City of St. Louis deposited the sum of \$68,078.55 for a total on this project application of \$133,258.05. To date a total of \$121,198.53 has been expended from this fund, leaving a balance of \$12,059.52. Of this balance \$4,480.24 is federal money and \$7,579.28 is St. Louis money. It is assumed that almost

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all procurement action has been completed on this request and that, therefore, in the main these sums will revert to FCDA and St. Louis respectively as of June 30, 1954.

"With this background I would like to ask two specific questions:

"1) Is it possible to leave this city surplus in the trustee account as of June 30, 1954, for the purpose of paying maintenance costs of the St. Louis Attack Warning System on a continuing basis until such funds are exhausted?

"2) Is it possible to transfer this surplus of unexpended city funds to another project application for fiscal year 1954? In other words, could we apply this \$7,579.28 (as an example) to our request MO 4T4 for the erection of a Rescue School?"

Your position with regard to the questions submitted by General Hardaway is stated in the second paragraph of your opinion request, which we now quote:

"We know that any FCDA funds remaining beyond the date of June 30, 1954, will be returned to the Federal Government. As explained to you, our position is that the \$7,579.28, which is St. Louis' money in its entirety, can only be used by this Agency as directed by the City of St. Louis through its Civil Defense Office. We believe, since they have put up this money with this Agency which is held in a special fund in the Treasurer's Office, that the only authority we will need to use it will come from the City of St. Louis."

There is no question but that on June 30, 1954, those federal funds allocated to Project Application No. 7M2AW2 remaining unexpended will revert to the federal government to be reallocated to other states under applicable FCDA regulations. Nor is there any question but that those funds contributed by the City of St. Louis for the purpose of the above project application remaining

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unexpended on June 30, 1954, remain the property of the City of St. Louis and do not become state money in any sense of the word. (See Attorney General's opinion dated February 14, 1952, directed to Honorable Ralph W. Hammond.) These funds are held by the State Treasurer merely as trustee for the City of St. Louis.

Inasmuch as there is no question of matching federal funds involved, the federal regulations with regard thereto have no application here. Since they are not state funds but do remain the property of the City of St. Louis, hence subject to the control of the City of St. Louis, it would seem clear that the City of St. Louis could direct the disposition to be made of those funds.

We cannot decide herein what official of the City of St. Louis may be authorized to direct the disposition to be made of the funds of the City of St. Louis remaining in the hands of the State Treasurer on June 30, 1954, because that would be governed by the applicable ordinances of the City of St. Louis and the restrictions, if any, under which these funds were appropriated to the use of the Civil Defense Agency of the City of St. Louis.

As far as your office is concerned, however, it is the opinion of this office that you may make such disposition of the funds in question as you are directed to make by the proper official of the City of St. Louis authorized by the city to direct the expenditure of these funds.

CONCLUSION

It is the opinion of this office that funds of the City of St. Louis deposited with the State Treasurer as trustee to be applied on a particular project application on civil defense and remaining unexpended on June 30, 1954, should be disbursed as directed by the proper authorized official of the City of St. Louis.

This opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Very truly yours,

JOHN M. DALTON
Attorney General

JWI:ml
Encs.