

MISSOURI RURAL REHABILITATION CORPORATION:  
AGRICULTURE:  
DEPARTMENT OF AGRICULTURE:

March 23, 1967



OPINION NO. 106  
(547, 1966)  
Answered by letter-Downey

Honorable Dexter D. Davis  
Commissioner of Agriculture  
Jefferson Building  
Jefferson City, Missouri

Dear Commissioner Davis:

Reference is made to your request for an official opinion of this office concerning the use of money in the Missouri Rural Rehabilitation Corporation Fund. You are specifically interested in whether or not the Missouri State Fair may borrow money from this fund for the rejuvenation of capital improvements. If the State Fair cannot borrow the funds under existing law, you further inquire whether legislation may be enacted permitting such loans.

A review of the background to the fund is helpful in answering your questions. In 1933 the entire country was suffering a severe economic depression. The Congress of the United States enacted the Federal Emergency Relief Act of 1933 in an effort to alleviate some of the severe personal financial distress and with hopes of commencing the restoration of economic and financial health in the country. Funds were made available under the Act for emergency relief in rural areas to be administered on the state level by corporations established for that purpose. The Missouri Rural Rehabilitation Corporation was incorporated by pro forma decree of the Circuit Court of Cole County, Missouri, on September 5, 1934, as a benevolent and nonprofit corporation under the provisions of Article X, Chapter 32, Revised Statutes, 1929. The powers of the corporation are set forth in separate subparagraphs denominated "A" through "L" inclusive of paragraph "THIRD" of the corporate charter. The objects and purposes of the corporation are declared in subparagraph "A" as follows:

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"To rehabilitate individuals and families as self-sustaining human beings by enabling them to secure subsistence and gainful employment from the soil, from coordinate and affiliated industries and enterprises and otherwise, in accordance with economic and social standards of good citizenship;"

Paragraphs "B" through "L" enumerate specific powers and appear to be in aid of the general objects and purposes recited in subparagraph "A".

Paragraph "SIXTH" of the Articles of Incorporation provided that upon dissolution of the corporation in accordance with law the balance of funds on hand shall become a part of the general fund of the State of Missouri, subject to appropriation by the State Legislature.

Thus, the Missouri Rural Rehabilitation Corporation was formed for the purpose of administering a rural rehabilitation program in the State of Missouri with grants made by the Federal Government. The President of the United States established the Resettlement Administration as an independent agency and placed rehabilitation programs in that agency which were administered by state corporations including the Missouri Rural Rehabilitation Corporation.

In 1935 the Comptroller General of the United States advised the Resettlement Administration that funds for its programs could be expended only as a direct federal activity and could not be expended through the various rural rehabilitation corporations in the several states. Pursuant to such advice the various state corporations assigned their assets in trust to the United States to be used by the Resettlement Administration for the administration of rural rehabilitation programs in the several states. On October 31, 1936, the Missouri Rural Rehabilitation Corporation transferred its assets to the United States in trust for the purpose of carrying on a rural rehabilitation program in the State of Missouri.

The Farmers Security Administration and later the Farmers Home Administration administered the assets so transferred. Apparently the Missouri corporation was dissolved on March 7, 1940.

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In 1950 Congress authorized the Federal Government to return to the states the funds of the various rural rehabilitation corporations being held in trust and administered by the Federal Government. This action was authorized by the "Rural Rehabilitation Corporation Trust Liquidation Act" (Public Law 499, 81st Congress) Title 40, Sections 440-444, U.S.C.A. The Act provided that application for a return of the assets held by the Federal Government be made to the Secretary of Agriculture by the state rural rehabilitation corporation, or, if the corporation had been dissolved, application for a return of the assets be made by some other agency or official of the state as designated by the state legislature.

The following provision of the Rural Rehabilitation Corporation Trust Liquidation Act is of particular significance in considering the questions which you raised; Title 40, Section 440 (c):

"\* \* \* The application shall contain a covenant, binding upon the applicant when accepted by the Secretary on behalf of the United States, that the applicant will abide by the determinations and apportionments of the Secretary provided for in sections 440-444 of this title and the payments made by the Secretary pursuant to said sections, that the returned assets and the income therefrom will be used only for such of the rural rehabilitation purposes permissible under the corporation's charter as may from time to time be agreed upon by the applicant and the Secretary; \* \* \*" (emphasis added)

As noted above, the Missouri Rural Rehabilitation Corporation had been dissolved on March 7, 1940. Therefore, the General Assembly enacted legislation in 1951 designating the Commissioner of Agriculture as the state official to make application and receive from the United States the trust assets of the Missouri Rural Rehabilitation Corporation held by the United States; Section 261.025, RSMo 1959. The Act of Congress which provided for the return of the assets to the several states also authorized the Secretary of Agriculture of the United States to enter into agreements with the individual states for the administration of such assets for carrying out the purposes of Title I and II of the Bankhead-Jones Farm Tenant Act (7 U.S.C.A., Sections 1001-1007a). Pursuant to such agreements, the Federal Government would make loans in the state to eligible persons for the purpose of acquiring, repairing

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or improving family size farms. In accordance with this provision, the General Assembly in 1951 authorized the Commissioner of Agriculture to enter into such agreements with the Secretary of Agriculture of the United States; 261.026, RSMo 1959.

On December 21, 1951, the Commissioner of Agriculture made application to the Secretary of Agriculture of the United States for return of the assets of the Missouri Rural Rehabilitation corporation. By letter dated January 17, 1952, the Administrator of the Farmers Home Administration accepted the application and the actual transfer of the assets from the Federal Government to the Commissioner of Agriculture is evidenced by a transfer document dated January 17, 1952, and accepted by the Commissioner of Agriculture on January 23, 1952. This transfer document specifically provided that the transfer was made for the purpose of enabling the Commissioner of Agriculture to enter into an agreement with the Secretary of Agriculture of the United States under which the assets would be administered in the State of Missouri, pursuant to the provisions of the Bankhead-Jones Farm Tenant Act. On January 23, 1952, an agreement for administration of the assets by the Secretary of Agriculture was executed by the Commissioner of Agriculture acting for the State of Missouri and the Administrator of the Farmers Home Administration acting for the United States.

In 1957, the General Assembly enacted legislation providing for the termination of the agreement by the Commissioner of Agriculture and the Secretary of Agriculture of the United States under which the assets of the Missouri Rural Rehabilitation Corporation were administered by the United States. The Act provided for the return of the assets to the State Treasury into a special fund known as the Agriculture Emergency Fund; Section 261.027, RSMo 1959. The following provision of the Act is of particular relevance to the questions which you have raised; 261.027 (3):

" \* \* \* The agriculture emergency fund shall be under the control of the governor of the state of Missouri, who shall provide for the investment and reinvestment of the fund in secured or insured agricultural loans, government bonds, or other convertible securities. The fund and any income or interest received from the investment thereof may be released by and at the discretion of the governor to the commissioner of agriculture upon the request of the commissioner for emergency agricultural relief and rehabilitation purposes." (emphasis added)

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The file which you have furnished to this office includes a carbon copy of a purported contract between the United States and the Commissioner of Agriculture which was signed by the Commissioner of Agriculture and which apparently was executed by the Administrator of the Farmers Home Administration on or about April 30, 1957. The agreement provides for the continued administration of some assets by the United States and for the return of other assets to the Commissioner of Agriculture. Article II of the agreement includes the following provisions:

"Section 2. The assets hereby returned to the Commissioner and the proceeds thereof and any other assets hereafter returned to the Commissioner and the proceeds thereof, shall be used only:

"(a) for making agricultural loans, including such loans to be insured under Title I of the Bankhead-Jones Farm Tenant Act, as amended, and the Act of August 28, 1937, as amended;

"(b) for such other rural rehabilitation purposes permissible under the dissolved Corporation's charter as may from time to time be agreed upon between the parties hereto; and

"(c) for the expenses of administering such returned assets, provided that during any year such expenses, without the approval of the Government, shall not exceed 3 percent of the then book value of such assets.

"Section 3. The Commissioner agrees to furnish to the Government such statements and other information as may be required by the Government to enable it to determine, as required by Sections 2(c) and 4(a) of said Act of May 3, 1950, that the returned assets and the proceeds thereof are being used for the purposes mutually agreed upon between the parties hereto."

This agreement apparently terminated on August 31, 1962.

A new agreement for administration of the assets was executed by the United States and the State of Missouri by signature of the Commissioner of Agriculture on July 30, 1962, and by signature of the Administrator of the Farmers Home Administration of August 3,

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1962. This agreement is in force at the present time and terminates on August 31, 1967. Article IV of the agreement provides in part as follows:

"Section 6. Any trust assets heretofore, hereby or hereafter returned by the Government to the Trustor (Commissioner of Agriculture of Missouri) may be used by the Trustor only:

"(a) for such rural rehabilitation purposes permissible under the subject Corporation's charter as may hereafter from time to time be agreed upon between the parties hereto, and as are within the Trustor's authority under State Law.

"(b) for specific rural rehabilitation purposes hereby agreed upon, as follows:

For making agricultural loans, including farm ownership loans, to be insured by the Government, and soil and water conservation loans, to be insured by the Government, provided that such loans will be made only to individuals who are or will become owner-operators of not larger than family farms and will not be made to partnerships, corporations or associations."

Pursuant to the statutes referred to herein, both federal and state, and pursuant to the agreements referred to herein between the State of Missouri and the United States, approximately \$2,250,000 in funds or assets has accumulated in the Agriculture Emergency Fund. As noted above, the purposes for which the State of Missouri can use this fund are restricted by the Act of Congress which provided for the liquidation of the rural rehabilitation corporation trusts and the return of the assets to the several states. 40 U.S.C.A., Section 440 (c), requires the returned assets to be used only for the rural rehabilitation purposes permissible under the corporation's charter as may be agreed upon by the Secretary of Agriculture and the state applicant. Although the Missouri Rural Rehabilitation Corporation has been dissolved, reference to the

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provisions of its charter may be of some assistance in determining the purposes for which the funds may be used. An examination of the charter does not disclose that a loan of the monies for the purpose of rejuvenating capital improvements at the State Fair is among the rural rehabilitation purposes as contemplated by the charter. Although paragraph "SIXTH" of the charter provides that upon dissolution, the balance of the funds shall become a part of the general fund of the State of Missouri subject to appropriation by the state legislature, 40 U.S.C.A., Section 440 (c), provides that the returned assets will be used only for the rural rehabilitation purposes permissible under the charter. Inasmuch as the funds have been returned to the State of Missouri pursuant to the federal statute, the purposes for which such funds may be used by the State of Missouri are limited by such statute.

As noted above, grants by the Federal Government to the Missouri Rural Rehabilitation Corporation were made for the purpose of alleviating economic and financial distress in the rural areas in Missouri and for the purpose of restoring economic health in rural Missouri by rehabilitating individuals participating in the rural economy of the state. Although the Great Depression came to an end long ago, some depressed areas in the rural economy of Missouri, as well as other states, continue to appear at the present time. It appears to be the intention of 40 U.S.C.A., Section 440, that these assets continue to be used for the rehabilitation of persons in the rural economy of the state.

Section 261.027 (3), RSMo 1959, in recognition of the provision of 40 U.S.C.A., Section 440 (c), provides that the Governor may release the funds at the request of the Commissioner of Agriculture for emergency agricultural relief and rehabilitation purposes. The agreements referred to above between the Secretary of Agriculture of the United States and the Commissioner of Agriculture incorporate provisions for the use of the funds consistent with these federal and state statutes. All of the statutory and contractual provisions applicable to these assets and funds restrict the use of the funds to rural rehabilitation purposes.

It would be presumptuous of this office to express definitive conclusions as to the type of agreement that can be entered into by the federal authorities under 40 U.S.C.A., Section 440 (c). It is suggested that the proposed plan for the use of the funds

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be submitted for the consideration and approval of the appropriate federal authorities. If the federal authorities conclude that an agreement can be entered into authorizing the fund to be loaned to the Missouri State Fair for the rejuvenation of capital improvements, a definitive opinion from this office in regard to the authority of the Commissioner of Agriculture to enter into such an agreement pursuant to Section 261.027 (3), can be rendered.

Very truly yours,

NORMAN H. ANDERSON  
Attorney General

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