

Opinion No. 66-117

October 24, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Donald W. Miller, Assistant Attorney General

TO: Mr. Jay Morgan, City Attorney, City of Portales, Portales, New Mexico

QUESTION

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May a municipality contribute money out of public funds to a Community Action Agency under the Office of Economic Opportunity?

CONCLUSION

See analysis.

OPINION

{*158} ANALYSIS

Under Article IX, Section 14 of the New Mexico State Constitution, it is stated:

"Neither the state, nor any county, school district, or municipality, except as otherwise provided in this Constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care {*159} and maintenance of sick and indigent persons."

Under the above section, it is the opinion of this office that outright contributions may not be made by a municipality to a Community Action Agency. In Attorney General Opinion No. 4422, 1943-44, this office stated that County Commissioners could not contribute \$ 500.00 to an American Legion War Memorial which was erected upon County Courthouse grounds.

Reference, however, is made to the attached letter written by the Deputy Attorney General, Mr. Oliver E. Payne, on September 16, 1966, in answer to a request from Mr. Frank McGuire. In that letter, this office ruled that municipalities, states, counties or cities may contract with the Community Action Committee for personal services. It is the understanding of this office, through telephone conversations with Mr. McGuire, that the money paid by the municipality will be used to pay for services consisting of surveys

into certain areas which will be aimed at ascertaining how these areas may be improved through the building of more play grounds for children, better medical facilities, etc.

It is therefore the opinion of this office that if the City of Portales is to pay out any money to the Community Action Committee, it may not make an outright contribution, but may pay monies under the terms of a personal service contract.