



2010-090

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

August 10, 2010

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Honorable Larry Means
Member, Alabama State Senate
Post Office Box 786
Attalla, Alabama 35954

Municipalities – Gasoline Tax –
Funds – Grants – Roads, Highways
and Bridges – Etowah County

The Town of Hokes Bluff may create a matching fund using RRR gasoline tax proceeds for the purpose of road paving. The town should keep the matching funds in a separate account from grant funds because section 40-17-224(3) of the Code of Alabama prohibits gasoline tax funds from being commingled with other municipal funds.

Dear Senator Means:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May the Town of Hokes Bluff use RRR gasoline tax revenue to supply funds to match a grant for street paving by the Alabama Department of Economic Affairs?

FACTS AND ANALYSIS

In your letter of request, you state that the Town of Hokes Bluff has applied for a Community Development Block Grant (“CDBG”) from the Alabama Department of Economic Affairs for the purpose of road paving.

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The town was told it would need to supply matching funds and now wishes to use RRR gasoline tax revenue to do so.

Section 40-17-224(3) of the Code of Alabama states as follows:

(3) Where the use is by a municipality, such use shall be for resurfacing, restoration and rehabilitation of roads, bridges, and streets within the municipality. The use may also be for bridge replacement within the municipality. Provided, however, from time to time, that where the use is by a municipality such funds may also be used to construct new roads and streets within such municipality. These funds shall not be commingled with other funds of the municipality including any other gasoline tax revenues and shall be kept and disbursed by such municipality from a special fund only for the purposes hereinabove provided.

ALA. CODE § 40-17-224(3) (1987). Section 40-17-224(3) expressly authorizes a municipality to use gasoline tax proceeds for road paving. Because the matching fund is being created to accomplish an authorized use of gasoline tax revenue, the town may establish such a fund to match the CDBG funds.

The town should, however, be aware that the statute prohibits grant funds and the town's matching funds from being commingled. In accordance with previous opinions of this Office, the town must hold the matching funds in a separate account from grant funds. Opinion to Honorable Larry Gilliland, Mayor, City of Haleyville, dated July 14, 1986, A.G. No. 86-00314.

CONCLUSION

The Town of Hokes Bluff may create a matching fund using RRR gasoline tax proceeds for the purpose of road paving. The town should keep the matching funds in a separate account from grant funds because section 40-17-224(3) of the Code of Alabama prohibits gasoline tax funds from being commingled with other municipal funds.

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I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division

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