

OPINION
65-319

December 9, 1965 (OPINION)

Mr. James R. Kittle

Director

North Dakota Park Service

RE: State Parks - Authority to Contract - Job Corps

This is in reply to your letter of December 7, 1965, in regard to a Job Corps contract.

You inform us that the Office of Economic Opportunity, Washington, D.C., has presented the State of North Dakota with a contract for a Job Corps Conservation Center to be located at Fort Lincoln, Bismarck, North Dakota. The Job Corps Conservation Center is to be sponsored, managed, and operated by the North Dakota Park Service.

You ask our opinion on:

1. Does the contract violate any North Dakota state Laws?
2. Can the North Dakota Park service enter into this contract as a sponsoring agency?
3. Can the State of North Dakota, under North Dakota laws, participate in this contract?

The contract is worded in an extremely broad manner. It provides generally for setting up a project in accordance with the Job Corps program which we have all been familiarized with by news media, such as radio, television, newspaper, etc. It provides no details specifying the precise work to be achieved thereunder, such details apparently being intended to be covered under the contracting officers' "Technical Objectives and Plans." Its substantive provisions largely consist of provisions limiting the project to be carried on thereunder to Job Corps objectives, limitations and purposes. We find nothing in the contract that as submitted to date would be in violation of state laws. We are not suggesting that illegal projects could not be undertaken within the terms of the submitted contract, only that the Job Corps objections, limitations and plans as embodied in the so-called contract are not against the laws of the State of North Dakota, as such. In specific answer to your first question it is our opinion that the contract as submitted does not violate any North Dakota state law.

In specific answer to your second question we note that the contract as submitted contains a great deal of material in regard to educational and rehabilitation functions of the Job Corps enrollees. Obviously under North Dakota laws educational facilities and rehabilitation facilities are placed under different agencies of the

state government. However, the contract does specifically mention conservation features of the proposed program, and the background Federal Law even more specifically provides for "including work directed toward the conservation of natural resources, (42 USCA 2711), agreements with agencies charged with the responsibility of conserving, developing and managing the public natural resources of the nation, and of developing, managing, and protecting public recreational area"(42 USCA 2713) and to quote said section in full 42 USCA 2720 does provide:

"YOUTH CONSERVATION CORPS; Assignment of Enrollees. Within the Job Corps there is authorized a Youth Conservation Corps in which at any one time no less than 40 percentum of the enrollees under this part shall be assigned to camps where their work activity is directed primarily toward conserving, developing, and managing the public natural resources of the nation, and developing, managing, and protecting public recreational areas. Suck work activity shall be performed under the direction of members of agencies charged with the responsibility of conserving, developing, and managing the public natural resources and of developing, managing, and protecting public recreational areas."

Such functions as thus mentioned are primarily within the field of the North Dakota Park Service in this state pursuant to chapter 55-08 of the 1965 Supplement to the North Dakota Century Code.

While, obviously, some of the educational and rehabilitation functions of this type of project, as outlined in the contract, are beyond the usual scope of employer-employee relationship between the North Dakota Park Service and its other employees, and the usual "fringe-benefits" contemplated in such employment, we do not believe that such features are beyond its power and authority when utilized for the primary purposes of maintenance and improvement of the state park system. On such basis it is our opinion that the North Dakota Park System can enter into this contract as a sponsoring agency.

Lastly it is our opinion that the state of North Dakota, acting by and through the North Dakota Park Service, can participate in this contract under current state laws for purpose of accomplishing basic objectives of North Dakota Park Service. While as previously stated, the program as set out in the contract and the educational and rehabilitation functions are generally functions of other departments of the state government, we see no reason why such functions could not be carried out as a part of a North Dakota Park Service program. We do note the provision of the federal law, Section 42 USCA, Section 2791, subdivision (c) that:

"(c) In carrying out the provisions of subchapters I and II of this chapter, no contract, agreement, grant, loan, or other assistance shall be made with, or provided to, any state or local public agency or any private institution or organization for the purpose of carrying our any program, project, or other activity within a state unless a plan setting forth such proposed contract, agreement, grant, loan, or other assistance has been submitted to the governor of the state, and such plan has not been disapproved by him within thirty days of such

submission * * *."

This would indicate that to fully participate in the program as a state agency it will be necessary to have the governor's, at least, tacit approval in order for the federal agency to consider the state bound by the contract though we believe the general details of same can be handled by the North Dakota Park Service directly.

HELGI JOHANNESON

Attorney General