

LETTER OPINION
93-L-154

April 29, 1993

Mr. Jerril Rustan, Chair
North Dakota Agricultural Products
Utilization Commission
State Capitol, 6th Floor
600 E. Boulevard Ave.
Bismarck, ND 58505-0020

Dear Mr. Rustan:

Thank you for your April 23, 1993, letter in which you ask my opinion concerning whether the Agricultural Products Utilization Commission may legally accept federal funds. Your letter states that this opinion is required in order for your commission to receive a federal grant.

N.D.C.C. ? 4-14.1-03.1(1) provides:

The North Dakota agricultural products utilization commission may apply for, accept, and expend any appropriation, grant, gift, or service made available from public or private sources consistent with the purpose of this chapter.

Federal funding is a public source. The North Dakota Agricultural Products Utilization Commission may apply for, accept, and expend federal funds when they are received through appropriation, grant, or gift. Since the federal funds you will be receiving are in the form of a federal grant they fall within the funding sources allowed by N.D.C.C. ? 4-14.1-03.1(1).

The Commission also would have the discretion to accept federal services. However, the Commission does not have the discretion to accept federal funds in other forms, for example, a federal loan.

Please also bear in mind that if the Commission should receive income in excess of its appropriation for the current biennium, the expenditure of such funds requires the approval of the Emergency Commission. 1991 N.D. Sess. Laws Ch. 45

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

LGW/jjt