

**OPINION
59-16**

September 2, 1959 (OPINION)

AGRICULTURE

RE: Potato Improvement - Expenditure of Funds for Salaries and
Travel - Regulation

This is in response to your letter of August 27, 1959, in which you state that you recently entered into a cooperative agreement with the Red River Potato Control Board to promote better quality and expand outlets for potatoes. You advise that in order to qualify, the board had to clear its project through your department which will be responsible for the expenditure of federal funds. You also state that your department has assumed such responsibility through the cooperative agreement. You further advise that no state funds will be involved in this project, that the funds will be disbursed through your department, and that a large portion of the money will be expended for salaries and travel. You also advise that you have a somewhat similar program on dairy and grain sanitation projects under which the funds may be expended for travel and sustenance only pursuant to North Dakota laws.

You then ask if the personnel of such program traveling in and out of the state come under the same jurisdiction as department employees who are paid partly by state and partly by federal funds and who are regulated by North Dakota laws on travel and sustenance.

It is noted that the project agreement amongst other things provides that "the Department of Agriculture and Labor will appoint the project leader and other personnel that may be necessary to carry on the work," and that "administration of this project will be the responsibility of the department of Agriculture and Labor." The Department of Agriculture and Labor referred to is the North Dakota Agriculture and Labor Commissioner.

The agreement is not very explicit as to which law will govern the expenditures relating to travel and sustenance matters. In the absence of such explicit language we must look to the provisions as stated. The provision that the Department of Agriculture and Labor will appoint the project leader and other personnel and that the final decision will rest with the department and that the administration of the project will be the responsibility of the department becomes very significant and creates a strong presumption that the laws of North Dakota will govern as to the expenditures relating to travel and sustenance. It would not appear logical that the North Dakota Commissioner of Agriculture and Labor were to administer such project under federal laws. A strong implication is that he administer it according to North Dakota laws, the law under which he holds office, etc.

We are also impressed with the provisions of the previous agreement under which the state laws control. This strengthens the already

strong implication that the state law controls. The term "administration" is a broad term and embodies many functions.

It is therefore our opinion that in the absence of of any other specific provisions and from the language of the agreement that the funds provided to carry out this agreement can be expended for travel and sustenance only in accordance with the state laws relating thereto.

It is our further opinion that the out-of-state travel is governed by the same North Dakota provisions that the employees under this project would come under, the same jurisdiction as department employees who are paid partly by state and partly by federal funds.

LESLIE R. BURGUM

Attorney General