

April 19, 2001
OPINION 01-128

Peter Martin, Fire Chief
Centerville Volunteer Fire Dept.
P.O. Box 58
Centerville, LA 70522

Dear Chief Martin:

This office is in receipt of your request for an opinion of the Attorney General in regard to an agreement between St. Mary Parish Fire Protection District No. 2 and Centerville Volunteer Fire Department. You indicate The Centerville Volunteer Fire Company, a private, non-profit corporation was organized in November, 1960 with a nine man Board of Directors elected at the annual meeting of the Corporation. The St. Mary Parish Fire Protection District No. 2, a public corporation, was created in 1996 pursuant to R.S. 40:1500, and is authorized to perform all acts necessary for effective fire prevention and control for the protection of the property within the limits of the district.

You ask this office the following:

1. The District requests an opinion on a proposed Cooperative Endeavor Agreement between St. Mary Parish Fire Protection District No. 2 and Centerville Volunteer Fire Company (CVFC). You point out changes to the agreement will include a provision for renegotiations if ad valorem taxes are decreased, and a contract extension clause for the next ten years, after the current millage expires in 2005.
2. The Department requests an opinion on the incentive plan used by the Department.
3. Under the Cooperative Endeavor Agreement of March 10, 1997 the District Agrees to fund CVFC so that CVFC may be reimbursed for all amounts expended which are considered as necessary and proper for effective fire prevention or control, effective July 10, 1996. The District further agrees to fund CVFC for future amounts expended which are considered as necessary or proper for effective fire prevention or control throughout and during the existence of the said tax millage. CVFC agrees to utilize all funds received for purposes which are considered as necessary or proper for effective fire prevention or control and to be accountable to District for same. Can the District lease the fire trucks that the department owns?

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It appears that the Cooperative Endeavor Agreement is a valid agreement under Art. VII, Sec. 14, La. Const., This office has consistently expressed the opinion that the political subdivision must have a legal obligation or duty to provide the service for which the cooperative endeavor exists, and the provision of the Agreement clearly sets forth it is "to accomplish the respective purposes of each". Succinctly, the District agrees to funding CVFC for purposes of the Volunteer Fire Company and the District, and CVFC agrees to be accountable for the funding used in furtherance of its responsibilities for fire prevention and protection purposes..

In regard to your inquiry for an opinion of this office on the incentive plan, this office finds that the plan is designed to award the members on a basis of their activity so that the more active individuals receive more than those that are less active. This obviously establishes a fair system whereby those who do more are recognized for their participation by a higher remuneration.

In response to your third inquiry, we would restate our previous observation that the cooperative endeavor agreement is valid in fulfilling an obligation of both parties found "necessary or proper for effective fire prevention or control", and in this regard we would conclude it would be valid to have the District lease the fire trucks belonging to the Department.

We hope this sufficiently answers your questions, but if we can be of further assistance, do not hesitate to contact us.

Sincerely yours,

RICHARD P. IE;YOUB
Attorney General

By: _____
BARBARA B. RUTLEDGE
Assistant Attorney General

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90-A-2 Public Funds - Loan,
Pledge or Grants
La. Const. Art VII, Sec 14

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The proposed Cooperate Endeavor Agreement between Centerville Volunteer Fire Co., and St. Mary Parish Fire Protection District is a valid agreement to accomplish the respective purposes of each.

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Centerville, LA 70522

Date Received: March 27, 2001
Date Released: April 19, 2001

BARBARA B. RUTLEDGE
Assistant Attorney General