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March 14, 2002
Opinion Number 02-0100

Mr. P.F. "Pete" Arceneaux
Executive Director
Governor's Office of Elderly Affairs
P.O. Box 80374
Baton Rouge, LA 70898-0374

90-A-2 Public Funds – Loans, Pledges or Grants
Article 7, Section 14B of the Louisiana Constitution

Governor's Office of Elderly Affairs may receive donations to be used to assist with the energy costs of the needy without the necessity of entering into separate contracts with various councils on aging provided it assist in establishing objective criteria to determine those who are truly needy.

Dear Mr. Arceneaux:

We received your request for our opinion regarding a proposed agreement between the Governor's Office of Elderly Affairs (GOEA), Entergy Corporation and various councils on aging located throughout Louisiana. As indicated in your request, Entergy Corporation collects donations from its customers to assist with the energy costs of those in need of assistance. Entergy Corporation would like to transfer the donated funds to GOEA to in turn distribute the funds to the various councils on aging as designated by Entergy Corporation. The particular council on aging will distribute the funds to those in need and thereafter submit a report or accounting of the distribution to Entergy Corporation. You specifically question if GOEA must enter into a contract with each of the councils on aging.

Clearly, once the funds are received by GOEA from Entergy Corporation, they are public funds. Thus, your request must be addressed in light of Article 7, Section 14 of the Louisiana Constitution of 1974 that prohibits the donation of public funds. Article 7, Section 14B specifically authorizes the use of public funds for programs of social welfare for the aid and support of the needy. Our office has opined on numerous occasions that in order to fall within this exception, one must establish objective and consistent criteria to determine those who are truly needy.

In light of the above, it is our opinion that GOEA need not enter into a contract with each council on aging. GOEA may forward donations it receives from Entergy to the councils on aging to be used to assist in paying the utility bills of the needy provided that GOEA assists in establishing objective criteria, i.e., age and income, to determine those who are truly needy. We recommend that GOEA maintain adequate documentation of the receipt and distribution of the funds and of the criteria used for distribution.

We also note that Article 7, Section 9 of the Louisiana Constitution requires that all money received by the state or by any state agency be deposited immediately upon

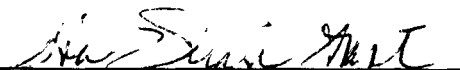
receipt in the state treasury. There are exceptions to this requirement, one of which is money received as a result of donations when the terms and conditions of such require otherwise. Thus, GOEA and Entergy Corporation may want to consider making such a condition on these donations.

We trust that this adequately responds to your request. If you have any questions or comments, please contact our office.

With kindest regards,

Yours very truly,

RICHARD P. IEYOUB
Attorney General

BY: 
TINA VICARI GRANT
Assistant Attorney General

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