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Opinion Number 03-0357

Ms. Jan Kasofsky, Ph. D.
Capital Area Human Services District
4615 Government Street, Building 2
Baton Rouge, LA 70806

90-A POLITICAL SUBDIVISIONS – Officers, Agents & employees
71-1-B MUNICIPALITIES – Home Rule Charter
90-A-1 PUBLIC FUNDS & CONTRACTS
La. R.S. 38:2211 et seq.
La. R.S. 39:361 et seq.
La. R.S. 46:2662
LAC 34-11-1-101

The Louisiana Public Bid Law, LSA-R.S. 38:221et seq. should govern CAHSD, as a political subdivision, with respect to purchasing vehicles for its local governmental entity use, and not the Fleet Management Program, LSA-R.S. 39:361, that applies to state agencies.

Dear Ms. Kasofsky:

You have requested an opinion of our office as to whether the Capital Area Human Services District ("CAHSD") is subject to Louisiana Administrative Code regulations regarding the purchase of vehicles under the State Fleet Management policies. As noted in your opinion request and attached correspondence, the issue hinges on whether CAHSD is considered either a "political subdivision" or a "state agency." The Constitution of the State of Louisiana defines a "political subdivision" as "a parish, municipality, and any other unit of local government, including a school board and a **special district**, authorized by law to perform governmental functions." LA. CONST. art. VI § 44 (2003).

The statute that created the CAHSD declares that it "is hereby created as a **special district**." LA. R.S. 46:2662 (2003). Previous Attorney General Opinion Number 97-220 addressed the question of whether CAHSD was a political subdivision subject to the Louisiana Public Bid Law (LSA-R.S. 38:2211 et seq.) for procurement purposes. In that opinion our office concluded, "CAHSD clearly falls within the definition as a political subdivision and, therefore, is subject to Louisiana's Public Bid Laws." Atty. Gen. Op. No. 97-220. It is still the opinion of our office that CAHSD is a political subdivision of the state and must comply with the Louisiana Public Bid Law in the purchase of vehicles.

It is also the opinion of this office that the CAHSD was not intended to be regulated by the Fleet Management Program ("FMP"). LA. R.S. 39:361 establishes the FMP and specifically limits its applicability by stating:

The scope of the fleet management program and associated statewide policies, specifications, and standards shall include and be limited to:

(1) All vehicles which are owned or leased by any agency, board, commission, council, department, or other entity of the executive branch of state government; every vehicle owned and leased by any state college or

university; and every vehicle owned or leased by the offices and entities of the judicial and legislative branches of government.

As a political subdivision, CAHSD would not fall under any of the above-mentioned categories. The actual FMP administrative regulation confirms this intent by repeating the scope language of LA. R.S. 39:361 verbatim. LA Admin. Code 34-11-1-101 (2003). These scope requirements are controlling authority since a specific "Nonexclusion" section has been enacted to confirm that "[t]hese regulations supersede and replace PPM 63 (LAC 4:V.Chapter 25) and all other previous regulations and exceptional permissions, both written and verbal." LA Admin. Code 34-11-1-105 (2003).

It is therefore the opinion of this office that opinion No. 97-220 is confirmed in that CAHSD is a political subdivision of the state and governed by Title 38 with respect to purchasing vehicles for its local governmental entity use. It is also the opinion of this office that CAHSD is not subject to the Louisiana Administrative Code Title 34, specifically Part VII. Property Control and PPM Number 63, including State Fleet Guidelines.

Please contact our office if you have any further questions or concerns.

Very truly yours,

RICHARD P. IEYOUNG
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By: 
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