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State of Louisiana

DEPARTMENT OF JUSTICE

P.O. BOX 94005

BATON ROUGE

70804-9005

JAN 10 2014
OPINION 13-0181

Mr. Allen L. Smith, Jr.
Plauche, Smith & Nieset, L.L.C.
P.O. Drawer 1705
Lake Charles, Louisiana 70602

50 HIGHWAYS – Roads
La. R.S. 48:753

A parish governing authority may expend Parish Transportation Fund monies to perform maintenance work on state highway right-of-ways only for the purposes set forth in La. R.S. 48:753(A)(6) that relate to culvert installation, ditch cleaning, and pothole patching, but may not be used to improve and landscape state highway rights-of-way.

Dear Mr. Smith:

On behalf of the Calcasieu Parish Police Jury ("Police Jury"), you have requested an opinion from this office concerning the use of Parish Transportation Fund ("PTF") monies.

Specifically, you indicated that the Police Jury wants to improve, landscape, and maintain the state highway rights-of-way along the I-10 corridor through Calcasieu Parish. The project would be established through a cooperative endeavor agreement with the Department of Transportation and Development and would be used for the following:

1. hiring a landscape architect;
2. adopting plans and specifications for right-of-way improvement, maintenance, and landscaping;
3. purchasing greenery for installation along the right-of-way; and
4. planting and maintaining greenery and landscaping.

The short answer to your question is no. PTF monies must be used as set forth in La. R.S. 48:753(A). Maintenance work on state highway rights-of-way is addressed in La. R.S. 48:753(A)(6), which provides as follows:

(6) In addition, provided that the project cost does not exceed the contract limit as defined by R.S. 38:2212, and provided that the parish governing authority indemnifies the state for any loss or injury arising therefrom, a parish governing authority may perform maintenance work on state highway rights of way as follows:

(a) Install culverts in drainage ditches after acquisition of and in compliance with any permit as required by the department.

(b) Clean out ditches and work on shoulders of state highways. The local governing authority shall notify the Department of Transportation and Development not less than five days prior to the commencement of such work.

(c) Patch potholes on aprons connecting parish and state highways. The local governing authority shall notify the Department of Transportation and Development not less than five days prior to the commencement of such work.

As you can see, none of the Police Jury's proposed uses are allowed under La. R.S. 48:753(A)(6). Thus, considering the forgoing statutory authority, it is the opinion of this office that PTF monies may not be used to improve, landscape, and maintain the state highway rights-of-way along the I-10 corridor through Calcasieu Parish.

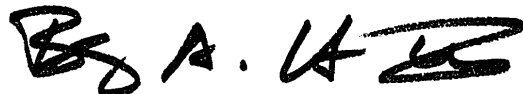
Finally, we note that the Police Jury would not be prohibited from using its own funds (depending on the source and associated restrictions) to improve, landscape, and maintain the state highway rights-of-way along the I-10 corridor through Calcasieu Parish pursuant to a cooperative endeavor between the Police Jury and DOTD.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
Attorney General

By:



BENJAMIN A. HUXEN II
Assistant Attorney General

JDC/BAH II