



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 20, 2024

The Honorable Tim Ladner
Mississippi House of Representatives
MS House District 93
Poplarville, Mississippi 39470

Re: Municipal Donations

Dear Representative Ladner:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Can the Federal Emergency Management Agency give monies directly to state, municipal, or county entities?
2. Does the Mississippi Constitution allow a state, municipal, or county government entity to give taxpayer dollars to private individuals?

Brief Response

1. Opinions of this office are limited to questions of state law and not federal law. This office cannot opine on the authority of federal agencies.
2. Unless specifically authorized by law, in the absence of consideration, municipal donations to private citizens violate the Mississippi Constitution.

Applicable Law and Discussion

We understand that your request relates to federal grant funds received by a municipality for flood mitigation to private citizens' residences. As an initial matter, pursuant to Mississippi Code Annotated Section 7-5-25, the Attorney General is authorized to issue official opinions on prospective questions of state law only. This office cannot opine on questions that require interpretations of federal law. Thus, we are unable to respond to your first question regarding the authority of the Federal Emergency Management Agency to give monies to state, municipal, or county entities.

In response to your second question, Section 66 of the Mississippi Constitution provides: “No law granting a donation or gratuity in favor of any person or object shall be enacted except by the concurrence of two-thirds of the members elect of each branch of the Legislature, nor by any vote for a sectarian purpose or use.” The Mississippi Supreme Court has stated that “[d]onations by a municipality are unlawful’ and violate the Mississippi Constitution. Indeed, a ‘municipal board cannot lawfully give away public money.’ A donation or gratuity is characterized by an absence of consideration, i.e., ‘the transfer of money or other things of value from the owner to another without any consideration.’” *McAdams v. Perkins*, 204 So. 3d 1257, 1265 (Miss. 2016) (internal citations omitted). Therefore, unless the city finds that there is some consideration in exchange for the city’s funds, “the payment of such . . . is a donation of public funds to a private individual.” *Id.*

We recommend that you also contact the Office of the State Auditor and the Federal Emergency Management Agency for further guidance.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Beebe Garrard

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION