



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 3, 2024

The Honorable Andy Gipson
Commissioner, Department of Agriculture and Commerce
Post Office Box 220
Jackson, Mississippi 39205-0220

Re: Donation of Land to the Department of Agriculture and Commerce

Dear Commissioner Gipson:

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

Questions Presented

1. May the State of Mississippi for the benefit and use of the Mississippi Department of Agriculture and Commerce (“Department”) receive by donation from a county economic development authority a suitable site for the purposes of future development of facilities for the inspection, grading, standardization, classification, refrigeration, processing and marketing of such products?
2. As an alternative to donation, may the Department receive the property in consideration of the mutual benefits of the proposed development to both parties?

Brief Response

1. Subject to the approval of the Department of Finance and Administration, the Department may acquire property by donation in the name of the State of Mississippi in accordance with Mississippi Code Annotated Section 69-7-115.
2. The Department also may acquire property under Section 69-7-115 by purchase, lease, or condemnation. What suffices for consideration in the instance of a purchase or lease is a determination to be made by the parties to the conveyance, subject to judicial review.

Applicable Law and Discussion

As an initial matter, Section 7-5-25 authorizes the Attorney General to issue official opinions to various public officials and agencies “upon any question of law relating to their respective offices.”

Hon. Andy Gipson

October 3, 2024

Page 2

Official opinions are not issued to advise one public official or agency about another public official's or agency's duties and responsibilities. MS AG Op., *Criswell* at *1 (Aug. 26, 2016). Thus, we offer no opinion as to whether a county economic development authority may donate the land in question. This opinion is limited to the authority of the Department to receive a donation of property.

Section 69-7-115 provides:

The Department of Agriculture and Commerce is hereby authorized subject to the approval of the building commission to acquire by purchase, *donation*, lease or condemnation, and for and in the name of the State of Mississippi, a suitable site or sites, accessible to highways and railroads and air terminal facilities, and to erect and install thereon such structures, facilities, and equipment as may be necessary for the inspection, grading, standardization, classification, refrigeration, processing and marketing of such products (for both food and feed), within the amount appropriated for such purposes by the Legislature and subject to the approval of the building commission.

(emphasis added).

In response to your first question, according to the plain language of the statute, the Department is authorized to receive property by donation “for the inspection, grading, standardization, classification, refrigeration, processing and marketing of such products.” *Id.* We refer you to the Department of Finance and Administration (formerly the building commission) for any questions regarding any specific conveyance.

In response to your second question, the Department also may acquire property under Section 69-7-115 by purchase, lease, or condemnation. What constitutes consideration in the instance of a purchase or lease is a determination to be made by the parties to the conveyance and is outside the scope of an official opinion. MS AG Op., *Mord* at *2 (Dec. 5, 2022) (internal citations omitted).

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