

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

December 14, 2018

Gene Barton, Esq.  
Attorney for City of Okolona  
Post Office Box 147  
Okolona, Mississippi 38860

Re: Rural Fire Truck Acquisition Assistance Program

Dear Mr. Barton:

Attorney General Hood is in receipt of your request for an official opinion on behalf of the City of Okolona, and it has been assigned to me for research and reply.

### Background and Question Presented

Your request concerns the Rural Fire Truck Acquisition Assistance Program (Program) and a municipality's obligation to provide matching funds under the Program. After additional discussion with you, we understand your question to be whether Section 17-23-1 authorizes the city to borrow money for a ten (10) year term with a pledge of one-tenth (1/10) a year applied toward repayment of the loan in order to finance the required matching funds.

### Applicable Law

The Rural Fire Truck Acquisition Assistance Program was established for the purpose of assisting counties and municipalities in the acquisition of fire trucks and is administered by the Department of Insurance. Miss. Code Ann. Sections 17-23-1, *et seq.* Regarding a city or county's eligibility to receive monies under the program, Section 17-23-1(3)(c) states:

(i) A county or municipality must pledge to set aside or dedicate each year as matching funds, for a period not to extend over ten (10) years, local funds in an amount equal to or not less than one-tenth (1/10) of the amount of monies for which it is requesting distribution from the Rural Fire Truck Fund, which pledged monies may be derived from local ad valorem tax authorized by law or from any other funds available to the county or

municipality, except for those funds received by municipalities or counties from the Municipal Fire Protection Fund or the County Volunteer Fire Department Fund, as defined in Sections 83-1-37 and 83-1-39.

(ii) A municipality must provide adequate documentation of its contract with the county that requires the municipality to provide fire protection in rural areas. The term "rural areas" means any area within the county located outside the boundaries of an incorporated municipality or any incorporated municipality with a population of two thousand five hundred (2,500) or less.

(Emphasis added.)

Regarding borrowing authority, this office has previously stated that "Section 17-23-1 provides no authorization for counties or municipalities to incur debt" and that they "must look to the statutes governing them to determine whether or not they are authorized to incur debt for this purpose." MS AG Op., *Dale* (July 31, 1995).

We have previously opined that Section 21-33-301 authorizes a city to issue bonds for the purchase of fire fighting equipment. MS AG Op., *Harlow* (February 27, 1998). Additionally, Sections 17-21-51 and 17-21-53 authorize a municipality to borrow funds for any purpose for which the governing authorities are otherwise authorized by law to issue bonds, notes or certificates of indebtedness up to one percent (1%) of the assessed value of taxable property or \$250,000.00. *Id.* Notes issued pursuant to Sections 17-21-51 and 17-21-53 are required to mature over a period not to exceed five (5) years from the dates of issuance.

Finally, we direct you to Mississippi Insurance Department Bulletin 2004-4 (as amended May 13, 2009) "Guidelines for the Rural Fire Truck Acquisition Assistance Program Round 3-9", page 5, "Matching Funds", which states, in part:

The pledged monies may be derived from ad valorem tax or from any other monies available to the county or municipality. State rebate funds may not be used as matching funds.

The local matching funds each year must be equal to or not less than a proportional percentage of the amount for which the municipality or county is requesting funds. Repayment of indebtedness for trucks purchased under this program may not exceed five (5) years, except in instances where Capital Improvement Revolving Loans are obtained, in which case repayment may not exceed ten (10) years.

\*\*\*Lease purchases are not allowed and the title of the new truck can not be used as collateral for securing a loan under this program.

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The Fire Truck Review Committee reserves the right to change or otherwise amend its procedures and guidelines as needed and to issue any additional requirements as may be necessary to implement fully the program.

(Emphasis added.)

The Capital Improvements Revolving Loan Program referenced in the Bulletin quoted above is administered by the Mississippi Development Authority for the purpose of assisting counties and municipalities in making capital improvements which include by statutory definition "improvements in fire protection." Miss. Code Ann. Section 57-1-301(2)(c).

### Conclusion

In conclusion, Section 17-23-1 does not authorize municipalities to incur debt to provide matching funds required under the Program. A municipality, however, is authorized to incur indebtedness for such a purpose pursuant to Sections 21-33-301, 17-21-51, 17-21-53, and 57-1-301. We also encourage you to contact the Mississippi Insurance Department for additional information about the Program.

Please let us know if this office can be of further assistance.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Elizabeth S. Bolin  
Special Assistant Attorney General