

Executive office of the governor

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Subject:
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EXECUTIVE OFFICE OF THE GOVERNOR--EXPENDITURE OF FEDERAL FUNDS FOR ENERGY CONSERVATION AWARDS AUTHORIZED

To: The Honorable Bob Graham, Governor, State of Florida

Prepared by: Craig Willis, Assistant Attorney General

QUESTION:

Is the Governor's Energy Office authorized by law to administer and disburse federal funds to conduct a positive reinforcement program for those who excel in energy conservation under the provisions of a federal grant from the United States Department of Energy by making awards to individuals and businesses who have excelled in energy conservation?

SUMMARY:

The Executive Office of the Governor is authorized by law to administer and disburse federal funds to conduct a state positive reinforcement program for those who excel in energy conservation under a federal grant for such purposes from the United States Department of Energy and to make awards to individuals and businesses in the state who have excelled in energy conservation as part of the state's Energy Awareness Campaign.

According to the information supplied to this office, the Governor's Energy Office has received a federal grant from the United States Department of Energy to develop and implement an Energy Awareness Campaign. This grant is listed as United States Department of Energy Grant Number DE-FG44-80R410173, and entitled, Promotional Campaign to Encourage Energy Conservation in Florida.

Provisions of the federal grant provide that the Energy Office is to institute a program of positive reinforcement for those who excel in energy conservation. As part of this program the Energy Office proposes to make awards to individuals or businesses who have excelled in the area of energy conservation. The awards include certificates, plaques, flags and lapel pins. These awards are to be financed exclusively from the federal grant money, although they will be paid for by a state warrant since the federal funds will initially be deposited in a state trust account. Supplemental material discloses that the United States Department of Energy has approved these awards, and has found that such awards are consistent with the program to encourage energy conservation in Florida and the objectives of the above described federal grant. For the purposes of this opinion, I assume that the Executive Office of the Governor was authorized to

apply for and receive or to accept the federal grant in question pursuant to the office's responsibility assigned by s. 377.703, F.S. (1980 Supp.), for performing the functions of federal energy programs delegated to the state, including energy conservation programs, educational and training programs, and the promotion of energy conservation in all energy use sectors throughout the state.

Your inquiry indicates that the terms of the federal grant in question require the Energy Office to institute the program of positive reinforcement for those who excel in conservation as part of the grant to develop and implement the Energy Awareness Campaign. The state has accepted the federal grant and is presently participating in this federally funded program. As stated in *State of Florida v. Mathews*, 526 F.2d 319, 326 (5th Cir. 1976), once the state chooses to participate in a federally funded program, it must comply with or meet applicable federal requirements or standards. In this instance, the Department of Energy has approved the state program under consideration and found it to be consistent with the objectives of the federal grant. Moreover, s. 377.703(3)(b), F.S. (1980 Supp.), imposes on the Executive Office of the Governor the duty and responsibility of performing the functions of any federal energy programs delegated to the state, including conservation programs, and designates the office as the responsible state agency for performing or coordinating such functions. Also, s. 377.703(3)(d) requires the office to coordinate efforts to seek federal support for state energy activities, including energy conservation; subsection (3)(f)3. of that statute requires the office to make an annual report to the Legislature which includes the office's activities and recommendations in regard to the development and conduct of educational and training programs relating to energy conservation; and subsection (3)(h) directs the office to promote energy conservation in all energy use sectors throughout the state and designates the office as the state agency primarily responsible for this function.

On the basis of the preceding considerations, unless and until judicially determined otherwise, I therefore conclude that the Executive Office of the Governor is authorized by law to administer and disburse federal funds to conduct a state positive reinforcement program for those who excel in energy conservation under a federal grant for such purposes from the United States Department of Energy and to make awards to individuals and businesses in the state who have excelled in energy conservation as part of the state's Energy Awareness Campaign.