

Regional Planning Council, federal grant

Number: AGO 98-46

Date: July 15, 1998

Subject:
Regional Planning Council, federal grant

Mr. Samuel S. Goren
Attorney for South Florida Regional Planning Council
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, Florida 33308

RE: REGIONAL PLANNING COUNCIL--LAND USE--FEDERAL GOVERNMENT--council is government agency authorized to enter into grant agreement with federal government regarding development. ss. 186.502 and 186.505, Fla. Stat.

Dear Mr. Goren:

You ask substantially the following question:

Is the South Florida Regional Planning Council (SFRPC) an officially recognized agency of the state that may enter into a cooperative agreement with the United States Environmental Protection Agency (EPA) regarding the Eastward Ho! initiatives?

In sum:

The South Florida Regional Planning Council, created by state statute to perform its legislatively prescribed duties, is a governmental entity authorized to enter into a grant agreement with the United States Government. The Eastward Ho! initiatives appear to be consistent with the role imposed upon the council pursuant to the Florida Regional Planning Council Act and the agreement entered into by the council with the Department of Community Affairs.

The Eastward Ho! initiatives grew out of a 1995 recommendation of the Governor's Commission for a Sustainable South Florida, which was charged with assuring that a healthy Everglades ecosystem could coexist with and be mutually supportive of a sustainable South Florida economy. A principal goal of Eastward Ho! is to redirect projected regional growth toward Florida's historic urban core and to overcome the many obstacles to infill development and redevelopment along the southeast coast of Florida. According to the information attached to your inquiry, the identification, assessment, remediation, revitalization and redevelopment of Brownfield sites on a regional scale is an integral part of the Eastward Ho! strategy. You state that the SFRPC has entered into a series of agreements with the Department of Community Affairs regarding Eastward Ho! initiatives.[1]

In March 1998, Vice President Gore named Eastward Ho! as a National Brownfields Showcase

Community. As such, Eastward Ho! received a wide range of federal resources and support. According to your letter, the SFRPC has been engaged in discussions with the EPA that would provide additional resources for Eastward Ho! The EPA, however, has requested as a condition of execution and entry into the grant agreement that the Attorney General of the State of Florida render an opinion that the SFRPC is an officially recognized agency of the State and is, therefore, able to enter into a cooperative agreement with the EPA.

The South Florida Regional Planning Council (SFRPC) was created pursuant to the "Florida Regional Planning Council Act (Act)."[2] The Act authorizes the creation of regional planning councils in each of the several comprehensive planning districts of the state in order to effectively carry out a wide variety of federal and state program designations and to avoid a proliferation of overlapping, duplicating, and competing agencies.[3] The declared purpose of the Act is

"to establish a common system of regional planning councils for areawide coordination and related cooperative activities of federal, state, and local governments; ensure a broad-based regional organization that can provide a truly regional perspective; and enhance the ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries."[4]

The Act designates the regional planning council as the primary organization to address problems and plan solutions that are of concern on more than a local level. It is through the regional planning councils that local governments may provide input into state policy development.[5] In addition, such councils are authorized to "act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters" and to "provide technical assistance to local governments on growth management matters." [6]

In order to accomplish these legislatively prescribed goals, regional planning councils have been given a number of specifically enumerated powers, including the power

"(5) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

* * *

(8) To accept and receive, in furtherance of its functions, funds, grants, and services from the Federal Government or its agencies; from departments, agencies, and instrumentalities of state, municipal, or local government; or from private or civic sources. . . ."

* * *

(17) To participate with other governmental agencies, educational institutions, and private organizations in the coordination or conduct of its activities."[7]

Regional planning councils have also been granted the authority to adopt rules.[8] Such councils constitute "agencies" for purposes of Chapter 120, Florida Statutes.[9] Pursuant to section 186.508(1), Florida Statutes, regional planning councils must prepare and submit to the

Executive Office of the Governor a proposed comprehensive regional policy plan.[10]

In light of the above, it appears clear that the South Florida Regional Planning Council, created by state statute to perform its legislatively prescribed duties, is a governmental entity authorized to enter into a grant agreement with the Federal Government. Moreover, the Eastward Ho! initiatives would appear to be consistent with the role imposed upon the SFRPC pursuant to the Florida Regional Planning Council Act and the agreement entered into by the council with the Department of Community Affairs.

Accordingly, I am of the opinion that the South Florida Regional Planning Council is legally authorized pursuant to Chapter 186, Florida Statutes, to enter into a cooperative agreement with the Federal Government to further the purposes for which the council was established.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] The agreement between the Department of Community Affairs and SFRPC, Contract Number 97-SE-2Y-12-00-21-259, CFDA Number 81.041, provides that the council will assist the department in its Eastward Ho! efforts and will establish an Eastward Ho! coordinator position.

[2] Sections 186.501-186.513, Fla. Stat.

[3] See s. 186.502(1)(c), Fla. Stat.

[4] Section 186.502(2), Fla. Stat.

[5] Section 186.502(3), Fla. Stat.

[6] See ss. 186.505(10) and (20), Fla. Stat., respectively.

[7] Sections 186.505(5), (8), and (17), Fla. Stat.

[8] Section 186.505(1), Fla. Stat.

[9] See 120.52(1), Fla. Stat., defining "Agency" for purposes of Ch. 120, Fla. Stat., the Administrative Procedures Act, to mean, among others, those entities described in s. 186.504, Fla. Stat.

[10] This regional policy plan contains regional goals and policies regarding growth management and must be consistent with the adopted state comprehensive plan and must address significant regional resources, infrastructure needs, or other important issues within the region. See s.

186.507(1), Fla. Stat.