



STATE OF KANSAS

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November 8, 1978

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ATTORNEY GENERAL OPINION NO. 78- 361

Mr. Jack A. Lemen
Executive Director
Public Television Board
Suite 508 - 503 Kansas Avenue
Topeka, Kansas 66603

Re: Public Television--Grants--Expenditures

Synopsis: Monies granted by the Public Television Board to Fort Hays State University pursuant to K.S.A. 75-4910(a) may be used to provide architectural services for a facility to be used for a public television station, which may be located either on land owned by the University or on private property which the University has leased, the costs of which leases may likewise be paid from funds granted under that section. Funds granted under K.S.A. 75-4910(b) to Smoky Hills Public Television Corporation may not be granted for the purpose of providing architectural services, however, for planning a facility to house a public television station.

* * *

Dear Mr. Lemen:

On June 15, 1978, the Kansas Public Television Board authorized a grant of \$170,000 to Fort Hays State University for purposes described in the grant document as

"state financial assistance to assist in the initial costs of capital construction and equipment for which federal funds are not

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available for a building or part thereof to be used for public television purposes, with not more than \$5,000.00 of such grant being available to Fort Hays State University for planning . . . and the balance of such grant being contingent upon review and approval by the . . . Board of final plans for the facility"

You request clarification whether the University may expend funds for the purpose of architectural services to choose a site for and plan a building to house a public television facility either on campus or on private property and, if they should choose private property, whether they may build on that site. As pointed out in Opinion No. 78-289, the 1978 legislature imposed a restriction upon the expenditure of state appropriated funds for fiscal 1979, as follows:

"No expenditure of moneys appropriated by section 2(a) of Senate Bill No. 936, as enacted by the legislature during the 1978 regular session, from the state general fund in the remodeling and additions to library basement for media center, including equipment, account, shall be made for the construction or remodeling of facilities or for the acquisition of equipment for purposes of public television broadcasting."

K.S.A. 75-4910(a) provides in pertinent part thus:

"Any qualified educational agency or institution, as determined by the board, which is located in an area of the state presently unserved by existing public television stations, may be granted state financial assistance, to the extent appropriations are available therefor, for any of the following purposes:

* * *

(2) Providing for the local share of the cost of capital construction and equipment

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which federal funds are not available. Said moneys may be used for the construction of buildings, land leases, furniture and fixtures, spare parts for broadcast equipment, and other such items."

The grant moneys may be used for "planning" and for the "initial costs of capital construction and equipment." In the selection of a site and planning of a structure proposed to house a public television facility, the University is not restricted solely to campus property. The phrase "initial costs of capital construction" is defined to include "land leases," by K.S.A. 75-4910(a)(3). Thus, it may use such funds for the lease of private property for the construction of such a facility and, if it chooses to lease such property, may expend grant money for the construction of a building thereon. Likewise, of course, it may use the funds for architectural services to plan a structure to be located on campus property.

You inquire, secondly, concerning the use of a general operating grant which has been made by the Board to the Smoky Hills Public Television Corporation. You advise that the grant has been made for operating an office, paying salaries, operating expenses and the like, including funds for engineering and legal consultants. For the benefit of long-range planning, you inquire whether the corporation may use monies from their operating budget derived from this grant for the purposes of retaining an architect to survey for a site either on University or private property.

K.S.A. 75-4910(b) limits the purposes for which state financial assistance which is granted to a qualified public television station may be used to the following:

"(1) Assisting in the costs incurred for the acquisition of new equipment or the modification of existing equipment or in obtaining matching federal funds for such purposes.

(2) Assisting in annual operating costs of such stations.


(3) Providing for station interconnection facilities and services."

The costs of architectural services for planning a facility to house the station does not fall within any of these categories,

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in my judgment, and the funds granted the corporation under this provision may not, be used for the purpose of procuring architectural services for planning a facility.

Sincerely,

A handwritten signature in cursive script that reads "Curt Schneider". The signature is written in black ink and is positioned above the typed name.

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj