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1. *Letter, 5/22/78*

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20546**

FILE: B-167694

DATE: May 22, 1978

**MATTER OF: Availability of Federal Funds to Pay Local
Matching Share In Federal Grant Program
under Coastal Zone Management Act**

DIGEST:

1. Federal grant funds received by coastal State under certain sections of Coastal Zone Management Act (CZMA) cannot be used by State to pay its required share of another matching grant program authorized by CZMA since general rule prohibits matching Federal funds with other Federal funds unless specifically authorized by statute. No such specific authority is set forth anywhere in CZMA. However, State could use Federal funds from another source to pay its share of costs under two CZMA grant programs, provided statutory source of those funds authorized recipient to use them to pay State's matching share of another Federal grant program and provided CZMA grant was consistent with purpose for which other funds were furnished.
2. Statutory prohibition in CZMA is stricter than above stated general rule and prohibits use of Federal matching funds, even if permitted by statutory authorization for such funds, for four specifically designated CZMA grants. Since section 308(c) and 315 grants were not named in the statutory prohibition, only general rule applies.

This decision is in response to a request from the General Counsel of the Department of Commerce for a ruling on the proper interpretation and application of several provisions of the Coastal Zone Management Act of 1972, Pub. L. No. 92-503, approved October 27, 1972, as amended by Pub. L. No. 93-612, approved January 2, 1975, and by the Coastal Zone Management Act Amendments of 1976, Pub. L. No. 94-370, approved July 26, 1976.

Sections 308(c) and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, provide for Federal grants to coastal states with a requirement of matching State shares. Specifically, section 308(c), 16 U.S.C. § 1456(c)(1976), provides:

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"The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to be, significantly affected by the siting, construction, expansion, or operation of new or expanded energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 305(b)(8)) any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction, expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning."

Section 315 of CZMA, as amended, 16 U.S.C. § 1461 (1976), reads as follows:

"The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of--

"(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

"(2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands.

"The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$2,000,000."

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The General Counsel asks two separate, but related, questions: may Federal monies received by a coastal State under sections 305 and 306 of CZMA, 16 U.S.C. §§ 1454 and 1455 (1976), be used to pay the State's matching share under a section 308(c) grant and secondly, may Federal funds from sources other than CZMA be used as a match for section 308(c) grants or section 315 grants.

As recognized in the submission, the general rule concerning such matters is set forth in a recent decision, 56 Comp. Gen. 645, at 648 (1977):

"We have consistently held that in the absence of specific statutory authority, Federal grant-in-aid funds from one program may not be used to satisfy the local matching requirements of another Federal grant-in-aid program."

Also see 47 Comp. Gen. 81 (1967); 32 Comp. Gen. 561 (1953); and B-179533, January 10, 1974.

There is no provision in CZMA that specifically authorizes a coastal State receiving Federal funds under sections 305 or 306 of that Act, or from some other Federal source, to use such funds to pay the State's share of costs under a section 308(c) grant or a section 315 grant.

The General Counsel suggests that the following language in section 318(c) of CZMA, 16 U.S.C. § 1464(c)(1976) (as added by section 14 of Pub. L. No. 94-370), is sufficient to establish an exception to the general rule, with regard to the use of funds from non-CZMA grants for meeting matching requirements of sections 308(c) and 315 of CZMA;

"Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309 or 310."

He takes the position that "Because neither section 308 nor section 315 is listed in this prohibition [section 318(c)], it appears that Congress intended that it not apply to these sections." After having analyzed the legislative history of this provision, as well as relevant decisions, we disagree with this conclusion.

We do not believe that the legislative history of section 318(c) supports the view that the failure to mention sections 308 and 315 in section 318(c) constitutes the kind of specific statutory authority that would provide a basis for avoiding application of the general rule. The House version of this provision, set forth in H.R. 3981, 94th Cong., as reported by the House Committee on Merchant Marine and Fisheries, was broader, providing as follows:

"No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title."

Had this language been adopted, it would now be clear that Federal funds received by a State either under a section of CZMA or from any other Federal source could not be used to pay any portion of the State's matching share of a grant authorized by CZMA. The explanation of this section in H.R. Rep. No. 94-878, 65 (1976), however, suggests a more limited meaning:

"This subsection carries that standard prohibition on the uses of funds received under this Act to pay a state's matching share of an authorized program or project."
Emphasis added.

In H.R. Rep. No. 94-1298, 39 (1976), the Conference Committee said of the version of section 318(c) finally adopted:

"Section 318(c) sets forth existing law and follows the House amendment by providing that Federal funds from other sources shall not be used to pay a coastal state's share of costs under section 305, 306, 309 or 310."

On the basis of this legislative history, the mere omission from section 318(c) of sections 308 and 315 cannot be interpreted as specific statutory authority that would supersede the general rule and would allow Federal funds in the possession of a coastal State to be used to pay any portion of the State's required share of costs under a section 308(c) or section 315 grant. In fact, the Conference Report, in saying that section 318(c) "sets forth existing law," suggests

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that Congress was fully aware of the general prohibition against a grantee's use of Federal funds from one grant to pay the required non-Federal share of another grant unless specifically authorized, and was aware that this prohibition would be applied to all of the grant programs authorized under CZMA, if the statute had not dealt with the subject at all.

This does not mean that the language of section 318(c) is of no legal effect and that grants made pursuant to the sections enumerated therein are under the same general restrictions which apply to other grant programs authorized by the statute but not included in section 318(c). Such an interpretation would violate a general rule of statutory construction that "effect must be given, if possible, to every word, clause and sentence of a statute", and that a "statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant * * *." Sutherland, Statutory Construction § 46.06.

We believe that the more appropriate interpretation of section 318(c), one that is consistent with and gives effect to the actual statutory language and legislative history of this provision, is as follows: With respect to grants made under the specified sections--305, 306, 309, or 310--the restrictions on the use of other Federal grant funds to pay the State's matching share are broader than would be true under the general prohibition. A State would be absolutely precluded by section 318(c) from using any other Federal grant funds in its possession to match a section 305, 306, 309, or 310 grant, even if the legislation authorizing the other grant states that recipients may use those grant funds to pay the non-Federal share of another grant program. This is consistent with the general rule of statutory construction that if there is a conflict between two statutes, one dealing in general terms with a subject and the other covering it in specific terms, the more specific statute will be controlling. Sutherland, Statutory Construction § 51.05.

With respect to those CZMA grant programs not specified in section 318(c), i. e. sections 308 and 315, only the general prohibition would apply; a State could use grant funds from another source to pay its matching share of section 308 and 315 grants provided the legislation authorizing the other grant specifically provided that it could be used to satisfy local matching requirements of another Federal grant program. See 56 Comp. Gen. 645, supra., and 52 Comp. Gen. 558 (1973).

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In both of the above cited decisions, our Office based its conclusion that Federal funds from one grant program could be used by the recipient to pay the required non-Federal share in another grant program on authority contained in the legislation authorizing the "first" grant allowing those grant funds to be used in such a manner. However, there is nothing in either section 305 or 306 or elsewhere in CZMA which would allow a State to use Federal grant funds it receives under those sections for the purpose of paying the State's required 20 percent share under a section 308(c) grant. Accordingly our answer to the General Counsel's first question is that Federal funds received by a coastal State under sections 305 and 306 of CZMA cannot be used by the State to pay any portion of the State's matching share of costs under a section 308(c) grant.

The second question is whether Federal funds from a source other than CZMA can be used by a coastal State as a match for section 308(c) grants, as well as section 315 grants. The answer must depend on the specific source of the Federal funds involved. As explained above, section 318(c) does not preclude a State from using Federal funds from a source other than CZMA grants to pay its share of costs under a section 308(c) or section 315 grant, provided that the statutory source of the non-CZMA Federal funds specifically, or at least by clear implication, allows the recipient thereof to use the funds for the purpose of paying the State's matching share of another Federal grant program. Of course, the non-CZMA Federal funds could only be used by a State to pay its share of costs under a section 308(c) or section 315 grant if such use was consistent with the purpose for which those funds were originally furnished by the Federal Government.


Acting Comptroller General
of the United States