

Opinion No. 2013-024

April 30, 2013

The Honorable George E. Butler, Jr.  
Washington County Attorney  
280 North College, Suite 501  
Fayetteville, Arkansas 72701

Dear Mr. Butler:

You have requested approval, pursuant to the Interlocal Cooperation Act,<sup>1</sup> of a proposed interlocal agreement between Washington County and all the cities located therein.

You have submitted a copy of the agreement, under the terms of which the parties agree generally to create, fund, train, and maintain a Hazmat Response Team.

Each interlocal agreement for joint or cooperative action must specify the following:

- (1) its duration;
- (3) its purposes;
- (4) the manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

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<sup>1</sup> A.C.A. §§ 25-20-101 *et seq.*

(5) The permissible methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon the partial or complete termination; and

(6) Any other necessary and proper matters.<sup>2</sup>

I am required by law to review the agreement to determine whether it meets the foregoing criteria and is otherwise compatible with the laws of the state.<sup>3</sup>

Having analyzed the agreement you have submitted, I find that it does meet the foregoing criteria and is otherwise compatible with state law.<sup>4</sup> Accordingly, it is hereby approved as submitted.

I should note, however, that I am not authorized to assess whether this agreement is compatible with the many federal laws—some of which the agreement cites—governing how local governments respond to, mitigate, and seek reimbursement for hazardous-materials spills. For example, one of the agreement’s provisions indicates that Washington County will attempt to recover the expenses associated with responding to a hazmat incident by charging the person or entity responsible for a hazardous-materials spill. This provision’s validity, under state law, is doubtful, though federal law may authorize such a charge. Any questions regarding the agreement’s compliance with federal law are properly directed to counsel for the parties to this proposed agreement.

Assistant Attorney General Ryan Owsley prepared this opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL  
Attorney General

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<sup>2</sup> A.C.A. § 25-20-104(d).

<sup>3</sup> A.C.A. § 25-20-104(f).

<sup>4</sup> In reaching this conclusion, I have assumed that the provision authorizing the recovery of costs associated with hazardous-materials spills is based on federal law. On this latter point, please see the opinion’s final paragraph.