



# Attorney General

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Robert K. Corbin

December 19, 1989

The Honorable Patricia Noland  
The Honorable Candice Nagel  
State Representative  
Arizona House of Representatives  
Capitol Building - House Wing  
Phoenix, Arizona 85007

Re: I89-107 (R89-008)

Dear Representatives Noland and Nagel:

You ask whether the Emergency Telecommunications Revolving Fund (Fund) may be used to pay for the installation, operation, maintenance and periodic upgrading of a system of callboxes along the roadways over which the Arizona Department of Public Safety has jurisdiction. We conclude the answer is no. You also ask whether a Public Safety Answering Point (911 Communications Facility)<sup>1/</sup> may dispatch towing vehicles by non-public entities (such as automobile clubs) and, if so, whether such dispatching may be paid by the Fund. We conclude that a 911 Communications Facility may provide the service of dispatching towing vehicles provided by non-public entities but that such service may not be paid from the Fund.

The Legislature has provided for the levying of a telecommunication services excise tax on providers of exchange

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<sup>1/</sup> "Public Safety Answering Point" . . . means a communications facility operated on a 24-hour basis that is a receiver of 911 calls from persons within a 911 service area and that has the authority to directly dispatch the emergency services of a public agency or transfer 911 calls to an appropriate public agency." A.A.C. R2-1-401(9).

access services.<sup>2/</sup> A.R.S. § 42-1472. The tax is for the purpose of financing emergency telecommunication services. Id.

"Emergency telecommunication services" means telecommunication services or systems that use number 911 or a similarly designated telephone number for emergency calls.

A.R.S. § 42-1471(2).<sup>3/</sup>

The Department of Revenue receives the excise tax proceeds which are then transferred to the State Treasurer for deposit in the Fund. A.R.S. § 42-1473. The Fund is administered by the Director of the Department of Administration (Director). A.R.S. § 41-702.01(B); see also A.R.S. § 41-702.01(A)(1) (Director shall adopt rules and procedures for administering and disbursing monies deposited in the Fund). The Legislature has determined that the Fund may be used for the following purposes:

1. Necessary or appropriate equipment or service for implementing and operating emergency telecommunication services through political subdivisions of this state.

2. Necessary or appropriate administrative costs or fees for consultants' services, not to exceed three per cent of the amounts deposited annually in the revolving fund.

3. Monthly recurring costs of emergency telecommunication services, including expenditures for capital, maintenance and operation purposes.

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<sup>2/</sup> "Emergency access services" means telephone or telecommunication exchange access lines or channels which provide local access from the premises of a customer to the local telecommunications network to effect the transfer of information." A.R.S. § 42-1471(3); see also A.A.C. R2-1-401(6).

<sup>3/</sup> A.R.S. §§ 42-1471 and 41-702.01 were adopted together. See Laws 1983 (1st Reg. Sess.) Ch. 316, § 3.

A.R.S. § 41-702.01(B). Additionally, the Director has promulgated rules concerning disbursements from the Fund:

The following costs of providing 911 telephone service shall be reimbursed by the Emergency Communications Excise Fund, subject to funding as set forth in R2-1-409 of this Article, to those 911 service areas that have been issued a Certificate of 911 plan approval by the Assistant Director.

1. Costs of the Network Exchange Services necessary to provide the minimum grade of service defined herein.

Costs for station terminal equipment required to receive and process or relay 911 calls and messages.

3. Ongoing maintenance costs following the warranty period, if any, for the station terminal equipment used in the receiving and processing of 911 calls and messages.

4. Necessary and appropriate consulting services or administrative costs, not to exceed three per cent of the amounts deposited annually in the revolving fund.

A.A.C. R2-1-409 (emphasis added). The term "Network Exchange Services" means "telephone circuits or private lines dedicated to and used exclusively for the purpose of receiving, extending or transferring 911 calls." A.A.C. R2-1-401(7) (emphasis added). Therefore, disbursements from the Fund are limited to equipment that receives, processes, extends, relays or transfers 911 calls or messages. Disbursements from the Fund, therefore, may not be used for equipment, such as a callbox, which originates a 911 call. Similarly, the Fund may not be used to pay for a pay telephone system or for home or business telephone systems.

Because a callbox would be the place of origination of a 911 call and not the place where the call is received, processed, extended, relayed or transferred, the callbox system would not be reimbursable from the Fund regardless of whether

the callbox interfaced directly with either a 911 Communications Facility "non-emergency number." Nothing, however, in the emergency telecommunications statute prevents a political subdivision, if it has other funding sources available to it, from providing a callbox system in addition to the 911 emergency telephone services it provides.

You also ask whether A.A.C. R2-1-407(3) and R2-1-408(4) authorize a 911 communications facility to provide the service of dispatching towing vehicles provided by non-public entities such as automobile clubs.

To qualify for funding from the Fund, A.A.C. R2-1-402(A) requires a public agency or group of agencies to establish a 911 Planning Committee. After the 911 Planning Committee is established, A.A.C. R2-1-403 provides that the 911 Planning Committee shall submit its plan to the Assistant Director of the Data Management Division of the Department of Administration for approval by the Assistant Director. A.A.C. R2-1-403(6) and (8) further provide that the plan shall include a description of the exchange access services and equipment proposed to be used by the 911 Planning Committee.

A.A.C. R2-1-407 sets forth the system design standards the 911 Planning Committee's equipment in the proposed plan must meet before its plan can be approved. The rules you inquired about describe those standards. A.A.C. R2-1-407 provides:

Equipment meeting the following system design standards will be deemed necessary or appropriate equipment eligible for funding from the Emergency Telecommunication Services Revolving Fund.

1. The 911 system is designed and operated to maintain a grade of service so that no more than one call out of 100 incoming calls will receive a busy signal on the first dialing attempt during the busy hour of an average week during the busy month.

2. The 911 system includes the following services, if available:

a. Police services including services of the sheriff departments and the Department of Public Safety.

- b. Fire fighting services.
- c. Emergency medical services.

3. Other services may be included in the 911 system at the discretion of the public agency operating the PSAP.

4. PSAP answering equipment permits answering personnel to place the 911 call on hold.

5. Each PSAP and each participating public agency has at least one published telephone number to call for non-emergency services. One non-emergency number may be shared by two or more participating public agencies provided there is a cooperative agreement for calling answering responsibility.

6. Automatic alarm signal devices are not connected to the 911 trunks.

(Emphasis added.) Paragraph 3, which you asked about, simply states that the 911 Planning Committee can include other services, but such other services will be paid from the Fund only if they meet the requirements of A.R.S. §§ 41-702.01(B) and A.A.C. R2-1-409. The Assistant Director cannot approve the 911 Planning Committee's plan until the Assistant Director determines that the equipment in the plan meets the design standards. A.A.C. R2-1-404(A). If the plan is approved, the Assistant Director then states which costs are eligible for reimbursement by the State. A.A.C. R2-1-404(B). What is approved for reimbursement from the Fund is determined by A.R.S. § 41-702.01(B) and A.A.C. R2-1-409, and not by A.A.C. R2-1-407.

Similarly, A.A.C. R2-1-408 lists the "service" requirements a plan must meet before it will be approved by the Assistant Director. A.A.C. R2-1-408, entitled "911 system service requirements," states:

Service meeting the following system service requirements will be deemed necessary or appropriate service eligible for payment from the Emergency Telecommunication Services Revolving Fund.

1. Each PSAP manager monitors the 911 system level of service to ensure that the standards set forth in R2-1-407, Paragraph 1. of this Article are met. Each PSAP manager obtains from the servicing telephone company a report regarding the 911 level of service. If the report provided by the telephone company indicates that the required service levels are not being met, the following steps are taken:

a. The PSAP manager requests the servicing telephone company to prepare plans, specifications and cost estimates to raise the level of service to that defined in R2-1-207, Paragraph 1. of this Article.

b. If, based on information provided by the telephone company, modifications to the system are necessary, notice is given to the Assistant Director pursuant to R2-1-206 of this Article.

2. Any interested public agency is immediately notified of any emergency within its jurisdiction.

3. Each PSAP provides continuous service to all callers within its service area 24 hours each day, seven days a week.

4. All calls entering the 911 system that do not require emergency services are referred to an administrative number.

5. The PSAP manager may designate a telephone number other than 911 as a backup number should the 911 system fail. The designated number is published in the telephone directory as the alternate number to call to receive emergency assistance only when the 911 call cannot be completed.

6. The PSAP manager or his designee develops and maintains a system for recording 911 calls received by the PSAP. The records are retained for a period of at least 31 days from the date of the call and include the following information:

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- a. Date and time the call was received.
- b. Nature of the problem.
- c. Action taken by the dispatcher.

7. The PSAP manager or his designee prepares and implements a program of public information regarding 911 service.

Paragraph 4, which you asked about, requires the 911 Communications Facility to provide the service of referring calls that are not 911 calls to an administrative number. This service is one of several that a 911 Planning Committee must include in its plan before its plan will be approved as provided in A.A.C. R2-1-404(A). Upon approval of the plan, however, only those costs that meet the criteria established in A.R.S. § 41-702.01(B) and A.A.C. R2-1-409 will be eligible for reimbursement from the Fund. Consequently, although the referral of non-911 calls to an administrative number is a service reimbursable by the Fund, the dispatching of towing vehicles via the administrative number would not be reimbursable by the Fund.

Therefore, nothing in the emergency telecommunications statute prevents a 911 Communications Facility from dispatching towing vehicles provided by non-public entities as a service not related to providing 911 emergency telecommunication services. However, because such service is not a part of the 911 emergency telephone system, it is not a service that can be reimbursed from the Fund.

Sincerely,



BOB CORBIN  
Attorney General

BC/DTF/bl/jxd