

**OPINION
51-165**

August 10, 1951 (OPINION)

STATE SEED DEPARTMENT

RE: Seed Commissioner - Authority to Enter into Agreement with PMA

You have submitted to the office of the Attorney General of the State of North Dakota a proposed memorandum agreement between the Production and Marketing Administration, United States Department of Agriculture and the Seed Department of the State of North Dakota.

We have examined the same and we are in doubt as to the full effect of paragraph 1 of the proposed agreement. As we understand it, the State Seed Department is operating on a budget to which budget the Production and Marketing Administration, United States Department of Agriculture has made no cash contribution.

Paragraph 1 can be construed, if this agreement is entered into, to mean that upon the termination of the agreement the Production and Marketing Administration and the Seed Department shall divide the funds on hand.

We believe that before you execute this agreement that you protect yourself as to the extent that you do not obligate the Seed Department to pay to the Marketing Administration one-half of the North Dakota state funds that may be in your department upon the termination of the agreement. By this we mean that after all expenses incurred by either party to the agreement have been fully paid that whatever funds remaining in the Seed Department budget to which no contribution was made by the Production and Marketing Administration should remain as the property of the State Seed Department.

We make this suggestion in order that there may not be any misunderstanding when the agreement is terminated. We assume that in some states the Marketing Administration undoubtedly will have to advance funds for the cooperative work and under those conditions it is only fair that if there are any funds, that they be reimbursed. If, however, the State Seed Department has paid all the expenses out of its budget, then the Production and Marketing Administration should not be entitled to any share of it after all the expenses are paid.

ELMO T. CHRISTIANSON

Attorney General