

**FLSA-579**

May 15, 1975

This is in reply to your inquiry as to the status of the \*\*\* County Economic Opportunity Board under the Fair Labor Standards Act.

Enterprise coverage does not apply to the charitable, educational, religious, or similar activities of a private non-profit organization except where such activities are performed in connection with the type of institution set out in section 3(s)(4) of the Act. An economic opportunity board which is organized to administer a Federally assisted anti-poverty program would be considered an activity which is outside the enterprise coverage of the Act when operated by a private non-profit organization. It appears from the by-laws that the Board is a private non-profit corporation incorporated under the laws of New Mexico and not a "public agency" under section 3(x). A private corporation does not become a "public agency" because it receives and disburses federal funds.

Individual coverage would apply where employees are engaged in commerce or the production of goods for commerce under the Act. Such a program administered by a "public agency" as defined in section 3(x) would be covered under the amended Act. In reference to this latter situation see Solicitor's Opinions of November 26, 1974 (Bastrop County Community Action, Inc., of Smithville, Texas); December 16, 1974 (South Texas Family Planning Corp. of Corpus Christi, Texas); February 19, 1975 (Big Five Development Foundation, Inc., Ada, Oklahoma); and April 14, 1975 (Oneida County Community Action, New York).

Sincerely,

Warren D. Landis  
Acting Administrator  
Wage and Hour Division

P.S. It is assumed that Board employees are primarily "clerical" or "white collar" employees, and accordingly CWHSSA could have no application.