



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert K. Corbin

November 12, 1981

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ARIZONA ATTORNEY GENERAL

Chief Joseph Quigley, Chairman
Chief of Police
c/o City of Mesa Police Department
130 North Robson
Mesa, Arizona 85003

Re: I81-121 (R81-114)

Dear Chief Quigley:

We are writing in response to the letter of July 22, 1981, in which Mr. Hank Duffie asked whether the Comprehensive Data Systems Policy Board, established pursuant to A.R.S. §§ 41-2201-2206, is a budget unit and what its scope of authority is regarding entering into contracts with governmental and private entities. We think the Board is a budget unit within the meaning of A.R.S. § 35-101.5 and therefore must comply with all applicable requirements pertaining to budget units to the extent that its statutes authorize compliance. We also think the Board has limited power to contract with other entities.

Pursuant to A.R.S. § 35-101.5, a "budget unit" is defined as "a department, commission, board, institution or other agency of the state organization receiving, expending, or disbursing state funds or incurring obligations against the state." The Board is established by statute. It performs a governmental function of the state, has state-wide jurisdiction, and receives state funds.¹ Because the Board is an agency of the state organization receiving state funds, it qualifies as a budget unit. See Ariz. Atty. Gen. Op. I81-021.

As a budget unit, the Board must comply with the provisions governing budget units found in Chapter 1 of Title 35 of Arizona Revised Statutes. Moreover, as a budget unit, the Board must comply with other statutory provisions relating

1. Ch. 316 §12, 1981 Sess. Laws (First Reg. Sess.).

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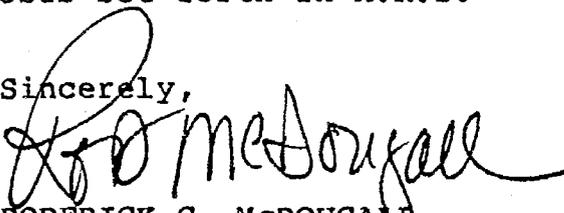
to budget units.^{2/} See Ariz. Atty. Gen. Ops. I81-021, I80-168, copies of which are attached for your information. We note, however, that the Board's powers are very limited. For example, the Board is not authorized to hire employees. Thus, it can comply only with those budget provisions pertaining to its own statutory powers.

In the enumeration of the Board's powers and duties, set forth in A.R.S. § 41-2203, the Board is not specifically granted the authority to enter into contracts. The Board, however, is given the discretionary authority to "[e]stablish joint research and information facilities with governmental and private agencies." A.R.S. § 41-2203.B.1. Because an agency has only the powers expressly conferred by or necessarily implied from its statutes,^{3/} the Board's power to contract depends on whether it may be necessarily implied from this statutory power.

The preferred method of establishment of joint facilities is through written contractual agreements which set forth the rights, duties, and obligations of all parties. A written contract is especially important in light of the sensitive criminal history record information that is the subject matter of the research and information. In fact, we doubt that the Board could carry out its duties without entering into various contracts.

Because the ability to contract is crucial to carrying out statutory authority, we think the Board has the implied authority to contract for the purposes set forth in A.R.S. § 41-2203.B.1.

Sincerely,


RODERICK G. MCDUGALL
Acting Attorney General

RGM:LPS:ta

2. With respect to applicability of the State Personnel System, A.R.S. § 41-761 et seq, to employees of the Board, the system manager is specifically exempt from those provisions by A.R.S. § 41-2204. Any other employees would, however, be covered.

3. See, e.g., Presley v. Industrial Comm., 73 Ariz. 22, 236 P.2d. 1011 (1951).