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ARIZONA ATTORNEY GENERAL

November 26, 1984

Mr. Michael J. Wolfe
Deputy Director
Arizona Department of Revenue
1700 West Washington
Phoenix, AZ 85007

Re: I84-160 (R84-176)

Dear Mr. Wolfe:

You have asked whether the Department of Revenue (DOR) is authorized to place printing orders with the Department of Administration (DOA) and whether DOR must seek bids for its printing through the State Purchasing Office. We conclude that the DOR is authorized to procure printing from the DOA and that, when DOR procures printing from DOA, DOR need not seek bids.

A.R.S. § 35-193.02 establishes a special services revolving fund which authorizes DOA to provide printing services to other state agencies and for transfer of funds to pay for those services, stating:

A. There is established a permanent revolving fund to be known as the department of administration special services revolving fund. The services covered by this fund shall include office supplies, office services, printing and other administrative or management services. Payments into the fund shall be made by state

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agencies which have been appropriated monies for the purpose of paying for services performed by the department of administration for other state agencies or to be performed by the department and for such other purposes as may be designated by the legislature. The amount of payments by the agencies shall not exceed the amounts budgeted to the agencies for such designated purposes.

* * *

C. The director [of administration] shall establish regulations regarding the time and manner in which payment shall be made into the fund by the state agencies to which appropriations are made in accordance with subsection A.

The Legislature has increasingly replaced line item appropriations with lump sum appropriations to most state agencies, including the Department of Revenue. Implicit in a lump sum appropriation to any agency is that the agency is authorized to expend a portion of that sum for the purchase of such office supplies, office services, printing and other like services as may be necessary for the agency to perform its statutory duties. Accordingly, a lump sum appropriation would include an amount "for the purpose of paying for services performed by the Department of Administration" under § 35-193.02. In answer to your first question, we conclude that, because the amount of the payments are not restricted by line item in the appropriation, the only restriction on the amount of money that could be used to pay the department of administration for such services would be the amount allotted to such services in the agency's allotment schedule under A.R.S. § 35-173.

State purchasing statutes, specifically A.R.S. § 41-730,^{1/} require competitive bidding for purchases of goods

1. We note that, effective January 1, 1985, this statute will be repealed by Laws 1984 (2nd Reg. Sess) Ch. 251, § 28, and replaced by pertinent provisions of the Arizona Procurement Code. A.R.S. § 41-2501 et seq.

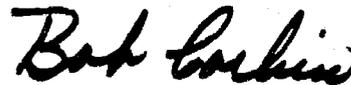
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and contractual services in excess of \$5,000.00 per transaction. We think, however, that the provision of printing services by DOA to another state budget unit is not a "purchase" of "contractual services" as that term is used by A.R.S. § 41-730. A.R.S. § 35-193.02 contemplates that DOA will provide certain supplies and services directly to other state agencies. Further, we think that A.R.S. § 35-193.02 is evidence that the Legislature intended that, whenever monies are budgeted and allocated for that purpose, state agencies should acquire directly from DOA the services and supplies specified by that statute.

Reading A.R.S. §35-193.02 together with § 41-730, we thus conclude that state agencies that are appropriated monies for the purpose of paying for printing may do so directly from DOA as long as the amount spent does not exceed the amount budgeted and then allocated under A.R.S. § 35-173. We similarly conclude that A.R.S. § 41-730 does not apply to this particular transaction.

Finally, we note that the Private Enterprise Bill, Laws 1981 (2nd Reg. Sess.), Ch. 321, neither prohibits state agencies from obtaining printing from the DOA Print Shop, nor prohibits DOA from offering such services to state agencies. It only prohibits a state agency from engaging "in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing or advertising of goods or services to the public . . ." (emphasis supplied). The printing would be done by one agency for another state agency and would not be provided "to the public."

Sincerely,



BOB CORBIN
Attorney General

BC:DR:lfc