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FILE NO. 84-014

FINANCE:  
Acquisition of Furniture  
Refinished by Department of  
Corrections' Correctional  
Industries

Michael P. Lane, Director  
Illinois Department of Corrections  
1301 Concordia Court  
Springfield, Illinois 62702

Dear Mr. Lane:

I have your letter wherein you inquire regarding the acquisition by State agencies of furniture refinished by the Illinois Department of Corrections' Correctional Industries. Specifically, you ask whether the cost of acquiring such furniture is properly paid from an agency's "contractual services" line item, or from its "equipment" line item. For the reasons hereinafter stated, I agree with your conclusion

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that payment is properly made from an agency's "contractual services" appropriation.

You state that the Department of Corrections' Correctional Industries obtains and refinishes furniture which has been disposed of by State agencies. When refinished, the furniture is sold to various State agencies for the cost of refinishing. Because the cost to the recipient agency is based solely on the expense incurred in refinishing the furniture, you conclude that the cost represents the "repair or maintenance" of property, and therefore is payable from a "contractual services" line item. It has been suggested, however, that because an agency receives usable furniture from the transaction, the cost is payable only from an "equipment" line item.

Section 15a of "AN ACT in relation to State finance" (Ill. Rev. Stat. 1983, ch. 127, par. 151a) provides in pertinent part:

"The item 'contractual services', when used in an appropriation act, means and includes:

\* \* \*

(b) Expenditures of \$5,000 or less for improvements to real property and expenditures for rental of property or equipment, repair or maintenance of property or equipment, utility services, professional or technical services, moving expenses incident to a new State employment, and transportation charges exclusive of 'travel' as herein defined;

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Section 20 of "AN ACT in relation to State finance" (Ill. Rev. Stat. 1983, ch. 127, par. 156) provides in pertinent part:

"The item 'equipment,' when used in an appropriation act, shall mean and include all expenditures for library books, and expenditures, having a unit value exceeding \$50, for the acquisition, replacement or increase of visible tangible personal property of a non-consumable nature, including livestock.

\* \* \*

Whether the cost of acquiring refinished surplus furniture is properly payable from a "contractual services" line item, or from an "equipment" line item, depends upon whether the transaction is characterized as the repair and maintenance of property, or the purchase of property. Reference to the provisions of the State Property Control Act (Ill. Rev. Stat. 1983, ch. 127, par. 133b1 et seq.) assists in determining the nature of the transaction.

The State Property Control Act authorizes the Director of the Department of Central Management services, as administrator, to supervise and control the use and disposition of State-owned real and personal property. Section 1.04 of the State Property Act (Ill. Rev. Stat. 1983, ch. 127, par. 133b4.1) provides:

"'Transferable property' means and includes all tangible personal property belonging to the State of Illinois in the possession, custody or control of any responsible officer or agency, which is not needed or usable by said officer or agency, including all excess, surplus, or scrap materials."

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Section 7.3 of that Act (Ill. Rev. Stat. 1983, ch. 127, par. 133b10.3) provides in pertinent part:

"The Administrator shall have charge of all transferable property and shall have authority to take possession and control of such property in order to transfer or assign any such property to any other State agency that has need or use for such property or to dispose of said property in accordance with Section 7 of this Act.

Responsible officers shall periodically report all transferable property at locations under their jurisdictions to the Administrator. The Administrator shall review such reports and arrange for physical examination of said property if necessary to determine if said items of transferable property should be transferred to another State agency, transferred to a central warehouse, or disposed of. The Administrator shall advise responsible officers of the results of these reviews as necessary.

\* \* \*

The Administrator shall maintain lists of transferable property and of State agency needs for such property and will transfer where appropriate listed transferable property to agencies listing their needs for such property as detailed by their responsible officers."

I assume, for purposes of your inquiry, that the furniture in question is obtained by the Department of Corrections in accordance with the provisions of the State Property Control Act.

Pursuant to section 7.3 of the State Property Control Act, the administrator is authorized to take possession and control of transferable property and to transfer or assign that property to another State agency. Thus, if furniture in the

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possession of one State agency is deemed surplus and transferable because of replacement, damage or other reason, the administrator may transfer such furniture to another State agency in need of it. If the recipient agency subsequently arranges to have the Department of Corrections' Correctional Industries repair and refinish such furniture, it is clear that any expense incurred would be payable from "contractual services", and not from "equipment".

Statutes must be reasonably construed, so as to be applied in a practical and common-sense manner. (Dugan v. Berning (1957), 11 Ill. 2d 353, 357.) When absurd consequences will result from a particular construction of a statute, that construction should be avoided. Illinois National Bank v. Chegin (1966), 35 Ill. 2d 375, 378.

The furniture in question is apparently subject to distribution to various State agencies under the provisions of the State Property Control Act. The administrator of that Act could transfer the furniture directly to a State agency other than the Department of Corrections, and no cost would be incurred for the purchase of the furniture. It is illogical and absurd to conclude that the cost of refinishing such furniture would properly be paid out of "contractual services", if transferred directly to the recipient agency, but may only be paid out of "equipment" if acquired from an intermediary agency,

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such as the Department of Corrections. The transfer of furniture to an intermediary agency does not materially alter the nature of the transaction, or the services received. In order to avoid this absurd consequence, the phrase "repair or maintenance of property" in the definition of the term "contractual services" should be construed to include the cost of acquiring refinished surplus furniture in the circumstances you have described.

Therefore, it is my opinion that payment for the cost of acquiring surplus furniture refinished by the Department of Corrections' Correctional Industries is properly made from a State agency's "contractual services" appropriation.

Very truly yours,

  
A T T O R N E Y G E N E R A L