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Honorable Linda Casey  
State Forester  
Alabama Forestry Commission  
Post Office Box 302550  
Montgomery, Alabama 36130-2550

Forestry Commission – Telecommunications –  
Exemptions

The Alabama Forestry Commission (“Commission”) is exempt under section 41-4-290 of the Code of Alabama from regulations of the Alabama Department of Finance in the acquisition of two-way radio communications equipment, systems, or networks to be used in furtherance of the Commission’s public safety and administration of criminal justice purposes.

Dear Ms. Casey:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Is the Alabama Forestry Commission exempt from regulations of the Alabama Department of Finance (“Finance”) governing the acquisition of telecommunications equipment, systems, and services by state agencies?

FACTS AND ANALYSIS

Your request states as follows:

The Alabama Forestry Commission maintains a statewide communications system used for dispatching employees and equipment to fight wildfires. Our system is also used to dispatch and coordinate the activities of approximately 1000 volunteer fire departments that work with our agency to suppress wildfires. In addition, our system is also used to communicate with and dispatch all law enforcement officers employed by the Commission. Our law enforcement officers are frequently called on to react quickly to investigate possible criminal activity regarding timber theft, the intentional setting of wildfires, and other law enforcement responsibilities.

Sections 41-4-280 through 41-4-293 of the Code of Alabama create Finance's Telecommunications Division. Finance is given broad authority to establish, coordinate, and approve the acquisition of almost all telecommunications equipment, systems, and related services by state agencies. ALA. CODE § 41-4-284 (2000). The Commission is not one of the entities specifically exempted from Finance's regulations governing the acquisition of telecommunications equipment, systems, and services. ALA. CODE §§ 41-4-291, 41-4-293 (2000). Another exemption, however, is provided for "two-way radio communications equipment, systems or networks operated by state agencies for purposes related to *public safety, the administration of criminal justice* or highway maintenance and construction operations." ALA. CODE § 41-4-290 (2000) (emphasis added).

This Office has stated that the Alabama Emergency Management Agency ("AEMA") is one of the state agencies that falls within the parameters of the exemption. Opinion to Honorable Bruce P. Baughman, Director, Alabama Emergency Management Agency, dated October 24, 2005, A.G. No. 2006-008. That opinion turned on the stated legislative purpose of the AEMA, which is "to provide for the common defense and to protect the *public* peace, health and *safety*" [ALA. CODE § 31-9-2 (1998) (emphasis added)] and the definition of "[e]mergency management" to prevent damage from disasters, which includes disasters caused by "*fire*." ALA. CODE § 31-9-3(1) (1998).

The Commission is similarly authorized to "take such measures as may be reasonable and practicable to prevent and suppress forest fires." ALA. CODE § 9-13-3(b) (2001) (emphasis added). In fact, section 9-3-18(a) of the Commission's statutes characterizes fire departments as "protect[ing] the health, *safety*, and welfare of the *public*." ALA. CODE § 9-3-18(a) (2001) (emphasis added). The Code of Alabama further defines "public safety agency" in the emergency

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communications districts statutes as “[a]n *agency of the State of Alabama, or a functional division of a political subdivision*, that provides *fire fighting*, rescue, natural or man-caused disaster, or major emergency response, law enforcement, ambulance, or emergency medical services.” ALA. CODE § 11-98-1(6) (Supp. 2007) (emphasis added).

Furthermore, in addition to its public safety function, the Commission engages in the administration of criminal justice. Commission employees appointed by the State Forester as forest law enforcement officers are peace officers with full police power anywhere in the state to arrest “any person who shall violate any of the laws of the State of Alabama or any rule or regulation” of the Commission. ALA. CODE § 9-13-10 (2001).

Accordingly, the Commission is an agency that operates two-way radio communications equipment, systems, or networks for purposes related to public safety and the administration of criminal justice as set forth in section 41-4-290 of the Code.

#### CONCLUSION

The Alabama Forestry Commission is exempt under section 41-4-290 of the Code of Alabama from regulations of the Alabama Department of Finance in the acquisition of two-way radio communications equipment, systems, or networks to be used in furtherance of the Commission’s public safety and administration of criminal justice purposes.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

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