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Honorable Richard J. Laird
Member, House of Representatives
1507 Bonner Drive
Roanoke, Alabama 36274

Finance Department -- Surplus Property -- Rescue Squads -- Rules and Regulations -- Randolph County

The authority to administer the disposition of state-owned surplus property for volunteer ambulance services and volunteer rescue squads passed to the Alabama Department of Economic and Community Affairs ("ADECA") with the enactment of Act 84-249, as codified in section 41-16-120, *et seq.*, of the Code of Alabama.

The Board of Health Ambulance Advisory Board and the Alabama Association of Rescue Squads, Inc., are authorized to screen state-owned surplus property for volunteer ambulance services and volunteer rescue squads, respectively. ADECA is empowered to promulgate rules necessary to implement and administer this program.

Dear Representative Laird:

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

QUESTION 1

Does the Alabama Department of Economic and Community Affairs administer the disposition of surplus state-owned property in light of the provisions of section 41-4-33.2 of the Code of Alabama?

FACTS AND ANALYSIS

Section 41-4-33.2 of the Code of Alabama was enacted in 1984 as Act 84-619. It states, in its entirety, as follows:

> (a) This section shall apply to voluntary nonprofit ambulance services and voluntary nonprofit rescue squads which are operated as a public service for the benefit of the citizens of this state. It is declared that said ambulance services and rescue squads are quasi-public entities that are entitled to receive and use public funds or property appropriated, donated or loaned to them by the state or any county or municipal governing body.
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> (b) All surplus property owned by the state to be disposed of by sale at auction by the Finance Department shall first be screened by the state Board of Health Ambulance Advisory Board created in Section 22-18-5, and the Alabama Association of Rescue Squads, Inc., to determine if such property may be of use by volunteer ambulance services or volunteer rescue squads respectively. If said entities find such property to be useful to voluntary ambulance services or rescue squads, then the state Finance Director shall loan said property to the voluntary services. The state Finance Director is authorized to promulgate necessary rules to implement this section.
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> (c) Any property transferred to a volunteer ambulance service or rescue squad under the provisions of this section shall be used exclusively for ambulance and rescue purposes. The use of any such property other than on the business of the volunteer ambulance service or rescue squad is expressly prohibited. Any violation of the provision of this section shall be a Class A misdemeanor punishable as provided under Title 13A.
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> Final disposition of all properties loaned as a result of this section shall rest with the Finance Department of the state.

ALA. CODE § 41-4-33.2 (2000).

The Legislature also passed Act 84-249, which was codified in sections 41-16-120, *et seq.*, of the Code of Alabama. This act created the Surplus Property Division of ADECA. Section 41-16-120 states, in pertinent part, as follows:

> (a) The Director of the Department of Economic and Community Affairs shall be responsible for the distribution, transfer, or disposal of all surplus personal property owned by the state and all right, title, interest, and equity in the property shall be transferred to the department for such purpose. The director may delegate to the Director of the Surplus Property Division such supervision and control of the distribution or disposal of state owned surplus personal property.
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> (e) The division shall have authority to sell surplus property at fair market value, as established by the division and set out in its published rules, to eligible entities as defined in subsection (b)(3). Payment for purchases by any of the eligible entities shall be made within 30 days after such purchase. Payment plans may be established at the discretion of the division director or his or her designee within guidelines approved by the Director of ADECA. If payment is not made within 60 days after a purchase, in cases where a payment plan has not been established, then such purchase shall be declared void and in default, and the property shall be returned immediately by the defaulting purchaser to the division.

ALA. CODE § 41-16-120 (Supp. 2010).

Reading the relevant parts of the two statutes, sections 41-4-33.2 and 41-16-120, there is a conflict in the administration of the disposition of certain types of surplus state-owned property when comparing the disposition of surplus property for use by volunteer ambulance services and volunteer rescue squads and the disposition of surplus property for other state agencies, generally. Under, however, the principles of statutory construction in Alabama, statutes should be construed so as to harmonize their provisions. *Ala. Dep't of Revenue v. Nat'l Peanut Festival Ass'n, Inc.*, 11 So. 3d 821, 829 (Ala. Civ. App. 2008). Further, "[i]n the event of a conflict between two statutes, a specific statute

relating to a specific subject is regarded as an exception to, and will prevail over, a general statute relating to a broad subject." *Id.* At 829-30.

Consequently, the specific provisions of section 41-4-33.2 should be read as exceptions to the broad provisions of sections 41-16-120, *et seq.*, and the provisions relating to the authority of the Board of Health Ambulance Advisory Board, on behalf of the volunteer ambulance services, and the Alabama Association of Rescue Squads, Inc., on behalf of the volunteer rescue squads, to screen surplus property and to obtain the use, by loan, of any useful equipment, as set out in chapter 4 of title 41, are still in effect and are an exception to the provisions contained in the present surplus property statutes.

In addition, the synopsis to Act 84-249 demonstrates a clear legislative intent that the disposition of state-owned surplus property be administered by ADECA. The synopsis to Act 84-249 reads, in pertinent part, that "[t]o provide that the department of economic and community affairs shall be the administrative state agency for contracts for sales of certain state property heretofore administered by the finance department." 1984 Act 84-249, 392, 392.

The specific exception found in subsection (b) of section 41-4-33.2 states that "[a]ll surplus property owned by the state to be disposed of by sale at auction by the Finance Department" is to be screened by the Board of Health Ambulance Advisory Board. ALA. CODE § 41-4-33.2 (2000). Upon the passage of Act 84-249, the authority to dispose of surplus property owned by the state was transferred to ADECA. Consequently, despite the exception to section 41-16-120 of the Code created for the Board of Health Ambulance Advisory Board and the Alabama Association of Rescue Squads, Inc., by section 41-4-33.2, the process of disposing of all state-owned surplus property lies with ADECA.

CONCLUSION

The authority to administer the disposition of state-owned surplus property for volunteer ambulance services and volunteer rescue squads passed to ADECA with the enactment of Act 84-249, as codified in section 41-16-120, *et seq.*, of the Code.

QUESTION 2

> Will volunteer rescue squads and volunteer ambulance services be allowed to screen state-owned surplus property?

FACTS AND ANALYSIS

As stated previously in this opinion, section 41-4-33.2 of the Code is construed as an exception to the provisions of Act 84-249 that created the Surplus Property Division at ADECA. In harmonizing these statutes, the right of the Board of Health Ambulance Advisory Board and the Alabama Association of Rescue Squads, Inc., to screen surplus property to determine if any such property might be useful to any volunteer ambulance service and volunteer rescue squad, respectively, would remain in force.

Section 41-4-33.2 empowered the named entities to screen surplus property "to determine if such property may be of use by volunteer ambulance services or volunteer rescue squads." ALA. CODE § 41-4-33.2 (2000). Section 41-4-33.2 further required the Finance Director to loan the selected surplus property to the "voluntary services." Reading the two statutes together, the authority to loan the selected surplus property remains, and ADECA is empowered to promulgate rules to implement and administer this program.

CONCLUSION

The Board of Health Ambulance Advisory Board and the Alabama Association of Rescue Squads, Inc., are authorized to screen state-owned surplus property for volunteer ambulance services and volunteer rescue squads, respectively. ADECA is empowered to promulgate rules necessary to implement and administer this program.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Mose Stuart, Legal Division, Department of Finance.

Sincerely,

TROY KING
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By:

Brenda F. Smith

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