

85-00436  
OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

JUL 15 1985

ADMINISTRATIVE BUILDING  
64 NORTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (205) 834-5150

JAMES R. SOLOMON, JR.  
DEPUTY ATTORNEY GENERAL  
  
WILLIAM M. BEKURS, JR.  
EXECUTIVE ASSISTANT  
  
WALTER S. TURNER  
CHIEF ASSISTANT ATTORNEY GENERAL  
  
JANIE NOBLES  
ADMINISTRATIVE ASSISTANT

Honorable Ray D. Bass  
Highway Director  
1409 Coliseum Boulevard  
Montgomery, Alabama 36130

State Agencies - Department of  
Corrections - Contracts

1. Alabama Correctional Industries can rehabilitate vehicles for public bodies with the costs being paid with local and federal funds.
2. When contracting with ACI, public body does not have to solicit bids.
3. Alabama Correctional Industries may not contract with private nonprofit corporations for the rehabilitation of vehicles.

Dear Mr. Bass:

The Attorney General received your request for an opinion regarding the rehabilitation of vehicles by Alabama Correctional Industries. The following facts and questions were set out in your letter:

"The Alabama Highway Department administers two federal transportation grants. The Urban Mass Transportation Administration Section 18 grant is a grant for general public transportation in which the Alabama Highway Department designates legal entities such as nonprofit corporations, counties, cities, etc., to enter into contract with the state to administer

Honorable Ray D. Bass  
Highway Director  
Page Two

the program under the contract. No contract can be entered into between the state and private enterprise, i.e., business corporations, due to federal restrictions. The Urban Mass Transportation Administration Section 16(b)(2) grant provides capital assistance to provide transportation to elderly/handicapped persons. In this case only private nonprofit corporations are eligible. In addition to the purchase of new transit vehicles, both programs allow the cost of vehicle rehabilitation/restoration.

The Alabama Department of Corrections has a division called Alabama Correctional Industries or ACI. ACI operates a vehicle rehabilitation facility in St. Clair County. Several entities who receive these federal funds by contract with the state through the highway department have expressed an interest in having vehicles rehabilitated by ACI. The Urban Mass Transportation Administration has approved the use of federal funds in projects involving convict labor. Your opinion as related to state law is requested for the following:

- 1) Can ACI rehabilitate vehicles for such contracting public bodies (i.e. county or city governments) with the cost being financed with federal and local funds?
- 2) If ACI can perform the work outlined in number 1 above must the public body solicit bids in accordance with state bid laws or may they contract with ACI without bids? Most vehicle rehabilitation costs are in the neighborhood of \$5,000.
- 3) Can ACI rehabilitate vehicles for such contracting private nonprofit corporations with the cost being financed with federal and local funds?
- 4) If ACI can perform the work outlined in number 3 above must the private nonprofit organization solicit bids in accordance with state bid laws or may they contract with ACI without taking bids?"

Honorable Ray D. Bass  
Highway Director  
Page Three

Your first question is to be answered in the affirmative. Code of Alabama 1975, Section 14-7-1 through Section 14-7-23 is the codification of the "Prison-Made Goods Act" which authorizes the Department of Corrections to utilize the services of prisoners in the manufacture and production of articles or products as may be needed or used by any office, department, agency or institution supported by the state and the political divisions thereof. (See Section 14-7-8). This Act was upheld as constitutional in Alabama Associated Industries, Inc. v. Britton, 371 So.2d 904 (Ala. 1979). In that case the conclusion was reached that prison enterprises established under the "Prison-Made Goods Act" are not designed as profit making operations. Therefore, it is the opinion of the Attorney General that Alabama Correctional Industries can rehabilitate vehicles for contracting public bodies with the costs being financed with federal and state funds.

In answer to your second question, the Attorney General has concluded on previous occasions that governmental agencies may contract with each other without taking competitive bids. In that ACI is part of the Department of Corrections, it is not necessary for a public body to solicit bids when contracting with ACI.

Regarding your third question, I can find no law that would permit ACI as part of the Department of Corrections to contract with private nonprofit corporations to perform services for such organization such as the rehabilitation of vehicles.

In that the answer to the above question is in the negative, it is not necessary to answer your final question.

I hope that your questions have been adequately answered.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK  
Attorney General

By:



LYNDA K. OSWALD  
Assistant Attorney General

LKO/dn