



JOHN C. DANFORTH  
ATTORNEY GENERAL

OFFICES OF THE  
ATTORNEY GENERAL OF MISSOURI  
JEFFERSON CITY

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OPINION LETTER NO. 49

Mr. Charles Shaffer, Director  
Division of Management Systems  
Office of Administration  
State Capitol Building  
Jefferson City, Missouri 65101

Dear Mr. Shaffer:

This letter is in reply to an official request for an Attorney General's opinion submitted by the past director of the Administrative Services section of the Division of Budget and Comptroller, Mr. Richard Murphy. Mr. Murphy inquired whether equipment used pursuant to a lease-purchase agreement by one executive agency of the state of Missouri could be transferred to another executive agency of the state of Missouri without said transfer being in conflict with some provision of state law, and, especially, the competitive bid requirements of Section 34.040, RSMo. Specifically, the question was whether the Division of Mental Diseases [Mental Health] could legally transfer an IBM 360/30 computer, which was the subject of a lease-purchase agreement between that executive agency and International Business Machines Corporation, to the Division of Health, another executive agency of the state of Missouri.

We have concluded that such a transfer is expressly authorized by the provisions of Section 34.140, RSMo, which provides in part as follows:

"The purchasing agent shall have the power to transfer supplies from any department where they are not needed to any other department where they are needed and to direct that proper charges and credits be made on the inventories of the departments concerned. . . ."

Mr. Charles Shaffer

The term "supplies" is defined "to mean supplies, materials, equipment, contractual services and any and all articles or things, except as in this chapter otherwise provided." Section 34.010, RSMo. This broad definition of "supplies" would include the IBM 360/30 computer which is the subject of the present inquiry.

In order to perfect the transfer of equipment, which was the subject of the original opinion request, it would only be necessary that the purchasing agent "direct that proper charges and credits be made on the inventories of the departments concerned." (You will please note that by operation of Section 26.300(3), RSMo Supp. 1971, Section 34.140, RSMo, when referring to the purchasing agent, shall be construed as referring to the Commissioner of Administration.)

Therefore, you are hereby advised that it is not contrary to any provision of state law for the Commissioner of Administration, acting in the role of purchasing agent, to transfer computer equipment from the Division of Mental Health to the Division of Health.

Yours very truly,



JOHN C. DANFORTH  
Attorney General