



OFFICES OF THE  
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JEFFERSON CITY

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OPINION LETTER NO. 77

Mr. George M. Camp, Director  
Missouri Department of Corrections  
State Capitol Building  
Jefferson City, Missouri 65101

Dear Mr. Camp:

This letter is in answer to your question asking:

"1. To what extent may the Director, on behalf of the Missouri Department of Corrections, State of Missouri solicit and/or negotiate involvement of public and private enterprise, corporate or otherwise, in the Departmental Mission?

e.g. A. May the Director lease all or part of the industrial facilities of the Department to a corporation pursuant to an agreement to:

- 1) Employ inmates at prevailing wage;
- 2) Institute an employee stock investment trust with vesting benefits to inmate employees;
- 3) Provide custodial supervision services (obligation on the Department).

e.g. B. May the Director negotiate with such an entity for payment to the State for room and board and other work related

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expenses or require the same as a condition precedent to participation in such a lease-labor agreement?

"2. If such a lease and agreement arrangement is authorized by Missouri statutes, would the marketing policies of the independent corporation be subject to the restrictions of Section 216.505, RSMo 1969?

"3. If such a lease and agreement arrangement is authorized, could the Department of Corrections agree to sell to the private corporation all inventories of completed goods, goods in process and raw materials on hand at the effective date of the lease agreement?"

You also state that:

"Various provisions of Chapter 216, RSMo 1969, indicate that emphasis should be given in Department of Corrections' programs to rehabilitating inmates and returning them to society with the capacity to be useful citizens. Under the present prison industries program an inmate receives a nominal wage as an incentive to assert himself in work assignments within the Division of Prison Industries. A program is now being considered through which inmate employees would receive a normal wage for their labor and a vesting share of ownership in the business through the establishment of an employee stock investment trust program. It is hoped that such a system would provide the motivation necessary to interest inmate employees in their assignments, thus developing the work habit and the experiences of success which are necessary to rehabilitation.

"The statement of the Departmental Mission is: The Mission of the Missouri Department of Corrections is to improve public safety by returning prior offenders to society as successful and productive citizens."

In answer to your first question, our examination of the provisions of Chapter 216, RSMo, relative to correctional institutions

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and in particular Section 216.475, RSMo et seq., relative to the Division of Prison Industries leads us to the conclusion that the Department of Corrections does not have the authority to enter into such an agreement.

The attitude of the General Assembly with respect to such labor and prison labor products is best exemplified by Section 216.505, RSMo, which provides:

"It shall be the policy of the state and of the division of prison industries to serve only the potential state and political subdivisions use market, and open market sales shall be discontinued as soon as possible, but in no event shall open market sales be made except in case of excess production and at prevailing market prices for goods of like quality and kind."

Thus, in the absence of express statutory authorization to enter into such arrangements and in light of the clear expression of legislative policy as indicated by the above section which leaves no room for argument respecting legislative intent, it is our view that the department does not have authority to make such agreements with private enterprise.

Yours very truly,



JOHN C. DANFORTH  
Attorney General