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MIKE MONCRIEF
STATE SENATOR
President Pro Tempore, Texas Senate

COMMITTEES
Chairman
HEALTH AND HUMAN SERVICES
Member
CRIMINAL JUSTICE
ADMINISTRATION

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OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION

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OPINION COMMITTEE

2486

RQ-0455 JC

October 16, 2001

CERTIFIED MAIL

RETURN RECEIPT REQUESTED #: 7000 0520 0024 8841 9518

The Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711

FILE # ML-42246-01

I.D. # 42246

Re: State Agency Contracting Authority

Dear General Cornyn:

As Chairman of the Senate Health and Human Services Committee, and at the request of a committee member, I am writing to request your opinion as to the authority of a state agency to enter into certain contracts that obligate the State's resources. Specifically, we request your opinion as to the authority of the Texas Commission for the Blind to enter into contracts with the United States Government that create financial exposure to the State for a multi-million dollar service agreement with the Federal Departments.

Background

As factual background, the Texas Commission for the Blind, pursuant to the Randolph-Sheppard Act, proposes to enter into contracts for the provision of multi-million dollar service agreements for cafeteria services. The Texas Commission for the Blind then contracts with a private individual to perform the services under the contract. The profits earned for the provision of services go to the private third-party with a set-aside fee to the State. Does the Texas Commission for the Blind have authority to enter into these contracts without financial assurance from the private individual proportionate to the potential liability under the contract between the State and the Federal Department? The office seeks an opinion from the Texas Attorney General as to whether this arrangement violates Article III, Section 50 of the Texas State Constitution, any other section of the Constitution, or any other statute or law.

Summary of Question

If the Texas Commission for the Blind enters into a multi-million dollar service agreement with the Federal Department for services to be provided to that Department, without adequate financial assurances from the third-party to protect the financial obligation of the State, does the agency violate Article III, Section 50 of the Texas Constitution, any other section of the Constitution, or any other statute or law.

Thank you for your attention to this matter and the opinion requested herein. Should you have any questions or require additional information, please do not hesitate to contact me or my Legislative Assistant, David Quin.

Sincerely,



Senator Mike Moncrief
Chair, Senate Health and Human Services Committee

cc: Terrell Murphy, Executive Director, Texas Commission for the Blind