



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

March 28, 1988

Mr. Marvin J. Titzman
Executive Director
Texas Surplus Property Agency
P. O. Box 8120
San Antonio, Texas 78208

LO-88-35

Dear Mr. Titzman:

You have asked whether article 6252-13b.1, V.T.C.S., which was House Bill No. 5 in the 70th Legislature, applies to the Surplus Property Board.

Article 6252-13b.1 requires state agencies that issue "permits" to adopt rules regarding the procedures by which the agency processes applications for and issues "permits." V.T.C.S. art. 6252-13b.1, §3. Section 2(1) defines "permit" as

any license, certificate, registration, permit, or other form of authorization, required by law or by state agency rules that must be obtained by a person in order to engage in a particular business.

The Bill Analysis on House Bill 5 prepared by the House Science and Technology Committee states:

The purpose of this bill is to require agencies that are responsible for issuing permits to adopt rules addressing the amount of time businesses needing permits will need to allot for that process to take place. The bill also instructs agencies to take into account the adverse effects of new rules on small businesses.

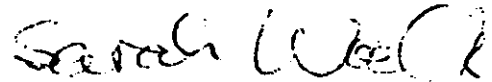
The Surplus Property Agency distributes surplus federal property to entities and institutions that qualify under federal law to receive surplus property. V.T.C.S. art. 6252-6b, §4(b). You state that the Surplus Property

Mr. Marvin J. Titzman
March 28, 1988
Page 2

Agency issues certificates of eligibility for participation in the surplus property program. See V.T.C.S. art. 6252-6b, §4(f) (Surplus Property Agency has authority to make certifications required by federal law). Under federal law the Surplus Property Agency may distribute surplus federal property: (1) for educational activities that are of special interest to the armed services; (2) for public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; and (3) to nonprofit educational or public health institutions or organizations. 40 U.S.C. §484(j).

In light of the entities and institutions that may receive federal surplus property and the purposes for which federal surplus property may be used, it is clear that the authority of the Surplus Property Agency to determine whether an entity or institution is eligible for surplus property is not authority to determine whether persons may engage in a particular business. Therefore, article 6252-13b.1 does not apply to the Surplus Property Agency, and certificates of eligibility issued by the Surplus Property Agency are not "permits" for purposes of article 6252-13b.1.

Very truly yours,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/bc

2638