the applicant for employment, and once employment is secured, the agency cannot control the actions of the employer or those of the employee. The operating facts of the agencies concerned indicate that there is no contract of employment with an independent concern and establish that these agencies themselves have the control of and right to terminate the services of their employees at the agency's will, or transfer such persons to other places of service. For this reason, it is my opinion that the applicants of the agencies involved, when accepted by the agency, become the agency's employees, under the control, management and supervision of the agency. These agencies do not act as procurer in securing employment for the applicant, but rather maintain a staff of their own employees, classified to furnish services to other persons or firms, for and on behalf of the agency.

See Mid-Continent Petroleum Corp. v. Vicars et al. (1943), 221 Ind. 387, 47 N. E. (2d) 972;
In re Moore (1933), 97 Ind. App. 492, 187 N. E. 219;

From the foregoing it is, therefore, my opinion that this type of agency is not an employment agency doing business for hire or with a view to profit as defined in the Employment Agency Licensing Act, supra.

OFFICIAL OPINION NO. 4

February 9, 1954

General H. A. Doherty
Adjutant General, State of Indiana
212 State House
Indianapolis, Indiana

Dear General Doherty:

This is in reply to your letter of 5 January, 1954, in which you inquire as to the following:

For what purposes may funds derived from the sale of armories or real estate be expended?
Acts of 1953, Ch. 187, Sec. 217, as found in Burns' Indiana Statutes (1952 Repl., 1953 Supp.), Section 45-1917 provides in part as follows:

“All money derived from the sale, conveyance or other disposition of any such real property shall be paid into the state treasury, but may be used for the purchase of other real property for armory purposes.”

Acts of 1953, Ch. 187, Sec. 215, provides as follows:

“All expenses incurred in the operation of state armories shall be paid out of the rentals, income, earnings and any and all other receipts of whatsoever character and such sums are hereby appropriated, or out of any other appropriation provided by law for the purpose of paying the expenses incurred in the operation of the several armories.”

Acts of 1953, Ch. 187, Sec. 229, provides for the retention by local armory boards of any and all receipts accruing by virtue of the operation of the said local armory.

It is to be noted that Section 217, supra, provides that all money derived from the sale of real property shall be paid into the state treasury. It provides further that this money may be used for the purchase of other real property for armory purposes, and it is axiomatic that funds may not be expended unless the expenses are within the provisions of an appropriation.


The only provision dealing with the expenditure of funds derived from the sale of armory real estate mentions only the purchase of other real property for armory purposes. Section 217, supra, is an appropriation.


It is therefore my opinion that in the absence of additional legislation funds derived from the sales of armories or real estate may only be expended in pursuance of Section 217, supra, and that is for the purchase of other real estate for armory purposes.