

STATE PURCHASING AGENT: No authority to sign contract for architectural services for construction of Missouri Building at 1939 New York World's Fair.

May 4, 1938 9/17



Mr. George Blowers
State Purchasing Agent
Jefferson City, Missouri

Dear Mr. Blowers:

This Department wishes to acknowledge your request for an opinion under date of April 7, 1938, wherein you state as follows:

"Please note the attached copy of a letter which I received from Jamieson and Spearl, Architects, on the Missouri building to be constructed at the New York World's Fair, 1939.

Please advise whether or not the signing of the contract comes under the jurisdiction of this office."

Laws of Missouri 1933, pages 411-414, hereinafter referred to as the Act, creates a State Purchasing Agent, and in Section 2 of said Act grants him the following authority:

"The Purchasing Agent shall purchase all supplies except printing, binding and paper, as provided for in Chap. 115, R.S. 1929, for all departments of the State, except as in this Act otherwise provided. He shall negotiate all leases and purchase all lands, except for such departments as derive their power to acquire lands from the Constitution of the State."

Section 10 of said Act declares all contracts in violation of said Act void, as follows:

"Whenever any department or agency of the state government shall purchase or contract for any supplies, materials, equipment or contractual services contrary to the provisions of this Act or the rules and regulations made thereunder, such order or contract shall be void and of no effect. The head of such department or agency shall be personally liable for the costs of such order or contract, and, if already paid for out of state funds, the amount thereof may be recovered in the name of the state in an appropriate action instituted therefor."

Section 11 of said Act defines among other terms that of "contractual services", as follows:

"The term 'supplies' used in this Act shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things, except as in this Act otherwise provided. Contractual services shall include all telephone, telegraph, postal, electric light and power service, and water, towel and soap service. The term 'department' as used in this Act shall be deemed to mean department, office, board, commission, bureau, institution, or any other agency of the State."

It is not necessary, as we view it, to determine whether contractual services as above defined is broad enough to include a contract for architectural services, the reason being that the Legislature in 1937 (Laws of Missouri 1937, page 397) created a New York World's Fair Commission, and invested in them the following powers and duties (Section 3):

"Such commission shall proceed as speedily as practicable to arrange for the active participation by the State of Missouri in the New York World's Fair of 1939. It shall select an appropriate site and make all arrangements, by lease or otherwise for a suitable State exhibit on the lands upon which such Fair is to be held, let all contracts required in its discretion for the construction and maintenance thereof, and perform such other acts, including the acquisition by gift, loan, purchase or otherwise, collection and transportation of such exhibit of the State, as may be necessary to insure suitable participation by the State in such Fair and to carry into effect the purpose of this act, including such proper disposition of such exhibit as they may deem advisable at the close of said exposition. The appropriate State Departments shall perform such duties in carrying out the provisions of this act as the commission requires."

In the case of State ex rel. Buchanan County vs. Fulks, 247 S.W. (2) 129, 1. c. 132, 296 Mo. 614, the Court in holding that a special statute, if later than the general statute relating to the same subject matter, will be regarded as an exception to, or qualification of the prior general one, said:

"Where the special statute is later, it will be regarded as an exception to, or qualification of, the prior general one; * * * *"

Mr. George Blowers,

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The Act creating the New York World's Fair Commission being a special statute and of a later date than the State Purchasing Agent Act, which is a general statute, will be regarded as an exception to, or qualification of the prior general one as it relates to authority to enter into contracts for services.

The Legislature having granted the New York World's Fair Commission the power to enter into all contracts relating to the construction of buildings to house Missouri exhibits, we are of the opinion that the authority to sign the contract for architectural services in connection with the construction of the Missouri Building at the 1939 New York World's Fair does not come within the jurisdiction of the State Purchasing Agent.

Respectfully submitted,

MAX WASSERMAN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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