

COMMISSIONER OF PUBLIC PRINTING: Not required to furnish blank paper to any departments.

June 18, 1942

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Mr. John A. Ferguson  
Acting Chairman  
Public Service Commission of Missouri  
Jefferson City, Missouri



Dear Sir:

We are in receipt of your request for an opinion under date of May 4th, with enclosures.

Briefly stated the question presented by you is whether the Commissioners of Public Printing are required to furnish to the Public Service Commission for official business mimeograph paper on which no printing appears. Enclosed with your letter are a requisition for blank paper, addressed to the Commissioners of Public Printing, requesting 10,000 sheets of mimeograph paper; a letter from the Commissioners of Public Printing, dated April 28, 1942, addressed to the Honorable Frederick Stueck, Chairman, Public Service Commission; and two memoranda from the Counsel of the Public Service Commission, addressed to the Chairman, on the subject about which you inquire.

To assist in the determination of the exact duties of the Commissioners of Public Printing we have had recourse to the original act creating that body and the title contained thereon. We find the title set out in Laws of Missouri, 1870, at page 79, as follows:

"An act to provide for the execution and supervision of the state printing and binding, and abolishing the office of public printer."

We call your attention to the fact that the title of the act makes no reference to the furnishing of any materials

other than those to be subject to the processes of printing and binding. After providing that the Secretary of State, State Auditor and State Treasurer shall be the Commissioners of Public Printing, the act defines various classes of state printing. This is Section 14976, R. S. Mo. 1939, which is as follows:

"The printing for the state shall be divided into three classes, to be let in separate contracts, as follows: The printing of all bills in bill form for the two houses of the general assembly, together with such resolutions and other matters as may be ordered by the two houses, or either of them, to be printed in bill form, the printing of all reports and all communications and other documents ordered by the general assembly, or either branch thereof, other than such as shall be printed in pamphlet form, shall constitute the first class, and shall be let in one contract. The printing of the journals of the senate and house of representatives, and of such reports, communications and other documents as enter into and make a part of the journal, or the appendixes thereto, all reports and all communications and other documents ordered by the general assembly, or either branch thereof, or by the executive departments, to be printed in pamphlet form, together with the volumes of public documents, the printing of the general and local laws and joint resolutions, shall constitute the second class, and shall be let in one contract. The printing of all blanks, circulars and other work necessary for the use of the executive departments, other than such as shall be printed in pamphlet form, shall constitute the third class, and be let in one contract: Provided, that the general assembly or either house thereof may, by resolution, change the form of any printing that may be ordered by such house, and the class to which such form of printing shall belong shall determine the price to be paid therefor."

Briefly stated this section divides the state printing, over which the Commissioners have supervision, into three classes. In the third are found the materials which the executive departments usually require. The sections following provide in great detail the exact manner in which the state printing shall be done. In some instances the type to be used is set out. The law also provides for the binding contracts, for all legislative journals and such other book work as may be ordered by the proper authorities.

Section 14992, R. S. Mo. 1939, sets out the duties of the Commissioners and requires them to examine the proof sheets of all work, keep an accurate account of all paper delivered to the public printer, to see that full number of copies of each job is delivered to the proper department, and finally to audit all accounts for printing and binding under the provisions of Chapter 120, R. S. Mo. 1939.

Section 14997, R. S. Mo. 1939, specifically deals with the paper for the state printing, and is as follows:

"The paper for the state printing aforesaid, and stationery for the use of the executive departments, shall be in the custody and under the control of the secretary of state, who is hereby required to keep an accurate account of his receipts and issue thereof, and he shall keep the books and records of the commissioners of the public printing, spreading therein the minutes of their various meetings, and full copies of all bills of paper or stationery purchased by the state. For this purpose he shall weigh and count articles as they come in, entering them in a stock book kept for that purpose. He shall from time to time, as the same may be needed, deliver over to each contractor suitable paper for the printing which said contractor is required by his contract to do, and he shall before the issue of such paper, if necessary, cut it to such a size as may be fairly covered by different forms of type, so as to reduce the amount of presswork to a reasonable basis. He shall take

and preserve from each contractor a receipt for all paper so delivered, and at the annual settlement, on or before the first day in July, each contractor shall deliver to the secretary of state all paper which has not been used in the state printing; and if any such paper shall have been wasted or converted to any other use, the contractor to whom the same shall have been delivered shall be charged with the value thereof, together with a penalty of fifty per cent, and the amount shall be deducted from his account: Provided, that it is hereby made the duty of the secretary of state to issue paper to the state contractor or contractors only upon requisitions for the exact amount needed for each separate job of work, as nearly as may be ascertained, and to take back into the general stock of the state such paper as may be left over after each job is completed. And as full compensation for his services as custodian and supervisor of the printing, paper and stationery of the state, the said secretary of state shall receive the sum of two hundred and fifty dollars per annum."

In two places in this section mention is made of delivery of paper in the possession of the Secretary of State as accountant for the Commissioners of Public Printing. In each instance the delivery referred to is limited to the state contractor. In one clause he is required to "deliver over to each contractor suitable paper for the printing which said contractor is required by his contract to do," and in the other "to issue paper to the state contractor or contractors only upon requisitions."

In the final section of the chapter, Section 14999, R. S. Mo. 1939, the Commissioners are required to contract for all paper to be used for the state printing in the following language:

"The commissioners of printing shall on or before the first day of July of each

year give notice that sealed proposals will be received at the office of the secretary of state for the paper for the state printing, for stationery for both branches of the general assembly and for each and all of the state departments and bureaus for the term of one year from the first day of July. In said proposals shall be distinctly and specifically stated the price per ream for the book paper for the state printing, the price per ream for all other paper and the price per article, dozen, gross or quantity for all articles of stationery required for the general assembly or either house thereof, and for the state departments and bureaus. Each proposal shall be accompanied by a bond executed in due form by the bidder with at least two good and sufficient sureties satisfactory to the commissioners of printing in the penal sum of ten thousand dollars, conditioned for the faithful performance, pursuant to this chapter, of his or their contract, and for the payment as liquidated damages by such bidder or bidders to the state of any excesses or costs over the bid or bids of such bidder which the state may be obliged to pay for such paper or stationery by reason of the failure of such bidder to complete his contract. No bid unaccompanied by such bond shall be entertained by the commissioners of printing. If the commissioners of printing shall have reason to believe that at any letting of contracts for paper or stationery the bidding therefor is unfair, fraudulent or exorbitant, they shall, if they deem it for the interest of the state, set aside said bidding and relet the contract. In the meantime they shall provide for the paper for the state printing and for the stationery for the general assembly and the executive departments."

No where in the entire chapter relating to the Printing Commissioners do we find any specific duty devolving upon them to furnish paper to any other than the State Printing Contractor, and we believe that the prices to be obtained under the last section above cited relate to all sizes and kinds of paper on which it is contemplated that printing in some form will be required. We find no provision in the chapter which could be extended to refer to any paper except that which is to be furnished to the printer under a requisition by some department, bureau or state officer. The appropriations made by the 61st General Assembly disclose the following to the Commissioners of Public Printing (Laws of Missouri, 1941, page 131):

"There is hereby appropriated out of the State Treasury, chargeable to the General Revenue fund, the sum of Two Hundred Twelve Thousand Five Hundred Dollars (\$212,500.00) for the use of the Commissioners of Public Printing as follows:

"Printing Reports and Documents. . . . .	.\$ 37,500.00
"Purchase Paper for State Printing . . . . .	<u>175,000.00</u>
"Total . . . . .	\$212,500.00"

We direct your attention to the fact that the paper to be purchased under this act is limited to that "for state printing." Furthermore, the last General Assembly made an appropriation to the Secretary of State for stationery and office supplies to the executive offices of the state and the Supreme Court "for stationery and office supplies," which, if the opinion of counsel for the Public Service Commission is correct, must necessarily be included in the articles to be furnished by the Commissioners of Public Printing. We agree that modern definitions of the word "stationery" include all writing materials, blanks, books, envelopes, ink, paper, pens etc., (59 C. J. 336; 40 Words & Phrases, page 78).

The appropriation just referred to is found in Laws of Missouri, 1941, page 128, and is as follows:

"Materials and Supplies consisting of stationery and office supplies for the executive offices of the State and Supreme Court . . . . . \$12,000.00"

We also call your attention to an item included in the appropriation for the Public Service Commission found at page 51, Laws of Missouri, 1941, as follows:

"General expense: including communication, printing and binding, insurance and premium on bonds, transportation of things, travel within and without the state and other general expense, material and supplies; consisting of stationery, library and office supplies . . . . \$7,162.00"

It is the conclusion of this Department that the duties of the Commissioners of Public Printing require them to furnish only such paper as may be requisitioned by the various departments, bureaus and officers to be delivered to the State Printing Contractor and upon which the latter is to perform work under his contract, and they are not required to furnish blank paper directly to any department, bureau or officer.

Respectfully submitted,

ROBERT L. HYDER  
Assistant Attorney-General

APPROVED:

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ROY MCKITTRICK  
Attorney-General

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