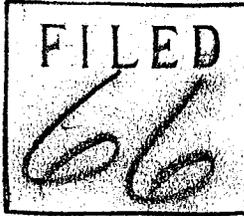


STATE PURCHASING AGENT: Purchasing agent does not have the duty to let contracts for the erection of state educational buildings.



March 17, 1954

Honorable Edgar C. Nelson
State Purchasing Agent
State Capitol Building
Jefferson City, Missouri

Dear Mr. Nelson:

Reference is made to your request for an official opinion of this office which request reads, in part, as follows:

"Please advise me as to whether the Division of Procurement is charged with the responsibility of letting contracts for the erection of state educational buildings. * * *"

You inquire whether the Division of Procurement is charged with the responsibility of letting contracts for the "erection" of state educational buildings. The provision relating to the Division of Procurement are contained in Chapter 34, RSMo, 1949, and we refer briefly thereto.

Section 34.030, relating to the duties of the Purchasing Agent provides that said officer shall purchase all supplies for all departments of the state except as otherwise provided and that he shall negotiate all leases and purchase all lands except for such departments as derive their power to acquire lands from the Constitution. Said section more fully provides:

"The purchasing agent shall purchase all supplies for all departments of the state, except as in this chapter otherwise provided. The purchasing agent 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."

Honorable Edgard C. Nelson

Section 34.010 defines the terms "suppliers" "contractual services" and "department" as follows:

"1. The term 'supplies' used in this chapter shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things, except as in this chapter otherwise provided.

"2. 'Contractual services' shall include all telephone, telegraph, postal, electric light and power service, and water, towel and soap service.

"3. The term 'department' as used in this chapter shall be deemed to mean department, office, board, commission, bureau, institution, or any other agency of the state, except the legislative and judicial departments."

As we view the above noted sections we do not believe that the duty or responsibility for the letting of contracts for the "erection" of state educational buildings devolves upon the state purchasing agent inasmuch as the term "contractual services" has been limited to telephone, telegraph, postal services, etc., as above enumerated, would preclude under the doctrine "expressio unius est exclusio alterius," services under a contract for the erection of buildings. We have likewise examined the statutes relating to state educational institutions and find nothing therein which would require the state purchasing agent to negotiate and let contracts for the erection of buildings.

You further inquire as to what buildings fall within the jurisdiction of the superintendent of public buildings (we assume as indicated by the first question above noted that you inquire in regard to erection). In this regard we respectfully direct your attention to Section 27.040, RSMo. 1949, which provides that the Attorney General "shall give his opinion in writing to * * *the head of any state department * * *upon any question of law relative to their respective offices or the discharge of their duties." Since we have above noted that the state purchasing agent has no duties in regard to the erection of state educational buildings, and since the authority and duties of the Director of Public Buildings would not involve the duties of your office we will, at this writing, decline to answer the latter question.

Honorable Edgar C. Nelson

CONCLUSION

Therefore, it is the opinion of this office that the Division of Procurement is not charged with the responsibility of negotiating and letting contracts for the erection of state educational buildings.

This opinion, which I hereby approve, was written by my assistant, Mr. Donal D. Guffey.

Yours very truly,

JOHN M. DALTON
Attorney General

DDG:mw