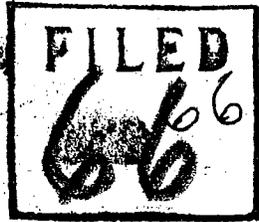


STATE PURCHASING
AGENT:
DIVISION OF PROCUREMENT:



The failure of a department to make such reports as are required by law would not relieve the State Purchasing Agent from his duty of maintaining a current inventory of removable property owned by the state. Further, the duty to maintain such inventory does not extend to removable property purchased by those departments not subject to the State Purchasing Agent's Act, and obtained under such exemption.

October 10, 1956

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

Dear Mr. Nelson:

This will acknowledge receipt of your recent request for an opinion which reads as follows:

"In Section 34140, Revised Statutes of Missouri, 1950, the State Purchasing Agent is directed to 'keep currently an inventory of all moveable equipment owned by the State'.

"At the beginning of each new fiscal year I send notices to all departments, institutional and commission heads for whom I buy supplies and service as State Purchasing Agent, requesting them to send in an up to date inventory. I have received very meager responses even though they are notified more than once.

"In attempting to get these inventories have I fulfilled my duty as set out in the section referred to? If not, what further steps should I take to comply with the directive?

"Incidentally, I have never been clear as to whether the directive includes those divisions of state that do their own buying, namely the Highway Department, the University and the Legislature. Please give me your opinion on this situation."

Section 34.140, to which you refer, reads as follows:

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"The purchasing agent shall have the power to transfer supplies from any department where they are not needed to any other department where they are needed and to direct that proper charges and credits be made on the inventories of the departments concerned. He shall also have power, subject to the same provisions as for bids for purchases, to sell any surplus or unneeded supplies or property in his hands or owned by the state or any department thereof. He shall keep currently an inventory of all removable equipment owned by the state."

Under date of June 7, 1947, this office issued an official opinion to Mr. William L. Smith, State Purchasing Agent, holding that it is the duty of the State Purchasing Agent under the above-named section to maintain a current inventory of removable equipment owned by the state. Said opinion further points out that in order to effectuate the obtention of such information, the State Purchasing Agent is empowered under the provision of Section 34.120 to require reports from the various departments. Thus, it is seen that it is the mandatory duty of the various departments, subject to the provisions of the State Purchasing Agent's Act, to make such reports of supplies on hand as may be required by the State Purchasing Agent. A copy of said opinion is enclosed herewith for your information.

Therefore, while we are of the opinion that it is entirely correct and proper to require such information as the State Purchasing Agent may deem necessary, by written notice directed to the various departments, we feel that it would be advisable, in any instance where there has been a failure to comply, to follow up with a personal contact in order that the need for and duty of filing such reports may be fully understood by all concerned. Therefore, in the event that a department fails to comply with the proper request, compliance could be obtained by appropriate legal proceedings. In other words, we do not believe that the failure of the department to make such reports as are required by law would relieve the State Purchasing Agent of his duty to maintain a current inventory of all removable equipment owned by the state.

Your next inquiry is whether the inventory required by Section 34.140 should include those departments of the state that do their own buying. You specifically refer to the Highway Department, the University, and the State Legislature. Here again we direct your attention to the enclosed opinion. Said opinion

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holds that the State Purchasing Agent is not required to keep an inventory of removable equipment under the control of departments specifically exempted from the provisions of the State Purchasing Agent's Act. The departments specifically exempted are the Legislative and Judicial Departments. (Sec. 34.010 RSMo 1949).

We are of the opinion that the reasoning contained in such opinion would likewise be applicable to other departments which, though not specifically mentioned in the exemption provision, are otherwise exempted, but only to the extent that the exemption applies.

CONCLUSION

Therefore, it is the opinion of this office that the failure of a department to make such reports as are required by law would not relieve the State Purchasing Agent from his duty of maintaining a current inventory of removable property owned by the State.

We are further of the opinion that the duty to maintain such inventory does not extend to removable property purchased by those departments not subject to the State Purchasing Agent's Act, and obtained under such exemption.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donal D. Guffey.

Very truly yours,

John M. Dalton
Attorney General

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