

PURCHASING:
AGENT:

Cannot prescribe manner of payment of rental accounts; nor is certification required under Sec. 14592, Laws 1943, p. 1005, on rental accounts.

January 11, 1944.



Hon. Forrest Smith
State Auditor,
Jefferson City, Missouri.

Dear Sir:

This will acknowledge receipt of your letter of December 3, 1943, presenting for our opinion the following questions:

(1) Does the State Purchasing agent have the right to require rental claims, on leases negotiated by him for the Unemployment Compensation Commission, to be approved by the Purchasing Agent before the claim may be paid by the Auditor?

(2) Is it necessary under Section 14592, Laws 1943, p. 1005, that the Unemployment Compensation Commission furnish to the purchasing agent a certificate that an unencumbered balance remains in its appropriation and allotment to pay rentals, in submitting its rental statements for payment?

Section 14590, R. S. Mo. 1939, provides:

"The purchasing agent shall purchase all supplies except printing, binding and paper * * * for all departments of the state, except as in this chapter 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." (Underscoring ours).

Section 14591, R. S. Mo. 1939, provides in part:

"The purchasing agent shall make rules * * * governing the manner in which all claims for supplies delivered shall be submitted, examined, approved and paid."

Under these provisions it appears that the purchasing agent is to purchase all supplies, negotiate all leases and make rules governing how claims for supplies delivered shall be submitted, approved and paid. The first question seems to turn upon whether rental claims for quarters used is "supplies delivered" within the meaning of Section 14591. In resolving this question we first note that Section 14590 uses both the terms "purchase all supplies" and "negotiate all leases" and it would therefore seem that the word "supplies" as there used does not include "leases". To consider it otherwise is to impute to the General Assembly the use of superfluous language, for if the word "supplies" includes "leases" the use of the word "leases" was unnecessary. However, we are not left without a definition of "supplies". Section 14599 provides:

"The term 'supplies' used in this chapter shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things * * *. Contractual services shall include all telephone, telegraph, postal, electric light and power service, and water, towel and soap service.* *".

We cannot find any definition of these terms which would permit us to construe rent of quarters as included. The only possible application would be the term "contractual services" but we find nothing to indicate that "services" means "quarters rented." The statutory definition of "supplies" not including rentals, and in view of the distinction made in Section 14590 between "supplies" and "leases", we are of the opinion that the rule making power vested in the purchasing agent does not authorize him to prescribe the manner in which rental statements shall be submitted, examined, approved and paid.

This conclusion also covers your second question. Section 14592, Laws 1943, p. 1005, provides:

"The purchasing agent shall not furnish any supplies to any department without first securing a certification for an official of the department, * * * that an unencumbered balance remains in the appropriation and in the allotment to which the same is to be charged, suffi-

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cient to pay therefor."

Supplies not including rent of quarters, then this section has no application to require such certification in connection with leasing of quarters.

CONCLUSION.

Therefore, it is our opinion that the purchasing agent does not have authority to prescribe the manner in which a department's statements of rental accounts on quarters rented shall be submitted, examined, approved and paid; nor does a department have to submit a certification as to a sufficient appropriation and allotment to the purchasing agent in connection with these payments. In order that we are not misunderstood, we wish to say that this opinion does not deal with any requirement in respect to the negotiation of leases.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK
Attorney-General

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