

DIVISION OF PROCUREMENT: State purchasing agent to contract for maintenance service of equipment.

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Mr. William L. Smith
State Purchasing Agent
Division of Procurement
Jefferson City, Missouri

9.30

Dear Sir:

Reference is made to your request for an official opinion of this office, reading as follows:

"I would appreciate your opinion as to whether or not the State Purchasing Agent has the right to contract for any maintenance service, such as Elevator service, Typewriter or Adding Machine and other contract services pertaining to the up keep of State equipment, or any equipment operated by electric power."

Your attention is directed to Section 64 of an act found in Laws of Missouri, 1945, page 1428, which reads as follows:

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

Also to Section 73 of the same act, reading 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, except the legislative and judicial departments."

Upon reading the foregoing sections, it is noticed that insofar as the purchase of electrical power is concerned, such purchases are to be made by the State Purchasing Agent, inasmuch as contractual services of that type have been specifically included. We, therefore, reach the conclusion that it is the duty of the State Purchasing Agent to negotiate all contracts for the acquisition of electric power required by any of the various governmental departments subject to the provisions of the statute relating to the Division of Procurement.

We think, too, that maintenance services of the types referred to in your letter of inquiry are completely within the meaning of the term "supplies" as used in the act. While technically, perhaps, a contract for the maintenance of elevators, adding machines, comptometers, typewriters and similar equipment is not strictly within the ordinarily accepted definition of the term "supplies," yet we believe that an examination of the entire act relating to the Division of Procurement indicates a legislative intent that the State Purchasing Agent acquire, on behalf of the various governmental departments, all items of a currently expendible nature. Giving due regard to the fact that contracts of the type here under consideration are normally entered into upon an annual basis and simply provide for the periodical inspection of such equipment and replacement of parts necessary to maintain the same in operating condition, it seems that the substance of the purchases made thereunder may well be deemed to be included within the term "supplies."

CONCLUSION

In the premises we are of the opinion

(1) That it is the duty of the State Purchasing Agent to negotiate all contracts for the acquisition of electric power for the governmental departments subject to the provisions of the act relating to the Division of Procurement; and,

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(2) That it is the further duty of the State Purchasing Agent to negotiate all contracts for the maintenance of elevators, typewriters, comptometers and similar office machines wherein the subject matter of such contracts relates to the periodical inspection and replacement of necessary parts of such equipment on behalf of the governmental departments subject to the provisions of the act relating to the Division of Procurement.

Respectfully submitted,

WILL F. BERRY, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General *WFB*

WFB:VLM