

COLLEGE BOOK STORES:  
STATE PURCHASING OFFICE:

Funds expended by any public institution owned, managed or controlled by the state are subject to Sections 216.475 through 216.520, RSMo Cum. Supp. 1957, whether appropriated or local.



May 22, 1958

Honorable Elwood Long  
State Purchasing Agent  
First Floor, Capitol Building  
Jefferson City, Missouri

Dear Mr. Long:

This is in reply to Mr. Edgar C. Nelson's letter of January 17th, 1958, in which was submitted a request for an opinion of this office as follows:

"Please ascertain by proper inquiry to the State Purchasing Office whether Section 216.475 through 216.520, R. S. Mo. 1949, pertaining to sale of products of prison industries in Missouri, applies to local funds of the College as distinguished from appropriated funds. I will illustrate my question as follows: If the Business Manager of the College needs a new desk to be paid for by appropriated funds, the case would be clear that the statute applies. Suppose the College Bookstore needs a new desk, and that it is to be paid for by proceeds of student purchases at the Bookstore; would the statute apply?

One section of the statute carries an inference that only purchases from appropriated funds are covered since it is provided that 'no claims for the payment of such articles shall be audited or paid without this certificate' (of non-availability)."

We believe that Section 216.510 of the Revised Statutes of Missouri, Cumulative Supplement 1957, is the controlling law in this problem, and we quote the first two paragraphs of that section:

Honorable Elwood Long

"1. All articles manufactured in the penal institutions of the state and not required for use therein may be furnished to the state, to any public institution owned, managed or controlled by the state, or to any political subdivision of the state, or to any institution thereof, at such prices as shall be determined as herein provided upon the requisition of the proper official or purchasing agent.

"2. No article so manufactured shall be purchased from any other source for the state or public institutions of the state unless the division of prison industries shall certify that the articles included in the requisition cannot be furnished or supplied within sixty days, or, in the event the same articles cannot be procured on the open market within sixty days, that the division cannot supply them within a reasonable time and no claims for the payment of such articles shall be audited or paid without this certificate. One copy each of the requisition or certificate shall be retained by the department."

We wish to particularly call your attention to the words in the first paragraph to the effect that the articles may be furnished to any public institution owned, managed or controlled by the state. We believe that these are the words which would be decisive in determining whether funds used by the state college should be expended in conformity with Sections 216.475 through 216.520, rather than any inference which we might draw with regard to appropriated or non-appropriated funds. It would be overlooking the ownership, management or control entirely, we feel, to hold that expenditures from local funds would not be subject to the provisions of paragraph two of Section 216.510. Paragraph two clearly states that no article so manufactured (articles manufactured in the penal institutions of the state) shall be purchased from any other source for the public institutions of the state unless by the exception of non-availability as is provided for in paragraph two. We see nothing in the law stating that these sections are applicable only when an audit is made by the state comptroller.

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CONCLUSION

It is the opinion of this office that in the expenditure of local funds by a public institution owned, managed or controlled by the state, such as Southwest Missouri State College Bookstore, such expenditure must be in compliance with Sections 216.475 through 216.520, Revised Statutes of Missouri, Cumulative Supplement 1957. It is the aspect of ownership, management and control of that public institution which determines the applicability of these sections to those purchases of articles manufactured in the penal institutions of the State of Missouri.

Very truly yours,

John M. Dalton  
Attorney General

JBS:om