

OPINION 45

OFFICIAL OPINION NO. 45

December 31, 1969

Mr. William H. Lanham
Commissioner of Labor
1013 State Office Building
Indianapolis, Indiana

Dear Mr. Lanham:

This is in response to your request for an Official Opinion concerning the interpretation of Acts of 1969, Ch. 140, as found in Burns' (1969 Supp.), Section 53-108. Your specific question concerns whether the words "cost of such work" shall include the materials alone or whether it includes materials and labor.

It is my opinion that "cost of such work" includes both materials and labor.

The section of the statute in question reads as follows:

"* * * Provided further, That notwithstanding any other provisions of law, the governing board of any state educational institution, acting on behalf of said institution, may purchase *materials in the manner provided by law* and perform any work by means of its own employees and owned or leased equipment, in the rehabilitation, extension, maintenance or repair of any building, structure, improvement or facility of said institution, without awarding a contract therefor; *whenever the cost of such work shall be estimated to be less than twenty thousand dollars [\$20,000].*" (Emphasis added)

Words and phrases in a statute are to be taken in their plain, ordinary and usual sense. 2 R.S. 1852, Ch. 17, Sec. 1, as found in Burns' (1967 Repl.), Sec. 1-201. If the phrase "cost of such work" was exclusive of labor, then it would be possible for an institution to perform jobs costing several times the amount set forth in the statute. It is my opinion that the Legislature did not intend such a result.

In addition, the General Assembly specifically established the procedure for purchasing materials in Acts of 1945, Ch. 99,

Sec. 1, as amended, as found in Burns' (1964 Repl.), Section 53-501. This section requires that the purchase of materials and supplies in excess of two thousand dollars (\$2,000) by any person, officer, board, commissioner, department commission or purchasing agent for any unit of the state, county, township, city or town government shall be by giving notice and receiving bids for the purchase of such materials and supplies. Therefore, the purchase of materials contemplated by Burns' 53-108, *supra*, would be handled in the manner here described in Sec. 53-501, notwithstanding any other provisions of the Act under consideration.

It is, therefore, my opinion that any state educational institution must purchase materials in the manner provided above when the cost of said materials is in excess of two thousand dollars (\$2,000). And, it may by its own employees legally perform the labor required for the rehabilitation, extension, maintenance or repair of any building of said institution without awarding a contract for the labor whenever the total cost of the labor *and* materials does not exceed the sum of twenty thousand dollars (\$20,000).