

1965 O. A. G.

not exceeding six [6] months, or by both such fine and imprisonment.

“If a corporation violates any of the provisions of this act the corporation shall be fined in any sum not exceeding five hundred dollars [\$500].

“The prosecuting attorney of any judicial circuit of this state, upon the complaint of the secretary of state, shall prosecute all violations of this act occurring within his jurisdiction.”

As a general rule, “a license generally is regarded as a special privilege of personal trust and confidence which cannot be assigned or transferred without the consent of the licensing authorities. . . .” After a transfer without such consent the license is inoperative; but the agreement making the transfer is not illegal. . . .” 53 C.J.S., § 45.

The Indiana Act impresses the Secretary of State with the duty to ensure a specified standard of character of those authorized to operate a collection agency. The license is personal in nature. This does not, however, mean that it may not be assigned, but that its assignment renders it void. An attempt by the assignee to operate under the void license would subject him to the penalty provisions of this act. *Godfrey v. State*, 5 Blackf. 151 (1839).

Therefore, it is my opinion that the license may be assigned, but such assignment renders the license inoperative and void.

---

OFFICIAL OPINION NO. 49

October 18, 1965

Mr. Richard L. Worley  
State Examiner  
Indiana State Board of Accounts  
912 State Office Building  
Indianapolis, Indiana 46204

Dear Mr. Worley:

This is in response to your letter of recent date requesting an Official Opinion regarding the following question:

## OPINION 49

- “1. Does the term ‘all materials’ as used in Ch. 100, Acts of 1965, include equipment, goods and supplies?
- “2. If your answer to the first question is in the negative, must county hospitals follow Ch. 99, Acts of 1945, when purchasing equipment, goods and supplies?
- “3. If your answer to the second question is in the affirmative, is a county hospital organized under Ch. 144, Acts of 1917, or under Ch. 86, Acts of 1903, which has its own treasurer and does not receive tax funds for its operations, required to advertise:
  - a. For bids when purchasing equipment, goods and supplies in excess of two thousand dollars (\$2,000)?
  - b. For purchasing materials in excess of two thousand dollars (\$2,000)?
- “4. With reference to the foregoing quotation from Ch. 99, Acts of 1945, concerning purchases under two or more contracts, we have the following questions:
  - a. Does the term ‘materials and equipment’ include goods and supplies?
  - b. Can the term ‘unit basis’ be construed to mean the annual requirements of any governmental unit, named in the Act, based upon the fiscal year?”

Indiana Acts of 1965, ch. 100, § 2, p. 149, states as follows:

“The governing body or board of trustees of such hospitals shall receive bids for the purchase of *all materials* costing over two thousand dollars (\$2,000.00) after giving notice thereof by publication in one (1) newspaper printed and of general circulation in the county where the hospital is located.” (Emphasis added.)

1965 O. A. G.

I direct your attention to the following statutes: Acts of 1919, ch. 138, § 8, Burns IND. STAT. ANN., (1963), § 48-7007, which states:

“The term ‘supplies and materials’ used in this act shall be deemed to include any and all personal property of every kind and description which any executive department or any officer of said city is now authorized to purchase for city use.”

Acts of 1955, ch. 256, § 7, p. 662, Burns IND. STAT. ANN., (1960), § 26-1616, defines “supplies and materials” thus:

“‘Supplies and materials’ as used in this act shall include every item of personal property for which county funds may be lawfully expended.”

Please note that the Legislature was very careful in these two statutes to specifically define the term “supplies and materials.” Acts 1965, ch. 100, does not provide any definition of the words “all materials.” The expressed definitions given by the Legislature to the words “supplies and materials” is general and comprehensive. Since the Legislature affixed a general meaning to the term “supplies and materials,” it is not unreasonable to assume they intended a general meaning for the term “all materials” as it appears in ch. 100 of Acts of 1965.

This conclusion obviously raises another question, to wit: How general is the term “all materials”? Or, what items are included within the term “all materials”? The term “supplies and materials” has been defined as “any and all personal property of every kind and description which any executive department or any officer of said city is authorized to purchase for city use.” The term “all materials” is another general term, utilized by the Legislature to indicate any and all personal property of every kind and description.

Therefore, in answer to your Question No. 1, the term “all materials” as used in ch. 100, Acts 1965, includes equipment, goods, material and supplies.

Since your first question has been answered affirmatively, then Question Nos. 2 and 3 are omitted.

## OPINION 49

With reference to the fourth question in your letter, Acts of 1945, ch. 99, § 1, Burns IND. STAT. ANN., (1964), § 53-501, known as the Public Purchase Act, states as follows:

“Any person, officer, board, commissioner, department commission, or purchasing agent hereinafter designated as purchaser, duly authorized and empowered by law or delegated and entrusted with authority, to make purchases of *material or materials, equipment, goods and supplies*, except current utility bills, payment for which is to be made from any appropriation of public funds made under the provisions of the budget law, for any unit of the state, county, township, city or town government shall comply with the requirements of this act whenever the total amount of any purchase exceeds two thousand dollars [\$2,000]: Provided, That in all cases of the purchase of *materials and supplies* where the total amount of any such purchase does not exceed the sum of two thousand dollars [\$2,000] the purchaser shall be and is hereby authorized to buy in the open market without giving notice or the receiving of bids: Provided, further, That all purchases by any governmental unit under the above proviso shall be on a unit basis and purchases of *materials and equipment* of a value in excess of two thousand dollars [\$2,000] on the open market under two [2] or more contracts is prohibited. . . .” (Emphasis added.)

In the first instance, the Legislature used the term “material or materials, equipment, goods and supplies” which is an obvious attempt to include personal property of every kind and description.

The Legislature could foresee the hardship which would be placed upon governmental units if they should be required to ascertain bids on every purchase. Therefore, the Legislature saw fit to exempt certain purchases from the advertising and bid requirements of the Public Purchase Act, provided the purchase did not exceed two thousand dollars. However, the Legislature anticipated the possible abuse of the before-described exemption, therefore they utilized a safety valve with the following proviso:

“. . . all purchases by any governmental unit under the above proviso shall be on a unit basis and purchases of materials and equipment of a value in excess of two thousand dollars [\$2,000] on the open market under two [2] or more contracts is prohibited. . . .”

The unit basis proviso clearly prohibits a governmental unit from making a series of purchases (all of which are less than two thousand dollars) of one specific item. Assuming momentarily that a governmental unit is in need of typewriters involving an expenditure of ten thousand dollars. It would be an injustice to the intent of the Legislature to permit that governmental unit to purchase a few typewriters at a time in order to circumvent compliance with the law requiring bids in purchases in excess of two thousand dollars. The “unit basis” proviso was enacted specifically to prohibit those purchases, the aggregate amount thereof, would exceed two thousand dollars. Wherefore, it is not unreasonable to define the term “unit basis” as the annual requirements of a governmental unit.

Summarizing, the answers to your questions are as follows:

The term “all materials” as used in Acts of 1965, ch. 100, includes equipment, goods, materials and supplies.

Questions two and three have been omitted since the answer to your first question was in the affirmative.

With reference to Acts of 1945, ch. 99, Burns IND. STAT. ANN., (1964), §§ 53-501—53-509, the term “materials and equipment” includes goods and supplies.

The term “unit basis” may be construed to mean the annual requirements of any governmental unit, based upon the fiscal year.