

**OPINION
45-101**

October 4, 1945 (OPINION)

FLEET CONTRACTS

RE: Authority of State to Execute

Upon your request, I have examined Form 937-10M 6-27-40 of the Ford Motor Company entitled "Fleet Owner's Agreement," by which agreement it appears that if and when a "fleet owner" purchases twenty or more Ford products during any one purchase year and furnishes the company with proof thereof, the company will pay the fleet owner the amount set forth in a schedule of amounts for each Ford product (and its optional equipment) which fleet owner shall purchase during such purchase year. Then there is attached a Schedule of Amounts, listing the type of cars and the reduction in price per unit if over twenty units are purchased by the fleet owner.

The question arises as to whether or not the state of North Dakota can obtain the benefits to be derived from the execution of this contract, and if so, who may sign this contract on behalf of the state of North Dakota.

I can point to no law which would give you the authority, as the governor of the state of North Dakota, to sign this contract, as there does not appear to be any statute authorizing the same. However, this contract involves no obligation to purchase but will enable the state, if the same is executed, to derive benefits under the terms of the contract if over twenty units are purchased during the purchase year from the Ford Motor Company by the state. If the contract is, therefore, signed by you, as the governor of the state of North Dakota, and various units are purchased by those departments of the state that need to purchase cars and have the use of the cars, and these are in the aggregate in number over twenty units, then the benefits to be derived from the contract would be obtainable and the state of North Dakota would be recipient of the reduced prices.

It appears to me that although there is no statute which specifically authorizes you, as governor, to sign this contract, and in view of the fact that it involves only a benefit if twenty units are purchased from the Ford Motor Company for the state of North Dakota during the purchase year, that to obtain this benefit you are authorized to sign the contract, provided there is eliminated from the face thereof the following statement: "Whereas Fleet Owner represents that it is not a federal, state, county, municipal or other governmental body." That statement appears in the contract and should, of course, be eliminated as your signature to to contract would be on behalf of the state of North Dakota.

While I do not know whether it would add anything to the validity of the contract, it might perhaps be well to get all departments that have the right to purchase cars for the use of the state to countersign the contract with you.

NELS G. JOHNSON

Attorney General