

FILE

Subject

*Scholarship - Area
Vocational Tech.*



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

January 25, 1974

Opinion No. 74- 5A

Selby S. Soward
Zuspann, Soward, Whalen & Burr
Professional Building
P.O. Box 549
Goodland, Kansas 67735

Dear Mr. Soward:

I write concerning Opinion No. 74-5 issued under date of January 7, 1974.

You inquired whether competitive bidding procedures were required as a condition precedent to the execution of a contract for a "turnkey" project for the construction of dormitory facilities for the Northwest Kansas Area Vocational-Technical School.

In studying this question initially, my staff found no such requirement, and due to an oral communication from John R. Martin of this office, you were advised that my written opinion would state accordingly. Further research, however, disclosed a bidding requirement in paragraph 1.9 of the Kansas State Plan for Vocational Education which appeared to be applicable, and my written opinion reflected that finding. I regret any confusion which may have resulted from these conflicting views, and write to further clarify my opinion of January 7.

Since issuing that opinion, we are advised that no state or federal funds will be used in the proposed project. Paragraph 1.9 of the State Plan provides in pertinent part thus:

"1.9 Construction Requirements

This State Plan provides assurance that the following requirements will be complied with on all constructive [sic] projects assisted under Parts B and E of the Act.

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"1.95 Competitive Bidding

All construction contracts shall be awarded to the lowest qualified bidder on the basis of open competitive bidding except as described in K.S.A. 72-6760."

The state plan was promulgated pursuant to 20 U.S.C.A. § 1263, and governs the use of grants available under 20 U.S.C.A. § 1261 - 1264 for, among other purposes, "(5) construction of area vocational technical school facilities." See 28 U.S.C.A. § 1262(a). There being no federal, or indeed, state, funds involved in the project which is contemplated, the bidding requirement of § 1.95 of the State Plan is not applicable. There being no state statute requiring competitive bidding prior to the letting of contracts or the issuance of revenue bonds therefor under K.S.A. 76-6a13, there is, in my opinion, no requirement that competitive bidding procedures be followed in this instance for the execution of the proposed "turnkey" contract, or for the issuance of revenue bonds.

Again, I regret any confusion or delay that may have resulted from the conflict between the view offered initially by my staff, and the conclusion of the written opinion. The foregoing, however, is offered to clarify the official view of this office. If you should have further questions, please feel free to call.

Yours very truly,

VERN MILLER
Attorney General

VM:jsm