



STATE OF KANSAS

*Office of the Attorney General*

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER  
*Attorney General*

June 17, 1975

Opinion No. 75-249

Mr. C. Taylor Whittier, Commissioner  
Kansas State Department of Education  
120 East 10th Street  
Topeka, Kansas 66612

Dear Commissioner Whittier:

You have requested an opinion from this office concerning whether the "fast tracking" method of architectural design and construction is permissible in Kansas when the expenditure of public funds is involved. Secondly, you inquire whether the State Architect may adjust his nominal procedures to accommodate this particular method. The statutory requisites for construction of public buildings vary depending upon the type of building and governmental body proposing the venture. For purposes here, the opinion will be limited solely to the construction of public school buildings.

Essentially, the "fast tracking" method of construction is a sophisticated form of the negotiated "cost plus" approach which utilizes team effort of the architects, consultants, and construction contractors, as well as the owner and financial backers. As soon as preliminary plans are approved by the owner, the contractor is selected through negotiation. Frequently, the contractor will provide a bond to guarantee the maximum cost of the work so that the owner can make whatever financial arrangements are necessary. As soon as the foundation and site plans are complete and the reinforcing steel is received, the actual construction begins. The completion of the architectural plan specifications, and so forth, continue simultaneously with the construction, with the architect developing the specifications to particular items or stages as they are needed. The effect of this procedure is to substantially reduce the total time required to complete a particular project.

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Relative to the construction of school buildings, K.S.A. 31-150 provides at subsection (a) that:

"The construction of all school buildings shall comply with the requirements of the 1970 edition of the uniform building code, volumes I and II of the international conference of building officials. All electric wiring shall conform to requirements of the 1971 issue of the national electric code of the national fire protection association. Minimum plumbing requirements shall meet the 1970 edition of the uniform plumbing code issued by the international conference of building officials. The construction of school buildings shall include reasonable provision for making buildings and facilities accessible to, and usable by, the physically handicapped, as approved by the state architect. *No contract shall be let for the erection of any school building, and it shall be illegal to pay out any public funds for the erection of a school building until the plans for such building shall have been submitted to the state architect and approved as to all the requirements of this section.*" [Emphasis supplied.]

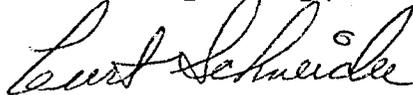
The emphasized portion of the statute articulates the requirement that before public funds are expended, the plans for such school building must be submitted to the state architect and approved as to the specifications for facilities accessible to, and usable by, the physically handicapped as well as the electrical, plumbing, and other specifications required by the 1970 edition of the Uniform Building Code, Volumes I and II, the Uniform Plumbing Code of the International Conference of Building officials and the 1971 issue of National Electric Code of the National Fire Protection Association. It is inconceivable how the State Architect can perform the obligation imposed upon him to see that these requirements are fulfilled, based solely upon preliminary or projected plans. Changes in desired inclusions within the structure will frequently necessitate adjustments or changes in plumbing or electrical designs. Furthermore, changes in the financial arrangements and other unforeseen

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contingencies might result in modification of these requirements unless the owner and contractors have agreed upon particularized specifications which allow the contractors to procure or order the necessary materials preliminary to actual construction. Finally, our examination, in consultation with various architectural concerns, of the relevant building codes cited above, has lead to the conclusion that it would not be architecturally possible to finalize the electrical, plumbing, handicap facilities as well as the other required features without finalization of the specification for the entire structure prior to construction.

Accordingly, it is the opinion of this office that the "fast-track" method of design and construction is not presently available in the erection of school buildings.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

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