



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 5, 1976

ATTORNEY GENERAL OPINION NO. 76- 311

Mr. Louis J. Krueger
Director
Division of Architectural Services
State Office Building
Topeka, Kansas 66612

Re: State Purchases--Architectural Services--Furnishings

Synopsis: The work of "furnishings and furniture" to be performed in the completion of the Kansas Supreme Court Building falls within the definition of "architectural services," as that term is defined by K.S.A. 1975 Supp. 75-5401 *et seq.* Because the cost of the building exceeds \$3,000,000, and the cost of furniture and furnishings will constitute a portion of the building cost in excess of \$3,000,000, the maximum fee may not exceed five percent on the furnishings and furniture work, which constitutes another phase of the project.

* * *

Dear Mr. Krueger:

You inquire concerning the application of the architectural services selection law, K.S.A. 1975 Supp. 75-4401 *et seq.*, as amended, to the associate architect fees for furnishing and furniture of the Supreme Court building.

As you point out, K.S.A. 1975 Supp. 75-5407 was amended by ch. 401, § 3, L. 1976, to permit the negotiating committee to forego the selection process, and to negotiate a contract directly with "any firm for a later phase of work on any project upon which such firm has been awarded a previous phase of work." You advise that the negotiating committee for the furniture and furnishing phase of the project wishes to apply this new authority by negotiating directly with the previous

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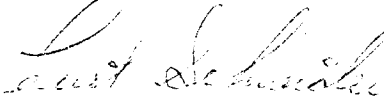
architect, Kiene and Bradley, which has completed all prior phases of work on the project. You advise that the question has arisen whether the furnishings and furniture work is itself a new project or merely another phase of an entire single project. In my judgment, it is an additional and new phase of an existing project, and thus the maximum fee payable thereon is five percent. Both factually and legally, it is but another stage and an integral part of the ongoing work toward completion of a single project.

Another question which has been raised is whether the furnishing and furniture portion of the work is subject to the selection process of K.S.A. 1975 Supp. 75-5401 *et seq.*, because the work is of the kind which could be also furnished by an interior decorator or designer. K.S.A. 1975 Supp. 75-5402(c) defines "architectural services" thus:

"'Architectural services' include those professional services of an architectural nature as well as basic structural, mechanical and electrical engineering services and *incidental services that members of the architectural profession and those in their employ may logically or justifiably perform concerning state buildings and grounds.*" [Emphasis supplied.]

The term is defined to include collateral and incidental work, such as services for the furnishing and interior design and decoration of facilities. Not uncommonly, architectural firms provide such services, and indeed, the furnishing of a structure may play an integral part in the architect's design of the physical facility. I must conclude that the furnishings and furniture phase is indeed subject to the architectural services selection process outlined in K.S.A. 1975 Supp. 75-5401 *et seq.*, as amended. As you point out, services in connection with interior furnishings could well be supplied by other than an architect. It might be desirable to consider amendments to the act to provide statutory recognition that such services are not exclusively those of architects, and may lawfully be provided in Kansas by persons other than those licensed to practice the profession of architecture.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

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