



STATE OF KANSAS

## Office of the Attorney General

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Attorney General

July 24, 1978

ATTORNEY GENERAL OPINION NO. 78- 244

Mr. W. Keith Weltmer  
Secretary of Administration  
Department of Administration  
2nd Floor - State Capitol  
Topeka, Kansas 66612

Re: Architectural Selection--Agency Architects--Persons  
Eligible

Synopsis: In designating an agency architect under ch. 337, § 23, L. 1978, no person shall be eligible for such appointment unless such person is an employee of the agency receiving the appropriation for the project for which architectural services are required.

\* \* \*

Dear Secretary Weltmer:

You inquire concerning the appointment of agency architects under ch. 337, § 23, L. 1978, which provides in pertinent part thus:

"Whenever a negotiating committee is not convened . . . for a proposed project for the construction of a building . . . for a state agency, the secretary of administration shall undertake to provide all the architectural services for such project, . . . or the secretary of administration shall designate a qualified employee of the state agency for which the project is being constructed to provide all of such services for the project."

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You point out that very few institutions and few of the smaller state agencies have registered architects on their staffs. At least three agencies, the Board of Regents, the Department of Social and Rehabilitation Services and the Department of Corrections, have or will have registered architects among their employees. These three agencies, you indicate, receive the bulk of appropriations for capital improvement projects, usually for institutions or smaller subdivisions of these large agencies. You ask whether the agency architect for a project must be an employee of the institution for which the project is being constructed, or whether it is sufficient that the agency architect be an employee of the agency having supervisory authority over the institution for which the project is being undertaken.

The term "state agency" is not a legal term of art. The term is defined, however, at K.S.A. 75-3701(3), as used in the act creating the Department of Administration. It is defined as

"any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority or any person requesting a state appropriation."

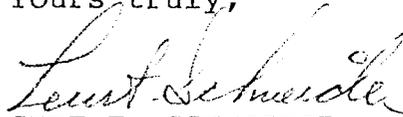
To cite the Board of Regents as an example, an employee of the University of Kansas is not thereby an employee of the Board of Regents which exercises supervisory control over the University. The chief executive officer of the institution appoints such employees as are authorized, fixes their salaries within authorizations by the Board, and the chief executive officer stands in the position of the appointing authority or employer, rather than the Board of Regents. K.S.A. 76-715.

Your question is posed in a general way, and at this point, I can respond to it only in a general way. Thus, it is my judgment that to be eligible for appointment as an agency architect, the agency employee must be an employee of the agency or institution to which the appropriation for the project is made. The employee of another agency, *i.e.*, an agency other than one to which the appropriation for the project is made, is not, generally speaking, an employee of the agency for which the project is being undertaken.

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Obviously, in a particular instance and with reference to a particular institution, particular statutory language might justify a different conclusion. However, where, for administrative purposes, an "umbrella" agency has supervision over a number of other agencies which are themselves independent recipients of appropriations for capital improvement purposes, only the employees of the agency receiving the appropriation for the project are eligible for appointment as agency architects therefor under ch. 337, § 23, L. 1978.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

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