



STATE OF KANSAS

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April 1, 1982

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ATTORNEY GENERAL OPINION NO. 82-81

Fred W. Johnson
Labette County Counselor
805 West 4th
Oswego, Kansas 67356

Re: Counties and County Officers -- County Commissioners; Powers and Duties -- Bridge Construction; Exemption From Competitive Bid Letting

Synopsis: The competitive public bid letting requirements of K.S.A. 19-214 do not apply unless the amount of any single contract for bridge work exceeds \$10,000. Cited herein: K.S.A. 19-214, 68-520.

* * *

Dear Mr. Johnson:

In your correspondence dated February 17, 1982 you state that Labette County plans to dismantle two bridges and construct another bridge. The Labette County Road and Bridge Department has been designated to do most of the work and supply all the needed materials for the bridge projects. You point out that the projects require some specialized machinery which the Labette County Road and Bridge Department cannot provide. The specialized work required would amount to less than \$10,000 for each separate bridge project but the total amount of specialized work for all three projects will exceed \$10,000. You inquire whether Labette County must comply with the bidding requirements of K.S.A. 19-214 because each individual bridge project will exceed \$10,000 in total cost although the subcontracted "specialized" work amounts to less than \$10,000 per bridge project.

K.S.A. 19-214 states:

"(a) Except as provided in subsection (b), all contracts for the expenditure of county moneys

for the construction of any courthouse, jail or other county building, or the construction of any bridge in excess of \$10,000, shall be awarded, on a public letting, to the lowest and best bid. The person, firm or corporation to whom the contract may be awarded shall give and file with the board of county commissioners a good and sufficient surety bond by a surety company authorized to do business in the state of Kansas, to be approved by the county attorney or county counselor, in the amount of the contract, and conditioned for the faithful performance of the contract.

"(b) The provisions of subsection (a) shall not apply: (1) To the expenditure of county funds for professional services; (2) to the provisions of K.S.A. 68-521; or (3) to the purchase of contracts of insurance."

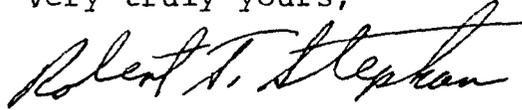
A careful reading of K.S.A. 19-214 indicates that the statute is applicable to "all contracts" that authorize the expenditure of county moneys for bridge construction. Hence, a necessary condition precedent for the triggering of K.S.A. 19-214 is that the county intend to enter into a construction contract in excess of \$10,000. In this case the county is performing most of the labor and providing all the materials for the bridge projects pursuant to K.S.A. 68-520. The only contracts involved relate to the "specialized" work and the amount of each such contract is less than \$10,000. Although, the total cost of each of the three bridge projects is in excess of \$10,000, the requirements of K.S.A. 19-214 are not applicable if the individual contracts for "specialized" work do not exceed \$10,000 per bridge project.

A similar issue arose in Treasurer of Cty. of Norfolk v. County Com'rs., 387 N.E. 2d 1175 (1979, Mass.). There the county treasurer contended the aggregate amount of all chemical supply purchases from a single vendor exceeded the amount required to trigger the Massachusetts competitive bidding statute. However, the defendant county commissioners had not required competitive bidding because no single chemical supply purchase exceeded the amount which would require competitive bidding. The Appeals Court of Massachusetts held that while the total amount of the questioned purchases exceeded the competitive bidding statute threshold, the county commissioners had not violated the statute because no single purchase exceeded the threshold amount. However, the court stated that such violation could occur if a specific intent to circumvent the underlying purpose of the competitive bidding law could be evidenced. Id. See also Commonwealth v. Rankin, 43 A.2d 441 (1945, Pa.).

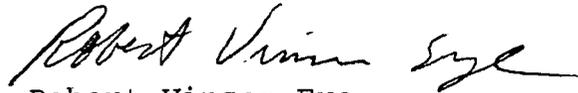
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In summary, the requirements of K.S.A. 19-214 are triggered when the board of county commissioners intends to enter into a contract for bridge construction which requires the expenditure of county funds in excess of \$10,000. Therefore, if the specialized work that the Labette County Board of County Commissioners intends to have performed by a private contractor does not exceed \$10,000 the competitive bidding requirements of K.S.A. 19-214 are not applicable.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Robert Vinson Eye
Assistant Attorney General

RTS:BJS:RVE:hle