



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 23, 1976

ATTORNEY GENERAL OPINION NO. 76- 185

Mr. Richard M. Pugh
City Attorney
625 Lincoln Avenue
Post Office Box 138
Wamego, Kansas 66547

Re: Cities--Contracts--Bids

Synopsis: Under K.S.A. 14-440, when an engineering estimate is obtained and bids solicited and received, no contract may be let unless the amount of the contract does not exceed the estimate. It does not prohibit review and revision of such estimate subsequent to opening of bids but prior to acceptance of one of such bids. If the revised estimate exceeds any of the bids presently pending at the time of such revision such bid may be accepted.

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Dear Mr. Pugh:

K.S.A. 14-440 states thus:

"Before the city council shall make any contract for building bridges or sidewalks or for any work on streets, or for any other work or improvement, an estimate of the cost thereof shall be made by the city engineer and submitted to the council; and no contract shall be entered into for any work or improvement for a price exceeding such estimate."

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You advise that the City of Wamego is in the process of constructing a sewage treatment facility. Estimates were furnished the city by an engineering firm, and bids were solicited. The bid or bids which have been received substantially exceed the estimate. You inquire whether the city must obtain new estimates and solicit new bids based thereon, or whether it is permissible to accept one of the bids presently submitted if, after further review of its estimates, the engineering firm submits to the city a revised estimate which does not exceed the bid proposed to be accepted.

The only restriction imposed by this statute in this regard is that no contract be entered into for an amount which exceeds the estimate therefor. It does not prohibit a review of the estimate, and possible revision thereof, after receipt of bids but prior to acceptance thereof. Obviously, revision of an estimate solely to permit acceptance of an excessive bid might well be improper. However, there is no suggestion here that such is the case. If the engineering firm finds, upon review of their earlier estimate, that it was erroneously made and thus too low, and revises it accordingly, a presently pending bid may be accepted if it is within the revised estimates submitted to the city. The procedure was expressly approved in *Guilick v. City of Cherrypale*, 122 Kan. 210 (1926).

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj