

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

September 24, 1980

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 80- 213

The Honorable Jayne Aylward  
State Representative, Seventy-third District  
Route 2  
Salina, Kansas 67401

Re: Roads and Bridges--County and Township Roads--Inter-  
governmental Agreements for Road Construction and  
Maintenance

Synopsis: Cities and counties are authorized to enter into  
agreements with each other for the construction,  
reconstruction or maintenance of any roads or  
streets without the letting of competitive bids.  
Cited herein: K.S.A. 1979 Supp. 12-2904, K.S.A.  
68-572, L. 1967, ch. 354.

\*

\*

\*

Dear Representative Aylward:

You inquire whether a city may contract with the county for construction, repairs and maintenance of city roads and streets without the letting of competitive bids therefor. We invite your consideration of K.S.A. 68-572, which provides, in pertinent part:

"The board of county commissioners of any county, any township board of highway commissioners of the county or city governing body within such county are hereby authorized to enter into agreements for the construction, reconstruction or maintenance of any roads or streets." (Emphasis added.)

The Honorable Jayne Aylward  
Page Two  
September 24, 1980

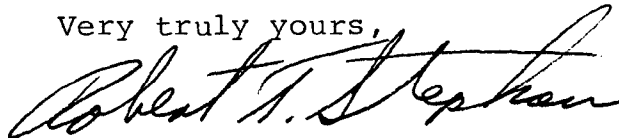
It appears from the foregoing that the legislature has expressly authorized the contracts about which you inquire between cities and counties. The title of the act (see L. 1967, ch. 354) makes clear that the agreements referred to in the above quotation are agreements by and between cities, counties and townships. The title of the act is stated, in pertinent part, thus:

"An Act relating to intergovernmental cooperation, authorizing counties, townships and cities to contract with each other as to the improvement of roads and streets . . . ."

The statute imposes no competitive bidding requirement, and we are aware of no general statute requiring competitive bidding by cities. As we noted in Attorney General Opinion No. 80-172, the Kansas Supreme Court has declared on more than one occasion that "'in the absence of an express direction of law to let contracts to the lowest bidder, no letting or competition is necessary.'" Attorney General Opinion No. 80-172, p.2, citing Case-Bros. Co., Inc. v. City of Ottawa, 226 Kan. 479 (1979); Bunker v. Hutchinson, 74 Kan. 651 (1906); Yarnold v. City of Lawrence, 15 Kan. 126 (1875).

In addition, we note the provisions of the Interlocal Cooperation Act, particularly K.S.A. 1979 Supp. 12-2904, which section authorizes cities and counties to enter into interlocal cooperation agreements for the purpose of making "public improvements." K.S.A. 1979 Supp. 12-2904(a).

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Steven Carr  
Assistant Attorney General

RTS:BJS:SC:ta