



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 91- 55

Bruce E. Moore
General Counsel
Johnson County Park & Recreation District
5401 College Blvd., Suite 106
Leawood, Kansas 66211

Re: Counties and County Officers -- Parks, Museums,
Lakes & Recreational Grounds; Johnson County Park
and Recreation District -- Bid Procedure

Synopsis: The Johnson county park and recreation district
must follow the competitive bid process even when
the money to be spent is derived from insurance
proceeds. Cited herein: K.S.A. 19-2881.

* * *

Dear Mr. Moore:

As general counsel for the Johnson county park and recreation
district you ask whether K.S.A. 19-2881 requires the district
to go through the bid process when replacing a structure by
the use of insurance proceeds as opposed to district budget
monies.

"Before the board of any park district
created under K.S.A. 19-2859 to 19-2880,
inclusive, and amendments thereto, shall
let any contract for any improvement which
is estimated to exceed \$1,500, it shall
cause accurate detailed plans and
specifications therefor, together with a

detailed estimate, of the cost of same, to be made and filed in the office of the secretary of such board, and thereafter, and before letting such contract, the board shall advertise for bids to do such work in accordance with such plans and specifications for at least one week in a newspaper of general circulation in such district. Except as provided by subsection (b), the purchase of materials, contracts for purchase or sale, least contracts and other contractual services which are estimated to exceed \$1,500, shall be made upon competitive bids. . . ." K.S.A. 19-2881.

Even though the money to be spent is insurance proceeds the general rule of protecting the interests of the public when spending funds is applicable.

"The provisions of statutes, charters, and ordinances requiring competitive bidding in the letting of municipal contracts are for the purpose of inviting competition, to guard against favoritism, improvidence, extravagance, fraud and corruption, and to secure the best work or supplies at the lowest price practicable, and they are enacted for the benefit or enrichment of bidders, and should be so construed and administered as to accomplish such purpose fairly and reasonably with sole reference to the public interest." McQuillan, Municipal Corporations, § 29.29 (1981), Sutter Bros. Constr. Co. v. City of Leavenworth, 238 Kan. 85 (1985).

K.S.A. 19-2881 is a competitive bidding statute and such statutes

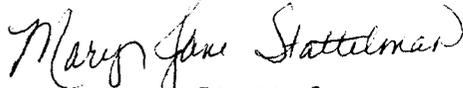
"must be construed and administered in the light of their primary purpose to protect against waste of public funds and with sole reference to the public good, and they should be rigidly adhered to by the courts." 72 C.J.S. Supp. Public Contracts, § 9 (1975). See also Attorney General Opinion No. 82-10.

Based on the statutory language in K.S.A. 19-2881 and the fact that such statutes are to be strictly construed so as to protect the public it is this office's opinion that the Johnson county park and recreation district must go through the bid process even when using money received from an insurance policy.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelma
Assistant Attorney General

RTS:JLM:MJS:bas