



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

July 26, 1946

GERALD C. MANN
ATTORNEY GENERAL

Hon. Tom De Berry, Member
State Board of Control
Austin, Texas

Dear Sir:

Opinion No. O-2552

Re: Procedure to be followed in
contracting for the purchase
of printed official maps of
the highway system of Texas
for the State Highway Depart-
ment.

In your letter of July 17, 1946, you state that you have a requisition from the State Highway Department requesting that you purchase maps as follows:

"100,000 copies of the Fall Edition 1946 Official Map of the Highway System of Texas prepared, printed, packed, and delivered in accordance with the attached specifications.

"50,000 to 150,000 additional copies of the Fall Edition 1946 Official Map of the Highway System of Texas to be ordered within four months after delivery of above 100,000 copies."

You ask the opinion of this department upon two questions:

1. In letting this contract, is it necessary that you advertise for bids in the newspapers?

2. Is it necessary, in making a contract for the purchase of such maps, to comply with the procedure set out in Article 608, and particularly, is it necessary that the contract be approved by the Governor, Secretary of State, and Comptroller of Public Accounts as provided for in Article 16, Section 21 of the Constitution?

The printed specifications accompanying your letter reveal that the maps are to be printed in accordance with detailed specifications furnished by the State Highway

Hon. Tom Le Berry, Member, page 2

Department, and that proofs of the map in each of its stages of printing must be submitted to and approved by the Highway Department before the maps are printed. After making provision for folding and packing of the maps, the specifications further provide that all plates, films, and other reproduction items with which the maps are produced are to be preserved at least six months, and that none of the material furnished by the Highway Department and none of the plates, films, or other reproduction material used in the production of these official maps may be used by the successful bidder for any other purpose than printing the official highway map for the State Highway Department; that when all orders have been filled for the Fall Edition 1940 Highway Map, the layout design for the back of the map, the photographs, and the original films furnished the successful bidder by the Highway Department shall be returned to the Highway Department.

Although your letter refers to this contract as a contract for the purchase of highway maps, it is obvious from an examination of the specifications that the contract is one for printing.

Article 16, Section 21, Constitution of the State of Texas, provides:

"Section 21. All stationery, and printing, except proclamations and such printing as may be done at the deaf and dumb asylum, paper, and fuel used in the legislative and other departments of the government, except the judicial department, shall be furnished, and the printing and binding of the laws, journals, and department reports, and all other printing and binding and the repairing and furnishing the halls and rooms used for the meeting of the legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations, as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contract; and all such contracts shall be subject to the approval of the Governor, Secretary of State and Comptroller."

Pursuant to such constitutional provisions, the Legislature enacted Articles 607 to 630b, inclusive, Vernon's Revised Civil Statutes, 1925. Article 608 reads as follows:

Hon. Tom De Berry, Member, page 3

"The Board shall contract for a term of not exceeding two years with responsible persons, firms, corporations or associations of persons, who shall be residents of Texas, for supplying to the State all printing, binding, stationery and supplies of like character for all departments, institutions and boards, save and except such work as may be done at the various educational and eleemosynary institutions. Said contract shall be let to the lowest and best responsible bidder after public advertising of such proposed letting for once a week for four consecutive weeks in at least six newspapers of general circulation in this State. No two of such papers shall be published in the same county. The Board may reject any and all bids; the reason therefor shall be entered in full in the minutes of the Board and shall be open to the inspection of the public at all times. New contracts shall be made in the manner as hereinbefore provided."

The Constitution requires that all contracts for printing shall be subject to the approval of the Governor, Secretary of State and Comptroller. Article 608, R. C. S. 1925, provides that all contracts for printing shall be let to the lowest and best responsible bidder after public advertising of such proposed letting for once a week for four consecutive weeks in at least six newspapers of general circulation in this state. In our Opinion No. 0-2250, we held that the provisions of Article 16, Section 21, of the Constitution, are mandatory, and, that until such contracts for printing are approved by the Governor, Secretary of State, and Comptroller, they are not binding upon the state and are in legal effect no contracts. Likewise, the requirements of Article 608, with respect to advertising for bids, are mandatory and apply to all contracts for printing. We find nothing in the provisions of either the Constitution or of the statutes which would relieve your department from complying with the provisions of the statutes and of the Constitution in the making of the proposed contract.

You are therefore advised that, in letting this contract, it is necessary that you comply with the provisions of Article 608, respecting public advertising for bids. It is likewise necessary that you secure the approval of such contracts by the Governor, Secretary of State, and Comptroller.

APPROVED JUL 30, 1940
(s) Glenn R. Lewis
ACTING ATTORNEY GENERAL OF TEXAS

Yours very truly
ATTORNEY GENERAL OF TEXAS
By (s)

Richard W. Faircliff
Assistant

REF: jm/jep

APPROVED
Opinion Committee
H. M. A. B., Chairman.