

83-00199

OFFICE OF THE ATTORNEY GENERAL



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FEB 22 1983

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Honorable F. R. Albritton, Jr.
Chairman
Wilcox County Commission
Post Office Box 488
Camden, Alabama 36726

Counties - Competitive Bid Law-
Purchasing

Competitive bids may be
requested by telephone as long
as the other methods required
by Code of Alabama 1975,
Section 41-16-54 are used.
Bids cannot be received or
accepted by telephone.

Dear Judge Albritton:

Reference is made to the request by the Wilcox County
Commission for an opinion from the Attorney General as to
whether the County Commission can request bids by phone for
the purchase of gasoline and petroleum products each time
that such products are needed.

The Competitive Bid Law for certain state
and local agencies is codified at Code of Alabama 1975,
Section 41-16-50 through Section 41-16-63. Code
Code of Alabama 1975, Section 41-16-54(a) and (b)
states:

(a) All proposed purchases in
excess of \$2,000.00 shall be
advertised by posting notice thereof
on a bulletin board maintained
outside the purchasing office and in
any other manner and for such
lengths of time as may be determined;

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provided, however, that sealed bids shall also be solicited by sending notice by mail to all persons, firms or corporations who have filed a request in writing that they be listed for solicitation on bids for such particular items as are set forth in such request. If any person, firm or corporation whose name is listed fails to respond to any solicitation for bids after the receipt of three such solicitations, such listing may be cancelled.

(b) All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of the contract shall be retained and made a part of a permanent file or records and shall be open to public inspection.

According to the above provision competitive bids must be requested in the following manners: (1) by posting notice of the proposed purchase on a bulletin board outside the purchasing office, and (2) by sending notice by mail to all persons or businesses who have filed a request in writing that they be solicited in the purchase of certain items as listed in the request. Section 41-16-54 also states that proposed purchases required by the Competitive Bid Law may be advertised "in any other manner and for such lengths of time as may be determined. . . ." Thereafter, the Attorney General is of the opinion that the above provision would allow bids to be requested by telephone as long as the two required manners of requesting bids are also used.

As to the receiving of bids by telephone, please note that this office has ruled in the past that bids as required by the Competitive Bid Law cannot be accepted by phone.

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Opinion to the Honorable Charles C. Rowe, Vice President,
University Business Affairs, Jacksonville State University,
dated October 8, 1975. The opinion to Mr. Rowe quoted
Section 41-16-54(b) which states:

"All bids shall be sealed when
received, shall be opened in public at
the hour stated in the notice. . . "

and concluded that a bid by telephone violates this provision
because it discloses the terms of the bid in advance of the
public opening of bids and also constitutes receiving bids
that are not sealed.

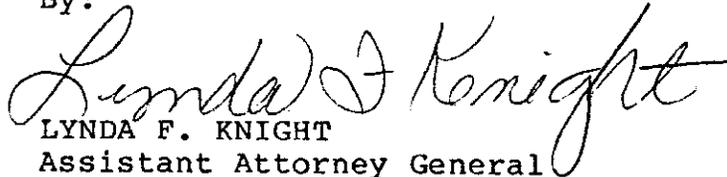
I hope that your question has been adequately answered.

If our office can be of any further assistance, please
let us know.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:


LYNDA F. KNIGHT
Assistant Attorney General

LFK/dn