

C. T. LES, TOWNS & VILLAGES: Publication of notice to contractors for bids must be in accordance with Section 13745, R. S. Mo. 1929.

11-9
November 1, 1934.

FILED
13

Hon. Carl E. Calvert
Representative of Clark County
Kahoka, Missouri

Dear Mr. Calvert:

Your letter of October 17, 1934, supplemented by your letter of October 25th, received, with request for an opinion on the questions submitted therein. We are herewith setting forth both of said letters, as follows:

(October 17th)

"I am writing you or your office in behalf of my constituents; Mayor, Councilmen and Citizens of the City of Kahoka, Mo.

"They are about in the act to publish notice to bidders in their P. W. A. Work of the construction of a Public Sewerage system. They having contracted with U. S. Government loan to carry and construct a Public Sewerage for within the City of Kahoka, Missouri; amounting in the sum of \$35,000.00 and a Grant. Section #7074 does not state the number of weeks that the Notice contractor - bidders should be published, to appear in a weekly newspaper.

"A written opinion coming from your office would be much appreciated, and requested for the reason the City is contracting with the Government."

(October 25th)

"I am sorry to have furnished you inadequate information in my letter of October 17, 1934 relative to length of the period of advertising for bids on a municipal project

in a fourth class city.

"As you may know it seems that legal questions pertaining to engineering matters are not within the scope of every day practice of lawyers in small cities, and information which has been gathered on the above matter is somewhat contradictory. Therefore, in order that my City may be correct, I am attempting to be more explicit in my request.

"The situation is as follows:

1. Kahoka, Missouri is a City of the fourth class.
2. Direct Obligation bonds have been voted for the construction of a sewer system and disposal plant.
3. Plans and specifications have been prepared.
4. The estimated cost of the project is \$47,000.
5. The P. W. A. has approved the project and made the allotment for it.
6. There are three weekly newspapers in the City of Kahoka.
7. The P. W. A. standard requirements as to advertising for bids is that on all project, 'Notice to Contractors' (advertisement for bids) must be published for two weeks prior to the receiving and opening of bids.
8. What is the State requirement relative to the length of time which such advertisement must be published? In other words, does the advertisement 'Notice to Contractors' have to be published in two, three, four or more, consecutive weekly issues of a local newspaper? Also does it have to be published in a newspaper having a minimum circulation of any stated figure?"

We note that the City of Kahoka, a city of the fourth class, has voted direct obligation bonds for the construction of a sewer system and disposal plant; that the plans and specifications have been prepared and the estimated cost of the project is \$47,000. Your inquiry is: What do the Missouri statutes require as to the length of time advertisements for bids or notices to contractors should be published, the number of weekly insertions, and whether said publications should be published in a newspaper having a minimum circulation or not?

It is our opinion that Section 13745, R. S. Mo., 1929, is applicable to the questions submitted in your letter; which section is as follows:

"No contract shall be made by an officer of this state or any board or organization existing under the laws of this state or under the charter, laws or ordinances of any political subdivision thereof, having the expenditure of public funds or moneys provided by appropriation from this state in whole or in part, or raised in whole or in part by taxation under the laws of this state, or of any political subdivision thereof containing 500,000 inhabitants or over, for the erection or construction of any building, improvement, alteration or repair, the total cost of which shall exceed the sum of ten thousand dollars, until public bids therefor are requested or solicited by advertising for ten days in one paper in the county in which the work is located; and if the cost of the work contemplated shall exceed thirty-five thousand dollars, the same shall be advertised for ten days in the county paper of the county in which the work is located, and in addition thereto shall also be advertised for ten days in two daily papers of the state having not less than fifty thousand daily circulation; and in no case shall any contract be awarded when the amount appropriated for same is not sufficient to entirely complete the work ready for service. The number of such

November 1, 1934.

"public bids shall not be restricted or curtailed, but shall be open to all persons complying with the terms upon which such bids are requested or solicited."

We think that the publication should be in accordance with this section. Of course you should follow the requirements of the ordinance as to the publication of notice to contractors, if such requirement is made in the ordinance, and you should also follow the Public Works Administration standard requirements as to advertising for bids, which, as you stated in your letter, must be published for two consecutive weeks prior to the opening and receiving of the bids. Inasmuch as the work contemplated will exceed thirty-five thousand dollars, the same should be published for ten days in the county paper of the county in which the work is located, and this means at least for two consecutive weeks; and in addition thereto shall also be advertised for ten days in two daily papers of the state, having not less than fifty thousand daily circulation, the first insertion in each instance to be at least ten days prior to the day of letting.

We do not have all of the proceedings or the transcript which you are required to furnish to the State Auditor, yet we think that from the statements outlined in your letters that if you will follow the provisions of Section 13745, supra, no questions can be raised as to the legality of the notices to the contractors.

If there is anything further we shall be glad to comply with your request.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

ERH:EG