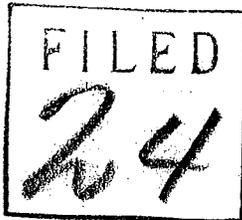


COUNTY COURTS:
SECOND CLASS COUNTIES:
PURCHASES:



The county court of Buchanan county may purchase directly from Platte county, without asking for bids, an iron bridge to be used as a part of the road building program in Buchanan county. The county court of Buchanan county may, without asking for bids, purchase surplus government equipment for use in its road building.

May 20, 1954

Honorable John E. Downs
Prosecuting Attorney
Buchanan County
Courthouse
St. Joseph, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"This office would like your advice and opinion on the following problem.

"The County Court of Buchanan County has the opportunity to purchase from Platte County, a bridge for the sum of \$1000.00. The County Court feels that this is a reasonable price and that we can use the bridge.

"The problem is this: Is there any way in which this County Court can lawfully purchase the bridge direct from Platte County or must they ask for bids on a bridge with specifications like the bridge Platte County has to sell?

"Furthermore, on occasions there are opportunities to purchase government surplus equipment which the County could use in its road building program. This equipment could be purchased at a saving, yet the Federal Government can not submit bids. Is there any way in which this County can buy such equipment direct?"

In regard to the authority of the county court to acquire property for the county, and to dispose of property belonging to the county, we direct attention to Section 49.270 RSMo 1949, which reads:

"The said court shall have control and management of the property, real and personal, belonging to the county, and shall have power and auth-

Honorable John H. Downs

ority to purchase, lease or receive by donation any property, real or personal, for the use and benefit of the county; to sell and cause to be conveyed any real estate, goods or chattels belonging to the county, appropriating the proceeds of such sale to the use of the same, and to audit and settle all demands against the county."

This is a very broad and inclusive grant of power, and under it, without modification, the county court certainly could purchase the bridge from Platte county and the government surplus equipment for road building, without advertising for bids.

Section 50.760 RSMo 1949, applies only to counties of the second class, which is the classification of Buchanan county, and relates to purchases by such a county. That section reads:

"It shall be the duty of the judges of the county court in all counties of the second class, on or before the first day of February of each year, to determine the kind and quantity of supplies, including any advertising or printing which the county may be required to do, required by law to be paid for out of the county funds, that will be necessary for the use of the several officers of such county during the current year, and to advertise for sealed bids and contract with the lowest and best bidder for such supplies. Before letting any such contract or contracts the court shall cause notice that it will receive sealed bids for such supplies, to be given by advertisement in some daily newspaper of general circulation published in the county, such notice to be published on Thursday of each week for three consecutive weeks, the last insertion of which shall not be less than ten days before the date in said advertisement fixed for the letting of such contract or contracts, which shall be let on the first Monday in March, or on such other day and date as the court may fix between the first Monday of March and the first Saturday after the second Monday in March next following the publication of such notice; provided, that if by the nature or quantity of any article or thing needed for any county officer in any county of this state to which sections 50.760 to 50.790 apply, the same may not be included in such contract at a saving to such county, then such article or thing may be purchased for such officer upon an order of the county court first being made and entered as provided in sections 50.760 to 50.790; and provided further, that if

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any supplies not included in such contract be required by any such officer or if the supplies included in such contract be exhausted then such article or thing may be purchased for such officer upon order of the county court first being made and entered of record as provided in sections 50.760 to 50.790."

It will be noted by the underlined portion of Section 50.760, supra, that as it applies to supplies for each county office, the bid system may, at the discretion of the county court, be set aside.

We also believe that the bridge and the government surplus equipment in question would be by their "nature and quantity" objects which could not be included in a contract resulting from a bid, at any saving to the county. We believe, too, that the bridge and government surplus equipment would come under the heading "supplies not included in such contract", and supplies which were included in a contract, but which became exhausted before the expiration of the time for which they were purchased, in both of which instances they may be purchased simply upon an order of the county court.

It is our opinion that Section 50.760, supra, gives to the county court of a second class county the authority to purchase direct the articles enumerated by you.

Section 70.100 RSMo 1949, reads:

"That any municipality or political subdivision of this state may enter into contracts with the United States of America, or with any department or agency thereof, for the purpose of accepting gifts and for the purchase, sale, exchange, lease, or transfer of any equipment, supplies, materials, or other property for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the federal government, or the department or agency thereof, deems proper, without regard to the provisions of law or any municipal charter or ordinance which may require, among other things, the following:

"(1) Posting of notices or public advertising for bids or of expenditures;

"(2) Inviting or receiving of competitive bids;

"(3) The making of purchases from the lowest and best bidder;

"(4) The delivery of purchases before payment."

Honorable John E. Downs

The above section obviously fully covers the question raised by you regarding the purchase by the county of surplus government equipment, and clearly gives the county permission to do so directly.

CONCLUSION

It is the opinion of this department that the county court of Buchanan county may purchase directly from Platte County, without asking for bids, an iron bridge to be used as a part of a public building program in Buchanan county.

It is our further opinion that the county court of Buchanan county may, without asking for bids, purchase surplus government equipment for use in its road building program.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

HPW/ld

JOHN M. DALTON
Attorney General