

1975 S.C. Op. Atty. Gen. 154 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4080, 1975 WL 22377

Office of the Attorney General

State of South Carolina

Opinion No. 4080

August 15, 1975

***1 Re: Competitive Bidding on State Contracts**

Mr. Jess Huggins
State Liaison Office
South Carolina Department of Parks, Recreation and Tourism
Box 113
Edgar A. Brown Office Building
Columbia, SC 29201

Dear Mr. Huggins:

You have asked an opinion as to whether or not a bid on a public contract is a valid bid when an invitation to bid requires bid bonds and the bidder did not include such bond. It is the opinion of this Office that the bid is unresponsive to the invitation to bid and is therefore invalid.

It is a general rule that the bid of one proposing to contract for the doing of a public work must, in order to secure the contract, respond or conform substantially to the advertised terms, plans, and specifications; otherwise, the board or official whose duty it is to award the contract may properly refuse to give the bid consideration. Indeed, it is the duty of the public authorities to reject all bids which do not comply substantially with the terms of the proposal, for any other rule would destroy free competition. (Footnotes omitted). 64 AmJur 2d, Section 58 at 912.

Furthermore, ‘ . . . in general, if a satisfactory bond is not tendered as required, the bid may be rejected.’ 64 AMJur 2d Section 60 at 914.

In view of the above, any bidder who does not accompany his bid with a bid bond is not responsive to the terms of the invitation to bid and should, therefore, be rejected.

Yours very truly,

M. Elizabeth Crum
Assistant Attorney General

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