

1974 WL 27155 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 10, 1974

***1 Re: State Bidding Procedures.**

Mr. James H. Barnes
Purchasing Officer
Division of General Services
300 Gervais Street
Columbia, SC 29201

Dear Mr. Barnes:

You have requested this Office advise you as to the authority of the State Purchasing Office to exclude bids under certain circumstances.

The pertinent part of our State Appropriations Act states:

‘Notwithstanding any other provision of law, all state agencies and departments, before contracting for \$1,500.00 or more with private individuals or companies for products or services, shall invite bids on such contract from at least three qualified sources.’ Section 18 Part 2R No. 1314.

The determination of what is a qualified bid has been judicially held to be within the discretion of the soliciting authority. Re Kaelber, 281 Appellant Division 980, [120 NYS2d 566](#), [Austin vs. Housing Authority of Hartford](#), [143 Conn. 338](#), [122 A2d 399](#). It has been held that in seeking qualified bids, the soliciting authority has the right to reject lower bids and accept higher in order that better equipment might be obtained. [Leskinen vs. Pucelj](#) 115 NW2d 346.

Based upon the applicable law, it appears to be clear, that you as State Purchasing Officer, have the discretionary authority to reject bids or not solicit bids when it is your opinion based upon the facts and circumstances before you, that quality equipment can not be obtained.

You further request that this Office advise you as to whether he may require strict bid compliance with the specifications set out in the invitations to bid. This is clearly correct, the only restricting authority would arise where the specifications were arbitrary, or unduly restrictive. Absent these two factors, you are entitled to solicit bids according to the exact specifications furnished you.

I trust this has been sufficient in answering the question which you posed. If we may be of any further assistance, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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