

OPINION
64-326

July 23, 1964 (OPINION)

Mr. Ralph Dewing

Director

Department of Accounts and Purchases

RE: State Printing - Competitive Bidding - Bond

This is in response to your letter in which you ask for an official opinion on the construction and interpretation of section 46-02-07 of the North Dakota Century Code, as pertaining to the following set of facts:

On July 20, 1964 this office opened the bids for these classes of printing and received one bid, accompanied by a bidders bond which did not have prior approval of the Attorney General's office."

Section 46-02-07 of the North Dakota Century Code provides as follows:

PROPOSALS - HOW MADE - BOND REQUIRED. Each proposal for each class of state printing let under competitive bids shall be in writing, sealed and addressed to the director of the department of accounts and purchases, shall be accompanied by a bond executed in due form by the bidder, approved by the attorney general and satisfactory to the director of accounts and purchases in the penal sum of four thousand dollars conditioned for the faithful performance according to law of the class of the state printing if awarded to him and for the payment, as liquidated damages, by such bidder to the state, of any excess of cost over the bid of such bidder which the state may be obligated to pay for such work by reason of the failure of such bidder to complete his contract. No bid unaccompanied by such bond shall be considered. The department of accounts and purchases may reject any bid made by anyone other than a regularly established and thoroughly competent printer and also may reject any or all bids if in its judgment the best interest of the state would be subserved thereby." (Emphasis supplied.)

The wording of the statute clearly states that the bid shall be accompanied by a bidder's bond which must be approved by the Attorney General. The statute specifically provides that no bid unaccompanied by such bond shall be considered. The term "such bond" refers to the bidder's bond, which must be approved by the Attorney General. The clear meaning of the language does not indicate that a bid may be accepted subject to the approval by the Attorney General of the bond submitted with such bid. The language, "no bid unaccompanied by such bond shall be considered", clearly indicates that the approval of the Attorney General must be obtained on the bond before the bid and bond

are submitted to the Department of Accounts and Purchases.

It is therefore our opinion that bids which are not accompanied by a bidder's bond approved by the Attorney General are not to be considered.

HELGI JOHANNESON

Attorney General