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STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

OPINION NO. 85-188

September 5, 1985

Honorable David S. Clinger
Prosecuting Attorney
Benton and Carroll Counties
Bentonville, AR 72712

Dear Mr. Clinger:

This is in response to your June 26, 1985 opinion request wherein you posed the following question:

When the County Judge has made a determination that several engineering companies are qualified to perform a project involving construction of a solid waste disposal plan, should the formal bidding procedures under Ark. Stat. Ann. §17-1602 be followed?

Although there is no reported Arkansas case directly addressing this issue, it appears formal competitive bidding procedures are not mandatory in awarding a contract to an engineering firm for the preparation of plans.

Ark. Stat. Ann. §17-1601 et seq. requires the county to make purchases of commodities in excess of \$2,000.00 by public bid. "Commodities" are defined in Ark. Stat. Ann. §17-1602(b) as . . . "all supplies, goods, materials, equipment, machinery, facilities, personal property, and services, other than personal services, purchased for or on behalf of the county." (Emphasis added). Since engineering services involve a peculiar skill or ability, they are considered personal, and formal competitive bidding is not required. McQuillin Municipal Corporations (3rd Edition) §29.35 provides in pertinent part:

Although they have sometimes held to apply to such an agreement, provisions requiring competitive bidding as a basis for entering into contractual relations with a governmental body usually are held not to apply to contracts for personal

services involving peculiar skill or ability. Provisions as to competitive bidding have been held not to apply to contracts for the services of a court stenographer, attorney at law, auditor, car advertising specialist, consulting and supervising engineer, or a superintendent or architect to supervise and make suggestions relative to work let under competitive bidding. Generally the requirement does not apply to the employment of a professional man, in which case the authorities have a discretion as to his qualifications."
(Emphasis added).

Even though your county judge has determined several engineers are qualified, their services are still "personal" and formal competitive bidding is not mandatory.

Of course, using formal bidding procedures for personal service contracts is not prohibited by Ark. Stat. Ann. §17-1601 et seq. either.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General David S. Mitchell.

Sincerely,


STEVE CLARK
Attorney General

SC/DSM/ljm