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Opinion 86-367

September 17, 1986

Honorable J.W. "Bill" Ramsey
State Representative
P.O. Box 6
Prairie Grove, AR 72753

Dear Mr. Ramsey:

This is in response to your question as to the possible violation of Arkansas Statute §19-4425 which sets forth competitive bidding requirements on contracts over \$5,000.00 for First Class Cities. You state that the City of Fayetteville reportedly awarded a contract (copy not provided) for archeological work in the amount of approximately \$70,000 without taking bids on said contract.

I have enclosed for your information Attorney General Opinion No. 86-120 which answers the question of whether First Class Cities are required to engage in competitive bidding for professional services pursuant to Ark. Stat. Ann. §19-4425 (1985 Supp.). That opinion states that First Class cities are not required to bid professional services pursuant to §19-4425.

The issue in construing your particular contract in question is whether the archeological work constitutes services that require scientific knowledge or professional skill, which is an exception to the general rule that a municipal contract made in violation of a statute that requires public bidding is invalid. 63 C.J.S. Municipal Corporation §996.

The legislature has required that the State Archeologist, appointed by the President of the University of Arkansas System, have a Doctor of Philosophy Degree in Anthropology. Ark. Stat. Ann. §9-1010 (1985 Supp.). There is also a certification process to be a member of the Society of Professional Archeologists.

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Therefore, it appears that archeological work would come within the professional services exception to the general rule and be exempt from the bid procedures of §19-4425.

No other Arkansas statutes were found that required bidding procedures for this contract.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Paul L. Cherry.

Sincerely,



STEVE CLARK
Attorney General

SC:PLC:jr
Encl.