

MAINE STATE LEGISLATURE

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May 5, 1955

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Bids for Reconstruction of the Oquossoc Hatchery

We have your memo of May 4, 1955, and the attached contract for the reconstruction of the Oquossoc Hatchery at Rangeley, Maine. Also attached is an abstract of the four lowest bids.

You ask whether or not you could recommend rejection of the Foster bid and acceptance of the next lowest bid, or if you could legally permit Kenneth and Harold Foster to change their unit prices to bring their proposal into better balance, leaving the total amount of the contract unchanged.

As background to the case you supply the following information:

"The low bid, in the amount of \$111,913.37, was submitted by Kenneth & Harold Foster of Wilton, Maine. The second bid was in the amount of \$118,770.50, and was submitted by the Houston Co., Brunswick, Maine, and the third, in the amount of \$119,115.00, was submitted by C. W. Bagley of Augusta, Maine.

"We are concerned over the fact that Fosters' bid is unbalanced in several items. The most important is Item 3, Rock Excavation. For an estimated quantity of 200 c.y., his bid was \$35.00 per yard. Houston Co. bid \$15.00 per c.y., and C.W. Bagley bid \$20.00 per c.y. The average of all bids, with the exception of Fosters', was \$15.64 per c.y. Although quantities on the Engineer's Estimate were figured as closely as possible, it was not possible to determine accurately the amount of ledge rock that would be encountered due to the fact that most of the area to be occupied by new structures was covered by old concrete structures. Mr. Harold Foster stated verbally, after the opening of the bids, that he expected rock excavation to greatly the estimate. Since this is quite possible, his unbalanced bid would overrun the total contract beyond monies authorized for that project. Article 7 of Section 2 of our specifications states that a bid may be rejected if the prices in the proposal are obviously unbalanced.

"Other unbalanced items are No. 1, General Excavation, Item No. 2, Structural Excavation, and Item No. 19, Removal of Existing Structures."

The one fact that strikes us forcefully in examining the material referred to us is the difference in the over-all bid of the Fosters and the next lowest bid, \$6857.13. The estimated quantity of rock excavation, presumably arrived at by your engineer, is 200 cubic yards. Before Fosters' would equal the next lowest bid, he would have to excavate nearly 200 more cubic yards of rock, totalling almost 400 cubic yards, or an amount approximately 100% in excess of the estimate.

Whether or not your apprehension in this respect is justified is a question that we are not in a position to answer.

In answer to your specific questions:- Any or all bids may be rejected. Our statutes so provide; Section 42 of Chapter 16, R.S. 1954. Your proposal also contains a similar reservation.

Permission should never be granted to a bidder to change the unit bid prices in the manner you suggest. The particular bid should be rejected and the next lowest bid accepted or all bids rejected and the project put out again for new bids.

We would add that bids should be rejected only for good cause. In the present case you should have some reason you could justify before rejecting a bid which on its face saves the State almost \$7000.

Obviously, of course, if the estimates are in substantial error, then you may reject all bids and start anew.

James Glynn Frost
Deputy Attorney General

jgf/c