

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

May 25, 1962

To: John H. Dyer, Purchasing Agent, Bureau of Purchases

Re: Calcium Chloride Bids

Through your office the Highway Department requested bids on calcium chloride for the approximate period of June 1, 1962 to April 1, 1963. Five bidders submitted identical bids as to price per ton f.o.b. the stated places in the bid requests.

Of the five bidders one is a Maine corporation having its principal place of business in Maine. The others are foreign corporations. The Maine corporation stated the bid price would be protected against increases to December 31, 1962. This factor eliminates this bidder (Polar Chemical, Inc.) as its bid cannot be considered as a low bid because all other bidders protected against price increases until April 1, 1963.

This leaves four bidders as low. Two of these bidders are foreign corporations, not registered to do business in the state (Pittsburgh Plate Glass Co. and E. & F King Co.). They cannot be considered as in-state bidders.

A third bidder (Allied Chemical Corporation) is a foreign corporation registered to do business in the state. In addition, it has a branch consisting of a plant where tar and asphalt products are manufactured within the state. It thus qualifies as an in-state bidder.

The last bidder (The Chemical Corp.) is a foreign corporation duly registered in Maine. In addition, it has a branch, consisting of storage, warehouse and office facilities in this state. It thus qualifies as an in-state bidder.

On this statement of facts you ask if you may award the bid to the in-state bidders that agreed to furnish calcium chloride at the bid price until April 1, 1963, namely, The Chemical Corp. and Allied Chemical Corp.

The pertinent provision of the statute is chapter 15-A, § 39, subsections VIII and IX.

“VIII. Tie bids shall be resolved on the basis of factors deemed by the state purchasing agent to serve the best interest of the state or by the drawing of lots, provided that price, quality, availability and other factors being equal, contracts or purchases shall be awarded to the in-state bidder or to bidder offering commodities produced or manufactured in the State of Maine, and services rendered by Maine bidders;

“IX. The phrase ‘in-state bidder’ shall be held to mean one having its principal place of business, or a branch thereof, located in Maine.”

You have here a tie bid. You have three choices under section 39,—(1) resolve on the basis of factors deemed by you to serve the best interests of the state, (2) draw lots, or (3) price, quality, availability and other factors being equal, contracts or purchases *shall* be awarded to the in-state bidder.

You having determined that price, quality, availability and other factors are equal, “contracts or purchases *shall* be awarded to the in-state bidder.” You are, therefore, correct in awarding the bid to the low in-state bidders, The Chemical Corp. and Allied Chemical Corporation.

GEORGE C. WEST

Deputy Attorney General