

MAINE STATE LEGISLATURE

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June 24, 1976

Robert N. Trask
Joseph Stephenson
Donald G. Alexander, Deputy

Purchases
" "
Attorney General

Canadian Bidders

This responds to your memorandum of June 21, 1976, in which you ask the question: Is there any State or Federal law which would prohibit Canadian manufacturers from bidding on materials or from bidding on contracts to supply materials which are already available in this State or the United States?

The answer is that there are no general provisions of Federal or State law which would prevent a Canadian manufacturer from bidding on supplying materials to the State where those materials are already available in this State or the United States. However, this answer is qualified as discussed below.

Discussion:

There is no general provision of State law prohibiting Canadian manufacturers from bidding on State contracts. Similarly there is no provision of Federal law which prohibits Canadian manufacturers from bidding on State contracts. However, there are certain relevant provisions of law which place some limitations on consideration of Canadian bids. These include 5 M.R.S.A. § 1816-8 which indicates that, where all other matters are equal, in-State bidders are to be favored. These are the only restrictions in State bidding law which limit Canadian bids.

At the Federal level, there is no law addressing State bidding generally. There is the so called Buy America Act, 41 U.S.C. § 10(a), et seq., which relates to Federal procurement and other procurement for public use with Federal funds. This law requires purchase of domestic materials and products unless they are not available at a reasonable cost. There may be restrictions implementing the Buy America Act or other provisions which are adopted in regulations and which would effect State contracts which involve the use of Federal funds. Therefore, this opinion cannot be viewed as definitively stating that there are no restrictions on bids by Canadians in State projects involving Federal funds. Such questions would have to be addressed on a case by case basis and should be initially addressed by contact with the appropriate Federal agency providing support for the particular project in question.

DONALD G. ALEXANDER
Deputy Attorney General

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