

MAINE STATE LEGISLATURE

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~~5 M.R.S.A. 1742-7~~
1773

July 27, 1976

Richard Bachelder, Director
Donald G. Alexander, Deputy

Public Improvements
Attorney General

Clarification of Application of Bureau of Public Improvements Authority

In light of the opinion to the Bureau of Parks and Recreation dated May 10, 1976, you have asked whether the fact that the State of Maine does not have or contemplate a fee or leasehold interest in some of the facilities which may be covered by the effect of that opinion makes any difference in terms of application of Bureau of Public Improvements authority to such facilities. The answer to your question is as follows:

1. Pursuant to the provisions of 5 M.R.S.A. § 1742,7, the Bureau of Public Improvements is required to approve all proposals, plans, specifications and contracts for public improvements by the State or its agencies in which the State intends to hold a fee or leasehold interest. It would be appropriate where the Bureau of Public Improvements recognizes that a certain agency has considerable experience in developing proposals, plans, specifications and contracts for public improvements, to grant general authority to that agency to approve proposals, plans, specifications and contracts in lieu of such approval by the Bureau of Public Improvements. However, such approval should only be granted in cases where the Bureau of Public Improvements makes a finding that the agency has considerable experience in these areas, that the agency is capable of taking on such responsibilities, and that the State interest would be served thereby. Agencies without extensive experience in these areas should not be approved to undertake such activities on their own with only generalized Bureau of Public Improvements supervision.

2. In terms of application of the competitive bidding requirements of 5 M.R.S.A. § 1743, the fact that the State will hold a fee or leasehold interest in the ultimate project makes no difference. Competitive bidding is required for all projects as indicated in the memorandum of May 10, 1976. The only difference is that in competitive bids for projects involving a total cost in excess of \$25,000, the Governor and Executive Council may apply regulations. For contracts for less than \$25,000 competitive bids are required, along with the prior authorization of the Bureau of Public Improvements.

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Thus, the subsequent fee or leasehold interest of the State does make a difference in required Bureau of Public Improvements approval of plans, specifications, etc. It makes no difference in the competitive bidding requirements, and the prior Bureau of Public Improvements authorization required for such competitive bidding.

DONALD G. ALEXANDER
Deputy Attorney General

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