

May 5, 1933

Attention: Dan Murphy, Secretary

Register of Contractors
New State Building
Phoenix, Arizona

Dear Sir:

The Attorney General has received your letter of May 4th in which you have requested his opinion upon the following questions:

1.

Is a person, who carries necessary unfinished material by the cubic mile; and disposes of it by dumping the same on a road which is under construction, a contractor within the meaning of Chapter 104, section 3, Session Laws 1933, Regular Session?

2.

Referring again to Chapter 104, sec. 1, Session Laws 1933, Regular Session, is it unlawful for a person to bid for a contract without first having secured a State Contractors' License from this office?

3.

Referring to Chapter 12, sec. 1352-B, Session Laws 1933, Regular Session, is it unlawful for a subcontractor to bid for a contract without first having secured a State Contractors' License?

And if the bid of an unlicensed subcontractor is recognized by the General Contractor and approved by the awarding body what is the liability of the parties concerned?

The answer to the first question depends upon

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whether or not the person who carries necessary unfinished material and disposes of it by dumping the same on a road which is under construction is merely furnishing materials or supplies to the contractor. If he merely furnishes materials, whether it be under contract or not, he would fall within the exception provided by the provisions of Section 3, Chapter 104, Session Laws, 1933. If he has contracted with the contractor to transport materials already purchased, he would then be a contractor. If it is understood between the person owning the material and the contractor that the owner of the material is to deliver it on the job, it is my opinion that he would not be a contractor within the meaning of Section 3, Chapter 104, Session Laws 1933.

In response to your second question, it is the opinion of the Attorney General that, pursuant to the provisions of Chapter 104, Session Laws 1933, a person who bids for a contract would have to be a licensed contractor before so bidding.

In response to your third question, it is the opinion of the Attorney General that Section 1352b, Chapter 12, Session Laws 1933, applies only to the letting of bids to the general contractor, and restricts the general contractor to letting sub-contracts to persons who have paid state and county taxes within the State of Arizona for not less than two successive years immediately prior to making the bid for the sub-contract. The sub-contractor, in bidding for such sub-contract, would have to comply with the provisions of Chapter 104, Session Laws 1933, and be subject to the additional qualification heretofore referred to. If a general contractor sub-contracts to a person who is not a licensed contractor, and the same is approved by the awarding body, there is no liability upon the parties concerned, except that the sub-contractor may be subject to the penal provisions of Chapter 104, Session Laws 1933.

Very truly yours,

Attorney General

By

Assistant Attorney General

JRM:w