

13 July 1946

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ARIZONA ATTORNEY GENERAL

John F. Sills, Superintendent
Arizona Pioneers' Home
Prescott, Arizona

Dear Mr. Sills:

By letter dated 9 July 1946 you request an opinion of the legality of receiving the bid of the Otis Elevator Company and rejecting that of the Phoenix Elevator Company for elevator repairs at the Pioneers' home.

The applicable law, Section 9-106 A.C.A. 1939, provides:

"The agent shall enter into a contract with the lowest responsible bidder, whose proposal has been found satisfactory. . . "

The lowest bid is not necessarily the one to be accepted under this law, but the reliability and responsibility of the bidder must be weighted - City of Denver v. Dumars, 80 Pac. 114 (Colo.).

The word "responsible" in the phrase "lowest responsible bidder" implies the skill, judgment and integrity necessary to a faithful performance of the contract, as well as sufficient financial resources and ability.- Williams v. City of Topeka, 118 Pac. 864 (Kans.); and it was held in an identical provision of the Oakland City Charter that the honest exercise of discretion of the City Council, in considering the adaptability to the use required of goods offered, in determining who was the lowest responsible bidder under a charter calling for award of public works contract to such bidder, is not reviewable by the courts.- West v. City of Oakland, 159 Pac. 202 (Calif.).

In view of the law in the above cases construing the meaning of "lowest responsible bidder", it is the opinion

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of this office that you are legally entitled in the exercise of your discretion under this statute, to accept the Otis bid on the grounds that a better job and more economical job in the long run will be done by the Otis company.

Further it is to be noticed that the statute directs the acceptance of a bidder's offer "whose proposal has been found satisfactory". A partial bid is unsatisfactory and may be disregarded. Stimson v. Hanley, 19 Pac. 945 (Calif.)

Failure of the Phoenix company to include in its bid terms for the construction of a new brake may, in your discretion, render the bid unsatisfactory.

It is, therefore, the opinion of this office that you may, using the above considerations, legally reject the bid of the Phoenix company and accept that of the Otis company.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

WILLIAM P. MAHONEY, JR
Assistant Attorney General

WPM:a