



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007
June 14, 1976

R 76-263 Rod
76-184

BRUCE E. BABBITT
ATTORNEY GENERAL

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Michael A. Ramnes
Acting Director
Arizona State Parks
1688 West Adams Street
Phoenix, Arizona 85007

Re: State Project No. 13-770-177

Dear Mr. Ramnes:

This is in response to your letter of June 2, 1976 in which you requested a legal opinion of this office. As we understand the facts, the Arizona State Park Board is prepared to award a contract for the construction of improvements to the entrance of Lake Havasu State Park. The plans and specifications provide that the road will be widened at a point near the park entrance where a traffic island will be constructed. The work will consist of excavation and asphalt paving, and the installation of signs, area lighting and a landscape watering system.

Question Presented: May the Arizona State Park Board legally award the contract for this public works construction to a contractor with a Class "B" contractor's license?

Answer: No.

The answer to the above question necessarily involves a determination of what work is permitted under a Class "B" contractor's license. A.R.S. § 32-1102 distinguishes between the scope of operations of the Class "A" General Engineering Contractor and the Class "B" General Building Contractor, as follows:

1. General building contracting.
A general building contractor is a contractor whose principal contracting



Mr. Michael A. Ramnes
June 14, 1976
Page Two

business is in connection with any structure built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind requiring in its construction the use of more than two unrelated construction trades or crafts, or to do or superintend the whole or any part thereof, but does not include a person who merely furnishes materials or supplies as provided in section 32-1121 without fabricating them into or consuming them in performing the work of the general building contractor.

2. General engineering contracting.

A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skills and includes but is not limited to any or all of the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airport runways, sewerage, bridges, earthmoving projects, paving and transmission lines.

[Emphasis added]

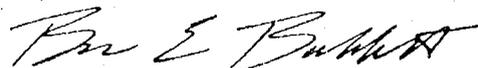
In City of Phoenix v. Superior Court, City of Maricopa, 109 Ariz. 533, 537, 514 P.2d 454 (1973), the Supreme Court specifically accepted the Registrar of Contractor's interpretation that this statute distinguishes between the Class "A" license, which is limited in scope to the construction of fixed works, and the Class "B" license, which is limited to the construction of structures for the enclosure of persons, animals and chattels. This project does not provide for the construction of a

Mr. Michael A. Ramnes
June 14, 1976
Page Three

building but includes the type of construction work described in the statute as "fixed works". It follows that the Class "B" license would not be the proper license for this project. If a contractor does not possess the proper license to do the work required in a public works project, then the State may not consider his bid. A.R.S. § 32-241, Arnold Const. Co., Inc. vs. Arizona Board of Regents, 109 Ariz. 495, 497, 512 P.2d 1229 (1973).

Accordingly, it is the opinion of this office that the Class "B" license is not the proper license for the proposed construction work and the Arizona State Park Board may not legally award the contract to a Class "B" General Building Contractor.

Sincerely,



BRUCE E. BABBITT
Attorney General

BEB:TP:jdp
cc: Mr. John J. Kayetan
State Registrar of
Contractors