

State Highway Commissioner—Power to Make Contracts With United States.

The State Highway Commissioner is the executive head of the State Highway Commission and the proper official to sign contracts awarded by the Commission.

The State Highway Commissioner cannot be delegated by the State Highway Commission with the discretionary powers of accepting and executing contracts with the United States Government, but all such contracts must be accepted by the State Highway Commission, and the State Highway Commissioner is authorized to sign and execute such contracts and agreements after the same have been accepted.

State Highway Commission,
Helena, Montana.

Gentlemen:

You have requested my opinion as to the following questions:

1. After a contract is awarded by the State Highway Commission, may the contract be signed by the State Highway Commissioner and attested by the Secretary of the Commission, without the signature of a second member of the Commission?

2. May the State Highway Commission by a resolution, adopted by a majority thereof, authorize the State Highway Commissioner to sign a project agreement or contract with the Secretary of Agriculture relating to the construction of Federal aid improvements within the State?

Section 1 of Senate Bill No. 8, Extraordinary Session of the 17th Legislative Assembly, provides that the State Highway Commissioner shall be the executive head of the Commission. Therefore, he is the proper person to sign contracts awarded by the Commission.

The minutes of the meeting of the State Highway Commission, showing the awarding of the contract, should set out that the State Highway Commissioner and the Secretary of the Commission are specifically authorized to sign and execute the contract awarded.

As for your second question, Section 9 of said Act authorizes the State Highway Commission, for and on behalf of the State of Montana, to enter into all contracts and agreements with the United States Government, or any officer, department or bureau thereof, relative to the construction or maintenance of highways in the State of Montana. It is my opinion that these contracts and agreements would have to be accepted by the State Highway Commission in the same manner as any other contract, and having accepted them, the State Highway Commissioner and Secretary should be authorized and directed to sign them. If the Commission were allowed, by means of a resolution directed to the Commissioner, to charge him with the duty of executing such contracts and agreements generally, it would amount to a delegation to him of discretionary powers which were vested by the Legislature in the Commission itself. When the State Highway Commission has accepted the contract or agreement, then it can, by appropriate order, authorize the State Highway Commissioner and the Secretary to sign and execute the same, but blanket authority to sign and execute contracts and agreements cannot legally be given.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.