

tor on a variation of the project was for an amount greater than could be let to the holder of a Class C license.

August 4, 1948

Mr. Michael Ruane  
County Attorney  
Deer Lodge County  
Anaconda, Montana

Dear Mr. Ruane:

You have requested my opinion as to whether a school district may accept an alternate bid of \$22,068.00 from the holder of a class "C" license for public contracting when the base bid was \$25,195.00. The difference in the two bids results from the omission of installation of a sound system, as an alternate.

The licensing of public contractors and the letting of bids to them is governed by Sections 2433.5 and 2433.7, Revised Codes of Montana, 1935, as amended by Chapter 113, Laws of 1939, Section 2433.5, as amended by Chapter 113, Laws of 1939, provides for the different classes of licenses and the rights granted the licensees. It provides, in part:

"The holder of a Class C license shall be entitled to engage in the public contracting business within the State of Montana, but shall not be entitled to engage in the construction of any single public contract project of a value in excess of twenty-five thousand dollars (\$25,000.00); and shall pay onto the registrar as a license fee the sum of ten dollars (\$10.00) at the time of making application therefor."

The limitation placed on the holder of a Class C license by this section is on the value of the project in the construction of which said licensee may engage.

The statute uses the term "single . . . contract project." In this case, the single project which is being let by contract is that for which the alternate bid was submitted. The value of it is \$22,068.00, which is well within the limit set for the holder of a Class C license. The license holder entered the bid of \$25,195.00 as a base bid, knowing that he could not get the

**Opinion No. 131**

**Public Contractor — License, Public Contractor — Public Contract**

**Held:** A public contract in an amount not in excess of \$25,000.00 may be awarded to the holder of a Class C license even though an alternative bid submitted by said contrac-

contract in that amount since he was not licensed to contract for public work of that value. However, that does not prevent the school board from contracting with him for public work, the value of which falls within the classification of his license.

Section 2433.7 requires that the contractor make a showing on his bid of the number and class of his license. The section provides:

"All bids and proposals for the construction of any public contract project subject to the provisions of this act shall contain a statement showing that the bidder or contractor is duly and regularly licensed hereunder. The number and class of such license then held by such public contractor shall appear upon such bid or proposal and no contract shall be awarded to any contractor unless he is the holder of a license in the class within which the value of the project shall fall as hereinbefore provided."

By this section the contractor must make a showing on his bid that he is eligible to receive the contract. The limitation is on the awarding of a contract. It says "no contract shall be awarded," and the contract as awarded determines the value of the project. The value of the contract awarded is the value of the contract project.

Therefore, it is my opinion a public contract in the amount of \$22,068.00 may be awarded to the holder of a Class C license even though an alternative bid submitted by said contractor on a variation of the project was for an amount greater than could be let to the holder of a Class C license.

Sincerely yours,  
R. V. BOTTMLEY,  
Attorney General