

**Federal Aid Projects — Bids — Call For, Advertising—
Legal Requirements.**

Under state law there are no special requirements in advertising call for bids for the construction of Federal Aid Projects.

June 2nd, 1919.

State Highway Commission,
Helena, Montana.

Gentlemen:

I am in receipt of your letter of recent date asking that I give you an opinion as to what constitutes the legal requirement of advertising the call for bids for the construction of Federal Aid Projects.

Section 7 (a), Chap. 170, Session Laws 1917, is as follows:

“All contracts for work upon State Highways shall be let by the Executive Committee. Where the estimated cost of any piece

of work upon the State Highways exceeds one thousand dollars (\$1000.00), it shall be the duty of the Executive Committee to let such contract by competitive bidding upon such notices and upon such terms as the Committee may by its rules and regulations prescribe, providing, however, that this shall not apply to work by convict labor. * * *

While Section 8 (a), of the same chapter, authorizes the State Highway Commission to assent to the provisions of the Act of Congress making provision for Federal aid for the construction of highways, and to do all things necessary to fully carry out the co-operation contemplated and provided for by said act.

No provisions are found in our statutes relative to the giving of notice or letting of contract in connection with work on state highways, whether such work is to be done by the state alone or by the state in co-operation with the Federal government, other than those contained in Section 7 (a) of said chapter, but unquestionably the provisions of said Section 7 (a) apply to contracts for work on state highways in co-operation with the Federal government as well as to contracts for work on state highways by the state alone.

The rules and regulations adopted by the Secretary of Agriculture relative to Federal and state co-operation under said Act of Congress contain the following:

"No part of the Federal money set aside on account of any project shall be paid until it has been shown to the satisfaction of the Secretary that adequate means, either by advertising or by other devices appropriate for the purpose, were employed, prior to the beginning of construction, to insure the economical and practical expenditure of such money." (Sec. 1, Sub-div. 7.)

"Immediately upon publication of advertisements copies thereof shall be furnished to the Bureau of Public Roads." (Sec. 2.)

It will be seen that Section 7 (a) of Chapter 170, Session Laws 1917, requires the contracts to be let by the Executive Committee by competitive bidding upon notice, but leaves with the Executive Committee the power to prescribe the manner and mode in which notice shall be given, while the rules and regulations of the Secretary of Agriculture require that copies of advertisements shall be furnished to the Bureau of Public Roads immediately after publication. It would therefore appear that some notice must be published in such a manner as will give notice to all persons who might desire to bid on the work, and that copies thereof must be furnished the Federal government. In just what manner publication must be made seems to be left entirely to the discretion of the Executive Committee, but it must be by publication sufficient to give notice to all persons who might desire to bid on the work, and sufficient to satisfy the Secretary of Agriculture. The mailing out of notices to certain persons or firms is not a publication of the notice, and does not give notice to all who might desire to bid on the work, but only gives notice to those to whom it is mailed. It is therefore plain that there must be some publication of the notice, but whether the publication should be one time in one newspaper, or one time

in several newspapers, or more than one time in one or more newspapers is to be determined by the Executive Committee subject to the approval of the Secretary of Agriculture.

I am therefore of the opinion that such notice must be published in a newspaper of general circulation, but whether it should be published more than one time in such newspaper, or one or more times in more than one newspaper I cannot advise you. If publication of the notice one time in one newspaper is sufficient to satisfy the Secretary of Agriculture then you may by your rules and regulations prescribe for such manner of publication, or by your rules and regulations prescribe for such additional publications in the same, or in additional newspapers as he may approve.

I would suggest that you take this matter up with the Department of Agriculture and obtain a statement as to just what number of times such notice should be published, then adopt rules and regulations in conformity therewith.

Respectfully,

S. C. FORD,

Attorney General.