

**Highway Commission—Contractors, Bids Of—Certified Check.**

The Highway Commissioner has authority to require a certified check to accompany each bid of a contractor, and a check may be made to cover two projects, after one on each of two projects has been submitted.

March 19, 1920.

State Highway Commission,  
Helena, Montana.

Gentlemen:

I am in receipt of your letter of the 16th instant, asking me to advise you concerning the legality of the action of your Executive Committee with reference to certain certified checks deposited by contractors with bids for work on highway projects.

The only provision I am able to find with reference to the letting of contracts by your commission is contained in Section 7 (a) of Chapter 170, Session Laws 1917, as amended by Section 1 of Chapter 2, Session Laws Extraordinary Session 1919. This section, as so amended, requires your committee, when the estimated cost of any piece of work shall exceed \$1,000 to let the contract therefor by competitive bidding, *upon such notices and upon such terms as the committee may by its rules and regulations prescribe*, provided, that if the committee shall find that such work may be done and performed by force account or by day's labor in a more efficient manner they may so conduct the work, and may use convict labor, as in their judgment is deemed proper. It will be seen that the only requirement contained in this section is that the contract shall be let upon competitive bidding, the manner in which bids shall be submitted, and all rules and regulations in connection therewith, and with the letting of the contract, being left entirely to the discretion of the committee. The rules and regulations which your

committee may prescribe are not for the benefit of the bidders, but entirely for the benefit and protection of the state and the public, and in order to secure to the state and the public this benefit and protection the committee may, under this section, prescribe such rules and regulations as it may deem necessary, and may at any time change, modify, suspend or dispense with any such rule or regulation adopted, if the committee believes that it will be of advantage to the state and the public to do so.

You are, therefore, advised that you had full power and authority to alter the requirements that a certified check accompany each bid of each contractor on each of the two projects, and, when a contractor tendered a bid on each project to permit him to deposit one certified check to cover both bids, and that such action on your part was not illegal in any respect.

Respectfully,

S. C. FORD,

Attorney General.