

Opinion No. 259.**Purchasing Agent — Printers — Bids—
Contracts—Resident and Non-Resident
Bidders.**

Held: The provisions of Section 260, Revised Codes of Montana, 1935, do not require the purchasing agent in letting contracts for printing for the Department of Public Welfare to give a preference to printers within the state of Montana over printers without the state of Montana, provided the printing offered from without the state is of equal quality and offered at a lower bid; the printing in either instance is to bear the union label as provided by Section 260.

November 30, 1944.

Mr. W. J. Fouse
Administrator
State Department of Public Welfare
Helena, Montana

Dear Mr. Fouse:

Your letter has been received, requesting an opinion asking if the provisions of Section 260, Revised Codes of Montana, 1935, require that in the letting of contracts for printing for your department by the state purchasing agent preference is required to be given to printing done within the state over a bidder who submits a bid for supplying printing of equal quality but at a lower price, the work being done without _____ of the printed _____ label of the branch of the International Typographical Union of the city in which the material is printed.

Section 260, Revised Codes of Montana, 1935, provides:

"All printing for which the state of Montana is chargeable, including reports of state officers, state boards, pamphlets, blanks, letterheads, envelopes, and printed matter of every kind and description, save and except certificates of appointment and election to office, shall have the label of the branch of the International Typographical Union of the city in which they are printed."

Section 260 was enacted in 1897 and has been carried forward through the various revisions of the code unchanged.

In construing a statute, it is the duty of one construing it to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted. (Section 10519, Revised Codes of Montana, 1935; *Rung v. Industrial Accident Board*, 114 Mont. 347, 136 Pac. (2d) 754; *State ex rel. Dean v. Brandjord*, 108 Mont. 447, 92 Pac. (2d) 273.)

Applying this rule of construction to the statute under consideration, I find no intention expressed by the legislature to require the preference be given to bids of printers where the work is done within the state and where the bids are not equal.

Such a preference is provided for by Section 283.1, Revised Codes of Montana, 1935, where the contract is for the printing and/or binding of decisions of the Supreme Court of Montana, session laws, resolutions, memorials, and all codes and statutes of the state of Montana. Since your department does not have to do with the printing of any of the above mentioned documents, this section is without application to your department.

By the provisions of Section 293.6, Revised Codes of Montana, 1935, the state purchasing agent is granted exclusive power, subject to the consent and approval of the Governor, to contract for all printing used by the state of Montana in any state office, elective or appointive, or by any state board, commission, bureau, state institution or department.

All contracts let by the state purchasing agent are to be let to the lowest responsible bidder (Section 293.3, Revised Codes of Montana, 1935), except that where the bid of a resident as against the bid of a non-resident submits goods of the same quality and the bid of the resident is the same as

the non-resident, then preference shall be given to the resident bidder of the state of Montana over the non-resident. (Section 293.10, Revised Codes of Montana, 1935.)

The state purchasing agent act was enacted in 1921 and amended in 1923. If there is any conflict between the provisions of the various sections of the purchasing agent act, and in particular the sections above cited, with Section 260, Revised Codes of Montana, 1935, then the sections cited from the act with reference to the purchasing agent will control.

In my opinion the provisions of Section 260, Revised Codes of Montana, 1935, do not require the purchasing agent in letting contracts for printing your department's material to give a preference to printers within the state of Montana over printers without the state of Montana, provided the printing offered from without the state is of equal quality and offered at a lower bid; the printing in either instance is to bear the union label as provided by Section 260 above.

Sincerely yours,
R. V. BOTTOMLY
Attorney General