



TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

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RQ-0321-jc

November 30, 2000

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The Honorable John Cornyn
Attorney General of Texas
P. O. Box 12548
Austin, Texas 78711-2548

DEC 04 2000

OPINION COMMITTEE

DEC 01 2000
OPEN RECORDS DIVISION
FILE # ML-41774-00
I.D. # 41774

RE: Request for opinion regarding the Professional Services Procurement Act

Dear General Cornyn:

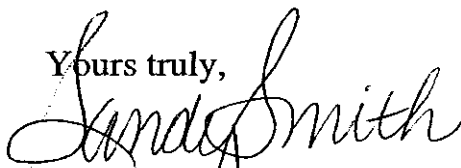
The Texas Board of Professional Land Surveying is charged with enforcing the Professional Land Surveying Practices Act, Art. 5282c VTCS. Section 9 of this Act was recently amended to require the Board to pass a rule that would provide for standards for compliance with the Professional Services Procurement Act (PSPA), Subchapter A, Chapter 2254 of the Government Code. The PSPA requires governmental entities to choose providers of professional services on the basis of qualifications and competence rather than on the basis of competitive bids. In response to this legislation the Board adopted rule 663.8 (5), which prohibits registered surveyors from offering a competitive bid to a governmental entity for professional surveying services.

The Board has received several questions regarding the legislature's mandate to provide standards for compliance with the PSPA. We would appreciate your opinion regarding the following contract scenarios:

1. A primary contractor has been awarded a contract with a governmental entity. Can a registered surveyor provide a competitive bid to the primary contractor for professional surveying services at the planning and design stage?
2. Assume that a governmental entity that is the owner of a project contracts separately, in accordance with the PSPA, for the provision of professional services at the planning and design phase of the project, but the proper completion of the project requires additional testing, surveying, or inspections by a professional, and those services are included in the construction contract. Can a registered surveyor provide a competitive bid to the primary contractor for professional services that will be needed in the construction phase of a project, if the contract has already been awarded by the governmental agency when the bids are solicited?
3. A contractor solicits a competitive bid from an RPLS. Does the RPLS have a legal obligation to ask who the ultimate owner of the project will be, in order to avoid offering a competitive bid on a project which will be owned by a governmental entity?

The Board has been working with our AG Representative, Kay Johnsonius, regarding these questions; if you have any questions about this request, you may contact her at 475 4203 or me at the number above.

Yours truly,

A handwritten signature in cursive script that reads "Sandy Smith". The signature is written in black ink and is positioned to the right of the typed name.

Sandy Smith
Executive Director