

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

December 21, 2018

Carroll Rhodes, Esq.
Attorney, Hazlehurst City School District
Post Office Box 588
Hazlehurst, Mississippi 39083

Re: Bids for Land Surveyors

Dear Mr. Rhodes:

Attorney General Jim Hood has received your request for a formal opinion of this office and assigned it to me for research and reply

Facts and Issue Presented

Your request states that the Hazlehurst City School District (the "District") wishes to contract with a private registered land surveyor for professional survey services to be provided to the District in conjunction with the District's responsibility to manage sixteenth section lands. In particular, you note that the applicable statute provides that it is the "duty of the board of education, using the services of all appropriate public agencies, to survey and classify all sixteenth section lands . . ." Miss. Code. Ann. Section 29-3-31 (as amended). You further note that the services are "professional services only" which do not involve the "purchase of commodities or a contract for garbage collection, garbage disposal, solid waste, waste collection or disposal or public construction." For these reasons, you note that procurement of professional services would not be subject to Section 31-1-1, Section 31-7-3 or Section 31-7-13 which you define as the "Mississippi Bid Laws." On these facts, you pose the following questions:

1. Does Mississippi law prohibit the HCSD from entering into a contract with a registered land surveyor who is not employed by a public agency to survey the school district's sixteenth section land?
2. If it does not, then does Mississippi law require the HCSD to comply with the Mississippi Bid Law before entering into a professional services contract with a registered land surveyor who is not employed by a public agency to survey sixteenth section land where the contract is valued at more than \$50,000?

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Response

In response to your first question, you have directed us to no authority, and we, likewise, have found no authority, that would require the District to use the services of a surveyor employed by a public agency. The requirement to use "the services of all appropriate agencies" should simply be read to mean that school districts should use resources of state agencies where available. See *Tally v. Carter*, 318 So. 2d 835, 838 (Miss. 1975) (The obvious agency to assist where reclassification of forest land was at issue was the Forestry Department). This duty should be read in conjunction with Section 29-3-35 which makes it "the duty of any such agency when so requested to assist the board of education in making such classification." It is our opinion that these statutes do not prohibit a school district from contracting with a private registered surveyor where the services to be performed are necessary to the District's management of sixteenth section lands.

With regard to your second question, none of the statutes require that a governing authority seek bids for the procurement of professional services of registered land surveyors. Sections 31-1-1 and 31-7-3 deal with state agencies and the duties of the Department of Finance and Administration, respectively. Section 31-7-13 which does apply to governing authorities, as you note, addresses the purchase of commodities or "contract[s] for garbage collection, garbage disposal, solid waste, waste collection or disposal or public construction." Accordingly, Section 31-7-13 does not require a governing authority to seek bids for the procurement of professional services from a registered land surveyor. See MS AG Op., Bracey (August 24, 2018).

If this office can be of further assistance, do not hesitate to contact us.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Ricky G. Luke
Assistant Attorney General