



April 4, 1997

VIA FAX

Sharon Smith
Edu-Flex Financial Services
Division of Compacq
4333 Edgewood Road - N.W., Suite 400
Cedar Rapids IA 52499

Re: Competitive Bidding on School Board Contracts

Dear Ms. Smith

New London School District has asked us to advise you whether there are any competitive bidding requirements affecting the proposed three-year capital lease of certain computers, printers, and software it is proposing to acquire.

In our opinion, there are no specific competitive bidding requirements. Rather, the School Board is free to make these acquisitions on either a negotiated or competitively bid basis, in accordance with its own policies.

Although many Wisconsin governmental entities are required to utilize competitive bidding on public construction (see for example, Section 62.15 Wis. Stats. with respect to cities), there is no such requirement for school boards. School boards have general statutory authority to have the "possession, care, control and management of the property and affairs of the School District . . ." §120.12(1). This applies generally whether the unit is a common school district, or a unified school district. (§120.44(2)). The specific provisions of §§120.12 and 120.13 cover a number of other areas of business, but do not affect its general discretion with respect to contracts of this type.

School districts in first-class cities (viz., Milwaukee) are subject to more stringent requirements. Its board is required to "establish competitive bidding policies and procedures for purchases and for construction contracts." §119.16(4). However, there is no comparable provision for other Wisconsin school districts, including New London's.

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I should also observe that, except for Milwaukee Public Schools, governmental agencies are not generally required by State statute to utilize competitive bidding for purchases of equipment, such as computers, printers and software, that does not enhance the value of real estate. Most State statutes affecting the bidding of municipal contracts apply only to improvements to real estate.

In summary, it is opinion that the New London School District is free, so long as it is consistent with its own internal policies, to either utilize, or not utilize competitive bidding for the acquisition in question. Its discretion is not limited by State statute.

Please call if you have any further questions. My direct dial number is 414-277-5703.

Very truly yours,

QUARLES & BRADY


Ronald L. Wallenfang

vlj

cc: New London School District ✓