



**TEXAS
EDUCATION
AGENCY**

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RQ-754

Opinion Committee

October 3, 1994

SJS

The Honorable Dan Morales
Attorney General of Texas
P. O. Box 12548
Supreme Court Building
Austin, Texas 78711-2548

ML-29634-94

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Re: Request for opinion

Dear General Morales:

The Texas Education Agency has received a number of inquiries from school districts regarding the availability to the districts of the catalogue purchase procedure provided under Section 3.081 of the State Purchasing and General Services Act (Article 601b, Revised Statutes).

Section 3.081, enacted by the 73rd Legislature, establishes a catalogue purchase procedure under which certain state agencies may purchase or lease automated information systems directly from a vendor. This procedure is an exception to the general provisions of the State Purchasing and General Services Act that give the General Services Commission responsibility for making most state agency purchases, primarily through contracts that are competitively bid. A vendor that wishes to participate in the catalogue purchase procedure must apply to the General Services Commission for designation as a "qualified information systems vendor." The designated vendors are not selected through a competitive bidding procedure. However, a vendor must meet standards and criteria established by the commission in order to receive the designation. The vendor supplies a catalogue to state agencies that includes a description of each product or service available, the list price of the product or service, and the price to a state agency.

Subsection (g) of Section 3.081 requires the commission to "make the catalogue purchasing procedure [under that section] available to local governments that qualify for cooperative purchasing under Sections 271.082 and 271.083, Local Government Code." Section 271.082, Local Government Code, requires the General Services Commission to establish a program for performing purchasing services for local governments, including school districts. The services include extending state contract prices to local governments. Section 271.083(b) provides that a local government that purchases an item under a state contract satisfies any state law requiring the local government to seek competitive bids for the purchase. Section 21.901(a), Education Code, requires school districts to submit all contracts for the purchase of personal property to competitive bidding if the property is valued at \$25,000 or more. For purchases between \$10,000 and \$25,000, a school district must either submit a contract to competitive bidding or obtain price quotations under Section 21.9013, Education Code. Section 21.901(f) authorizes a school district to acquire computers and computer-related equipment through the General

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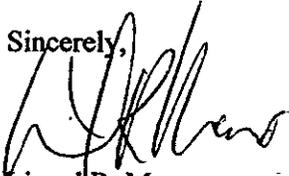
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Services Commission under contracts entered into under the State Purchasing and General Services Act.

My questions are as follows:

1. Does a purchase by a school district using the catalogue purchasing procedure established by the General Services Commission under Section 3.081 of the State Purchasing and General Services Act satisfy competitive bidding requirements in the same manner as a purchase by a school district under a state contract as provided by Section 271.083(b), Local Government Code?
2. If the procedure does not satisfy competitive bidding requirements, may it be substituted for the alternative price quotation procedure under Section 21.9013, Education Code?
3. If the answers to the preceding questions are negative, is the availability of the catalogue purchasing procedure to school districts limited to purchases for which neither a competitive bid or price quotation is required under Sections 21.901 and 21.9013, Education Code?

Sincerely,



Lionel R. Meno

Commissioner of Education