

shall be determined by the amount of cash in the sinking fund or bond retirement fund available for such payment and shall be certified to by the fiscal officer and approved by resolution of the taxing authority before any such bonds are exchanged.

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With respect to the matter of the power of the awarding authority to reject all bids, although the statute does not specifically provide that this may be done, it is a general principle of contract law consistently recognized by the courts that an offer need not be accepted; when a bid is submitted pursuant to advertisement requesting the submission thereof, such bid constitutes an offer which may or may not be accepted by the awarding authority. The acceptance of such offer and the award of a contract is a discretionary matter with the awarding authority and in all cases where it is believed that for any cause the best interests of the public may be served by rejecting all bids, the awarding authority unquestionably has power so to do. After having done so, however, the situation which prevails is the same as though no advertisement had been made. It follows, of course, that your first inquiry must be answered in the affirmative.

With respect to your second question as to whether or not after all bids have been rejected the subdivision may exchange refunding bonds for bonds refunded, your attention is directed to the fact that the only authority to so exchange bonds is predicated upon the refunding bonds having been advertised and still remaining unsold at private sale after a period of ten days. There is no authority to sell bonds of any kind at private sale unless such bonds have been duly advertised and offered at public sale and for want of bidders remain unsold. It follows that it may not be said that bonds remain unsold at private sale for a period of ten days when such bonds have been advertised and a bid or bids submitted pursuant to such advertisement. There is no authority therefore granted to exchange refunding bonds for bonds refunded under existing circumstances unless all bids are rejected and the refunding bonds readvertised and no bids received pursuant to such advertisement and ten days elapse without such bonds being sold at private sale.

In specific answer to your questions, it is my opinion that:

1. After bonds have been advertised pursuant to the provisions of section 2293-28, General Code, and bids received pursuant thereto, the bond issuing authority has the power to reject all bids submitted and readvertise such bonds.

2. In the event refunding bonds are advertised for sale and a bid is duly submitted for such bonds pursuant thereto, such bonds may not be exchanged for bonds refunded unless all bids submitted pursuant to such advertisement are rejected, the bonds readvertised and no bids submitted to such advertisement and the same remain unsold at private sale for a period of ten days.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3345.

APPROVAL, BONDS OF RANDOLPH TOWNSHIP RURAL SCHOOL DISTRICT, MONTGOMERY COUNTY, OHIO—\$20,396.00.

COLUMBUS, OHIO, October 25, 1934.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.