

You have not submitted a complete set of the specifications from which the above excerpts were taken, and from all that appears therein it seems that bids based upon articles other than those specified would not be considered. If this be the fact, it seems clear that where, for instance, as in Alternate 1, page 83, supra, the specifications provide for seats and desks manufactured by the American Seating Company, the manufacturer of that particular article would have a distinct advantage over all other bidders and would have a virtual monopoly on that particular class of the work. The obvious result of such provisions in the specifications is clearly to destroy all competition, would defeat the very purpose of the law, and such specifications are therefore illegal.

In most of the specifications that have come to my attention, where the products of particular manufacturers are specified, the specifications also contain a general clause to the effect that where a particular product is specified bids will be received based upon furnishing that particular product or its equal. In other words, where the specifications permit bidding on equals, the purpose of specifying the product of a particular manufacturer is to inform the bidder of the type or style or class of the article desired rather than to limit the bids to that particular article. As stated above, I do not have before me a complete set of the specifications referred to in your communication and am, therefore, unable to determine whether or not the same contain a clause similar to that above referred to. If it appears that there is such a clause in the specifications and that the primary object in specifying the products of particular manufacturers is only to inform the bidders of the type, style or class of the articles to be furnished, then it is my opinion that such specifications are not illegal.

Summarizing and answering your question specifically, it is my opinion that where specifications for a building, for use by an institution supported by the state, specify the products of certain manufacturers to the exclusion of all others, and without providing that where such products are specified bids will be received based upon such products or their equal, such specifications are illegal. Where, however, the purpose of specifying the products of certain manufacturers is to inform the bidders of the type, style or class of the articles desired, and permit bidding upon articles of equal quality and utility, such specifications are legal.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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2062.

APPROVAL, BONDS OF THE VILLAGE OF WESTERVILLE, FRANKLIN  
COUNTY—\$57,000.00.

COLUMBUS, OHIO, May 4, 1928.

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