



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

February 7, 1951

Hon. Gibb Gilchrist, Chancellor
Agricultural and Mechanical College of Texas
College Station, Texas

Opinion No. V-1148

Re: Legality of considering
and accepting written bids
without the bidder being
personally present at the
statutory "public auction"
of mineral leases.

Dear Sir:

You have requested the opinion of the Attorney General as to whether the Board of Directors of the Agricultural and Mechanical College of Texas may consider and accept written bids on mineral leases offered for sale under the provisions of Article 2613a-3, V.C.S., the bidder or an authorized representative not being personally present at the public auction.

Section 1 of Article 2613a-3 authorizes the Board of Directors of the Agricultural and Mechanical College of Texas to lease certain lands for mineral development "to the highest bidder at public auction." Section 3 thereof provides in part that:

"The Board may sell the lease or leases to the highest bidder at public auction at the Agricultural and Mechanical College of Texas, College Station, Texas, at any hour between 10:00 a.m. and 5:00 p.m. . . ."

Article 2613a-3 does not prescribe the manner or form in which bids must be submitted.

A public auction is nothing more than the public sale of property to the highest bidder. 5 Tex. Jur. 554, Auctions, Sec. 2; 7 C.J.S. 1239, Auctions, Sec. 1a; 5 Am. Jur. 446, Auctions, Sec. 2. In the absence of prescribed methods for submitting bids

in the notice of holding the public auction, bids may be submitted in any manner or form by which the bidder signifies his willingness and intention to give a certain sum for the property offered for sale. 7 C.J.S. 1253, Auctions, Sec. 7e (2). They may be submitted in writing, and it is not necessary that the bidder be personally present at the auction and make his bid then and there. State vs. State Board of School Land Commissioners, 27 Wyo. 54, 191 Pac. 1073, 11 A.L.R. 539 (1920); 7 C.J.S. 1254, Auctions, Sec. 7e (2). See also Annotation, 11 A.L.R. 543-546, and cases there cited.

You are accordingly advised that in the absence of a prohibition against the submission of written bids in the notice of holding a public auction under the provisions of Article 2613a-3, the Board of Directors of the Agricultural and Mechanical College of Texas should consider bids submitted in writing at such auction, even though the bidder or an authorized representative is not personally present.

SUMMARY

In the absence of a prohibition against the submission of written bids in the notice of holding a public auction under the provisions of Article 2613a-3, V.C.S., the Board of Directors of the Agricultural and Mechanical College of Texas should consider bids submitted in writing at such auction, even though the bidder or an authorized representative is not personally present.

APPROVED:

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DMG:mf

Yours very truly,

PRICE DANIEL
Attorney General

By 
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Assistant