

N.D.A.G. Letter to Byers (Nov. 18, 1991)

November 18, 1991

Mr. Jonathan Byers
Assistant State's Attorney
Mountrail County
PO Box 369
Stanley, ND 58784

Dear Mr. Byers:

Thank you for your October 18, 1991, letter. You ask whether an industry, enterprise, or business engaged in by the state pursuant to N.D. Const. art. X, § 18 is prevented or limited in any respect when it is using state or federal grant moneys and it competes with private industry by submitting bids substantially lower than those submitted by private industry. Pursuant to a phone conversation between you and a member of my staff, I understand that you are specifically interested in determining whether the Developmental Center at Grafton is the subject of any state law or regulation which would prevent or limit such a practice. For purposes of responding to your question, I will assume that the activity is conducted pursuant to N.D.C.C. § 25-04-02, which authorizes the Department of Human Services to establish trades and manual industries at the Developmental Center. See Gripentrog v. City of Wahpeton, 126 N.W.2d 230 (N.D. 1964).

You indicate in your letter that you are unable to locate any laws or regulations which would prevent or limit such a practice. I am also unable to locate any such laws or regulations either of general applicability or applying specifically to the Developmental Center at Grafton.

The only such statute of specific applicability which I am aware of is N.D.C.C. § 12-48-03.1, which establishes certain limitations with respect to the sale of prison industry products. There is no statute of a similar nature with respect to the Developmental Center at Grafton.

I trust that this discussion has been helpful to you.

Sincerely,

Nicholas J. Spaeth

jfl

cc: John A. Graham, Executive Director, Department of Human Services