question, therefore, is as to whether the fact that the low bidder subsequently entered into a contract for the construction of an interceptor sewer at Gary, Indiana, disqualified it from entering into the contract with the State Highway Commission.

Under the statement of facts accompanying your letter, I do not think it did. It will be noted that the bid of such low bidder was accepted prior to the time when the contract was entered into for the construction of the interceptor sewer at Gary, Indiana, and it seems to me, therefore, that the disqualification, if there was a disqualification, took place after the rights of the parties had become established. Your first question, therefore, is answered in the affirmative. Your second question, is answered in the negative. Your third question is answered in the negative, unless facts are made to appear which would justify the rejection of all bids.

PUBLIC WELFARE, DEPARTMENT OF: Validity of regulations adopted by Department concerning bringing non-resident children into State for care by resident families.

September 21, 1939.

Hon. T. A. Gottschalk, Administrator,
State Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Mr. Gottschalk:

I have your letter of September 21, 1939 in which you request an official opinion with regard to the validity of certain regulations which the State Board of Public Welfare is desirous of adopting, and which are as follows to wit:

9-301. Where a resident of Indiana has contacted the State Department of Public Welfare, either directly or through a county department, for assistance in ascertaining the suitability of a non-resident child to become a member of the family of such resident, the said State department shall require that such child receive a thorough mental and physical examination in the state wherein it resides, and a certified statement by a licensed physician showing the complete result of such examination, together with the family history of such
child, be forwarded to such State department. This examination is to be at no expense to this department.

9-302. If the result of the examination and history of such non-resident child is satisfactory to the State department, then the proper division having charge thereof may require a consent from the governmental agency having charge of such matters in the state where such child is residing, to the return of such child to the state from which it came, upon such terms and conditions as may be required by the Indiana State Department of Public Welfare.

9-303. The Indiana resident, thus seeking assistance of the State department as to the suitability of a non-resident child, must satisfy this department of the suitability of himself and his home to provide and to care for said child and the environment of such child must be satisfactory to the State Department of Public Welfare.

9-304. Whenever the State department is satisfied as to the ability of the Indiana resident to properly care for such child, it may require a bond in the sum of $1,000 from such resident, with or without surety, to the satisfaction of the State department, as may be deemed proper or necessary by the State department, and such bond, if required, shall be made payable to the State of Indiana and conditioned, that if the child becomes dependent, feeble-minded, insane, epileptic, vicious or a criminal during the period fixed by the State department and which period is in agreement with the outside state agency at the time such agreement is consummated, that such child shall be returned to the state from which it came within sixty days from the time that such child became so dependent, feeble-minded, insane, epileptic, vicious or a criminal and that the obligor of said bond will pay said sum to said state or the general fund thereof, if the obligations of said bond are not complied with.

9-305. During the time such child is in the home of a resident citizen of this State, it shall be under the supervision of the County Department of Public Welfare of the county where such resident is located and the county department shall consider the environment thereof and
the progress or lack thereof with which such child is being assimilated into the family with which it is residing and whenever the county department is convinced that such child will not become a satisfactory member of such family it shall notify the Children’s Division of the State Department of Public Welfare and the Children’s Division will, when requested to do so by the county department, or by such family, notify the out-of-state governmental agency that it is desirous of returning such child to the state from whence it came and said division shall take all necessary steps to have such child received by the state from which it came. Such notification is to be within such period as may be agreed upon by the states entering into such compact and when so fixed, to be binding upon them.

9-306. These regulations shall not apply to a relative bringing a child into this State for the purpose of giving it a home in his family but shall apply to a resident of this State who takes into his family a child residing in another state while such resident is temporary in the state where such child resides. Neither shall the above regulations apply after a child has been legally adopted in this State by an Indiana family residing and domiciled in Indiana, nor shall these regulations apply to persons, corporations, associations and institutions who are placing agencies or in the business of finding homes for children, directly or indirectly, as such placing agencies are governed by chapter 29, Acts of 1889, p. 41; Secs. 22-2506 to 22-2510 Burns Ind. Stat. 1933, inc.

9-307. The Children’s Division of this department is charged with the administration of these regulations, subject to the approval of the State department.

These regulations are based to some extent on chapter 29 of the Acts of 1899 (Secs. 22-2501 et seq. Burns Ind. Stat. 1933), and an answer to your request will necessarily involve the construction of this Act.

It is provided by this Act that no dependent child shall be brought into the State of Indiana for the purpose of placing in an Indiana home by adoption or otherwise without the consent of the Board of State Charities (Now State Department of Public Welfare). (Sec. 22-2506 Burns Ind. Stat. 1933.)

It is further provided that before dependent children are
brought in for placement generally that a bond shall be given to cover all the children so brought in, but for an infraction thereof the penalty is not to exceed $1,000 for any one child.

It is further provided that:

"The Board of State Charities shall have general supervision and management of all matters contained in this Act, and may make such other and further rules and regulations not inconsistent herewith as it may deem necessary for the proper placing out, indenture, adoption, removal and supervision of such children, and for the rejection of incorrigible or unsound children, and for the removal of children convicted of crimes or misdemeanors, or who may become public charges." (Sec. 22-2508 Burns Ind. Stat. 1933.)

This part of the Board of State Charities Act referred to above is primarily a placing law and while it includes "persons" as well as "corporations and associations," it evidently is intended to apply to the "business of placing" children and is not intended to cover the taking of a child by a single family for the purpose of making such child a member of such family, but even if it was so intended, the regulatory powers of the State board are sufficiently broad to protect the State from an influx of undesirable children. This Act has been before this office twice before, in recent years, for construction, and it was held that if the child was put under the control of the Indiana resident while in another state, it would not come within the prohibitions and penalties of the law. It was said "there is nothing in the Act under consideration or in any other laws of this State, to prohibit Indiana residents from adopting children under the laws of other states in which such children may be resident at the time of adoption." (Opin. Atty. Gen. 1934, p. 486-490; Opinion Atty. Gen., 1935, p. 54-56.)

The proposed regulations strengthen, rather than weaken, the present Act, and are within the administrative powers of the State Department of Public Welfare as provided in Secs. 22-1508 Burns Ind. Stat. 1933, supra. They will assist a foster parent who is contemplating the taking of or who has taken a child into his home, as well as protecting such child in its new home, and if such child is a problem child and will not assimilate in the home or the home is not the proper place for such a child, or if the child, through no fault of its own, is of
deficient mentality or morality, the State board has a remedy, both to return the child and/or collect on the bond. The adoption of these resolutions will probably make unnecessary the practice of avoiding the present Act by the adoption of children in another state, without sufficient investigation, which, in some instances, resulted subsequently in disastrous consequences, both to the adopting parents and the child. In any event, greater protection is given both to the foster parents, to the child and to the State.

I am of the opinion that these regulations are proper and may be validly adopted by the State Board of Public Welfare.

FIRE MARSHAL, STATE: Gasoline storage tanks, right of retail distributor to install 2 or more where separated by more than 50 feet.

September 22, 1939.

Mr. Pat Hyland, Chief Inspector,
Fire Marshal’s Office,
State House,
Indianapolis, Indiana.

Dear Mr. Hyland:

I have your letter of September 21, 1939, relative to the installation of storage tanks proposed to be installed by Sears-Roebuck Company at the corner of North Alabama and East Vermont Streets in the city of Indianapolis. I have heretofore, on August 30, 1939, given you an opinion on this matter and had before me the blue prints and drawings. In that letter I advised you that the proposed installation would be in violation of the rules and regulations of the Fire Marshal’s office.

In view of the fact that the company now proposes to separate the storage tanks by at least fifty (50) feet or more, I am of the opinion that such installation would not be in violation of the rules and regulations of your office.