

SECOND CLASS COUNTIES: The County Court of a second class county
COUNTY COURT: must comply with Section 50.660, RSMo 1959,
COUNTY PROPERTY: and submit all contracts involving expen-
INSURANCE: ditures of \$500.00 or more for insurance
BIDDING: on county property to the lowest and best
bidder after due opportunity for competition.

OPINION NO. 62(1967)
444(1966)

June 1, 1967

Honorable Charles A. Sheehan
State Representative
1st District - Jefferson County
Route #1, Box 434
House Springs, Missouri



Dear Representative Sheehan:

This is in response to your request for an opinion from this office which reads as follows:

"1. Must a County Court in a second-class county put up for bids the insurance on county property and boilers?

"2. May the County Court determine the issuance of insurance coverage on a bid basis?"

Your opinion request concerns itself with the procedure required in letting insurance contracts on county property.

Section 50.660, RSMo 1959, states:

"Rules governing contracts (class one and two counties).--All contracts shall be executed in the name of the county by the head of the department or officer concerned, except contracts for the purchase of supplies, materials, equipment or services other than personal made by the officer in charge of purchasing in any county having the officer. No contract or order imposing any financial obligation on the county is binding on the county unless it is in writing and unless there is a balance otherwise unencumbered to the credit of the appropriation to which it is to be charged and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each

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sufficient to meet the obligation incurred and unless the contract or order bears the certification of the accounting officer so stating; except that in case of any contract for public works or buildings to be paid for from bond funds or from taxes levied for the purpose it is sufficient for the accounting officer to certify that the bonds or taxes have been authorized by vote of the people and that there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in cash there is not a sufficient unencumbered cash balance in the treasury. All contracts and purchases shall be let to the lowest and best bidder after due opportunity for competition, including advertising the proposed letting in a newspaper in the county with a circulation of at least five hundred copies per issue, if there is one, except that the advertising is not required in case of contracts or purchases involving an expenditure of less than five hundred dollars, in which case notice shall be posted on the bulletin board in the courthouse. It is not necessary to obtain bids on any purchase in the amount of one hundred dollars or less made from any one person, firm or corporation during any period of thirty days. All bids for any contract or purchase may be rejected and new bids advertised for. Contracts which provide that the person contracting with the county shall, during the term of the contract, furnish to the county at the price therein specified the supplies, materials, equipment or services other than personal therein described, in the quantities required, and from time to time as ordered by the officer in charge of purchasing during the term of the contract, need not bear the certification of the accounting officer, as herein provided; but all orders for supplies, materials, equipment or services other than personal shall bear the certification. In case of such a contract, no financial obligation accrues against the county until the supplies, materials, equipment or services other than personal are so ordered and the

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certificate furnished."

Section 50.760, RSMo 1959, which also deals with contracts in class two counties, is not applicable in this instance as this section has been construed to include the ordinarily foreseeable items to be used by the various county officials in the conduct of their offices and which may, by pooling purchases, be obtained at advantageous prices to the county. Language similar to Section 50.660, supra, has been interpreted in Layne--Western Company v. Buchanan County, 85 F. 2d 343, 346:

"The requirement of competitive bidding is always subject to qualification that the contract must be naturally competitive."

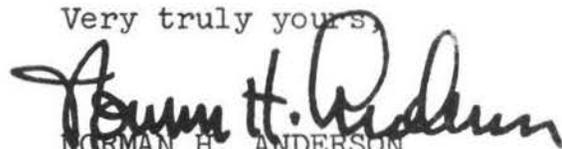
We have not found any Missouri cases directly in point. Therefore, we shall proceed on the theory based on the purposes intended by the legislature for requiring competitive bidding for public contracts. The reason for requiring competitive bidding is based upon public policy, that is, to benefit the public in the contract by obtaining the best result for the proposed contract at a reasonable cost. There are certain similarities in insurance rates, protection offered and stability of insurance companies, as most aspects of insurance are regulated by statutes or rules. However, this office has been informed by the Department of Insurance that premium rates may vary.

Therefore, we interpret Section 50.660, supra, as requiring competitive bidding as prescribed in said section, and further state that our opinion is that a county court of a second class county must comply with Section 50.660, supra.

CONCLUSION

The County Court of a second class county must comply with Section 50.660, RSMo 1959, and submit all contracts involving expenditures of \$500.00 or more for insurance on county property to the lowest and best bidder after due opportunity for competition.

Very truly yours,


NORMAN H. ANDERSON
Attorney General