

COUNTY PURCHASES:  
COUNTY CONTRACTS:

Section 50.660, RSMo 1969, which requires the solicitation of bids for certain county purchases applies to third class counties.

OPINION NO. 80

June 23, 1971



Honorable Lowell McCuskey  
Prosecuting Attorney  
Osage County  
Osage County Court House  
P. O. Drawer L  
Linn, Missouri 65051

Dear Mr. McCuskey:

This is to acknowledge receipt of your request for an opinion from this office which reads as follows:

"Does Section 50.660, RSMo, as amended by H. B. 205, Laws of Missouri 1965, page 155, now apply to counties of the third class, such as Osage County?"

Section 50.660, RSMo 1969, reads as follows:

"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 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 case 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, ma-

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terials, equipment or services other than personal shall bear the certification. In case of such contract no financial obligation accrues against the county until the supplies, materials, equipment or services other than personal are so ordered and the certificate furnished."

Briefly, the above statute pertains to the advertisement for bids for county purchases. It provides in part that all contracts and purchases shall be let to the lowest and best bidder after due opportunity for competition. It is further provided that 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.

Prior to the adoption of House Bill 205, subsection 2 of Section 50.525, RSMo 1959, reads as follows:

"2. Sections 50.540 to 50.660 apply to counties of classes one and two and sections 50.670 to 50.740 apply to counties of classes three and four."

Therefore, it was clear that Section 50.660, RSMo 1959, pertaining to the advertisement for bids for county purchases did not apply to third class counties.

However, with the passage of House Bill 205 by the Seventy-third General Assembly, Section 50.525, RSMo 1969, presently reads as follows:

"Sections 50.525 to 50.745 may be cited as 'The County Budget Law'."

In addition, Section 50.530, RSMo 1969, reads in part as follows:

"As used in sections 50.530 to 50.745,

"(1) 'Accounting officers' means county auditor in counties of classes one and two and the county clerks in counties of classes three and four; . . ."

In this connection, Section 50.660, RSMo 1969, specifically provides that no contract imposing any financial obligation on the county is binding unless the contract or order bears the certification of the accounting officer so stating.

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The basic rule in the construction of statutes is to discover the lawmakers' intention and if possible to effectuate that intention and thereby attain the object and purpose of the statute. Hern v. Carpenter, 312 S.W.2d 823 (Mo. 1958). In this connection, the following comment was made in the case of State v. Mosman, 315 S.W.2d 209 (Mo. 1958) at page 211:

" . . . 'When called upon to construe a statute, the court's prime duty is to give effect to the legislative intent as expressed in the statute. To this end we are guided by certain well established and recognized rules, among which are the following: (a) The object sought to be obtained and the evil sought to be remedied by the Legislature; (b) the legislative purpose should be assumed to be a reasonable one; (c) laws are presumed to have been passed with a view to the welfare of the community; (d) it was intended to pass an effective law, not an ineffective or insufficient one; (e) it was intended to make some change in the existing law. Warrington v. Bobb, Mo.App., 56 S.W.2d 835, 837; 82 C.J.S. Statutes § 316, pp. 544, 545. . . ." (Emphasis added)

Therefore, it is our view that the legislature by the passage of House Bill 205 intended that the existing law be changed so that Section 50.660, RSMo would apply to all counties and not just to counties of classes one and two.

In this regard, it was held in an opinion of the Attorney General No. 188, Short, March 29, 1971, that Section 50.600, RSMo 1969, applies to third class counties and that third class counties are thereby required to have at least one public hearing on their proposed budgets. The reasoning of the opinion is that the legislature intended that Section 50.600, RSMo 1969, apply to all counties and not just to counties of classes one and two as a result of the repeal and reenactment of Section 50.525, RSMo 1969, which is now expressly referred to as "The County Budget Law" (copy of opinion attached). It is submitted that similar reasoning is applicable to your opinion request.

#### CONCLUSION

It is the opinion of this office that Section 50.660,

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RSMo 1969, which requires the solicitation of bids for certain county purchases applies to third class counties.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, B. J. Jones.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive, flowing style.

JOHN C. DANFORTH  
Attorney General

Op. No. 188  
3-29-71, Short