

July 24, 1980

OPINION LETTER NO. 22  
(Answer by Letter-Allen)

The Honorable Carl Muckler  
Representative, District 56  
Room 109C, Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Muckler:

This letter is in response to your request for an opinion asking whether Chapter 34, the state purchasing law, requires that professional services contracts be bid through the commissioner of administration.

In our Opinion No. 163, dated August 22, 1975, to Nielsen, we concluded that the phrase "contractual services" as used in § 34.010, RSMo, includes insurance purchased by the state and therefore that such insurance must be purchased pursuant to the provisions of Chapter 34, except as otherwise provided by law. We enclose a copy of that opinion.

It is our understanding that Opinion No. 163-1975 may have been misunderstood to apply to physicians, attorneys and expert witnesses who are part of an attorney's case.

At the time of the enactment of the purchasing law in 1933 the practice of medicine and the practice of law were considered the historical learned professions and were not subject to bid. It seems clear that the legislature in enacting such law did not intend to include these historic learned professions. While such professional services are now bid in a number of contexts there has been no change in the statutes since they were first enacted to indicate that such professional services are to be included within the requirements of the purchasing law. Accordingly, we conclude that such services are not subject to the requirements that they be bid under the purchasing law.

The Honorable Carl Muckler

The expert witness services to which we refer are of a particularly unique character because such expert witnesses are a part of an attorney's case for which the attorney bears the professional responsibility. As a consequence, it is our view that the services of such expert witnesses were not and are not now subject to the requirements of the purchasing law.

It is our view that professions and services other than those of physicians, attorneys and such expert witnesses are subject to the requirements of the purchasing law.

Although we have concluded that services of physicians, attorneys and such expert witnesses are not included within the provisions of the purchasing law, Chapter 34, we wish to make it clear that there is nothing to prohibit the bidding for such services if the officer requiring the service desires such bids.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Ashcroft".

JOHN ASHCROFT  
Attorney General

Enclosure  
Att'y Gen. Op. 163-1975