

COUNTY ASSESSOR:  
CONTRACT WITH COUNTY:

A county assessor in a fourth class county may bid on work which consists of making a fill in a county road, which contract will be let by the county court to the lowest acceptable bidder.



December 10, 1957

Honorable Sam Appleby  
Prosecuting Attorney  
Christian County  
Ozark, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"I respectfully request your Office to furnish me an opinion on the following question:

"Is it lawful for our County Assessor duly elected, to accept employment for repair of a bridge from our County Court?

"More in detail, the facts are, that our present newly elected County Assessor has for several years been engaged in the Bulldozing and Road Construction business, and he and one other operator in this County do the bulk of the Bulldozing business. Recently a bridge is in need of fill to prevent washing out and the County Court desires to allow the County Assessor to bid on this job, if there is no law preventing such action, or preventing them granting him the contract, assuming that he might be acceptable.

"I have attempted to briefly, and hurriedly, check the law, and I find that such is definitely prohibited in first class counties by virtue of Section 61.130 MoRS 1949, and further find that what would be a comparable statute relating to classes 2, 3, and 4, our County being a 4th class one, is Section 61.300 MoRS 1949, which makes no mention of the County Assessor, or does it have a catch-all including all County Officers."

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All references to statutes will be to Revised Statutes of Missouri 1949, unless otherwise indicated.

Section 61.130 reads:

"No officer or employee of the state or county, or of any road district, shall be pecuniarily interested in any sale, bid or contract for the purchase of any machinery, materials or equipment, or for the building, improvement, repair or maintenance of any highway, road, bridge or culvert in the county. Any person who shall willfully violate the provisions of this section shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars or by removal from office, or both."

The above section is applicable only to class one counties. As will be noted, it holds that no county officer or employee shall be allowed to do what is contemplated by you. However, Christian is a fourth class county and Section 61.300 is applicable to counties of classes two, three and four. That section reads:

"No county highway engineer, county surveyor or deputy county highway engineer, or deputy county surveyor or road overseer shall be the sales agent, for compensation in the sale to, or purchase by, the state, county or road districts of road tools, culvert or bridge material or machinery, or be pecuniarily interested in any contract for the building of any bridge or culvert or for the improvement of any public road to which the county or any road district is a party."

It will be noted that under this section there is no prohibition against a county assessor taking a contract to do road work such as is contemplated in your opinion request.

Section 49.140 further defines the prohibition regarding certain county officers taking contracts for county work, and reads:

"No judge of any county court in this state shall, directly or indirectly, become a party to any contract to which such county is a party, or to act as any

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road or bridge commissioner, either general or special, or keeper of any poor person, or to act as director in any railroad company in which such county or any township, part of a township, city or incorporated town or village therein is a stockholder, or to act as agent for the subscription of any stock voted to any railroad by any county or subdivision thereof."

Section 229.090, RSMo 1949, further limits the contractual power of certain county officers, and reads:

"No member of a highway board or county court, and no highway engineer or road overseer shall be the sales agent in the sale to, or purchase by, the state, county or road districts, of road tools, culvert or bridge materials or machinery, or be pecuniarily interested in any contract for the building of any bridge or culvert or for the improvement of any public road to which the county or any road district is a party."

Since the legislature designated certain county officers whom it prohibited from contracting with the county, we feel that those who were not thus prohibited by the legislature may so contract. Since county assessors in fourth class counties were not thus designated as being ineligible to contract with the county, we believe that they may do so.

#### CONCLUSION

It is the opinion of this department that a county assessor in a fourth class county may bid on work which consists of making a fill in a county road, which contract will be let by the county court to the lowest acceptable bidder.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW/lc/ld