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July 15, 2010

Honorable Charles R. Malone
Presiding Circuit Judge
Sixth Judicial Circuit
Tuscaloosa County Courthouse
Room 308
714 Greensboro Avenue
Tuscaloosa, Alabama 35401

Law Library – Courts – Public Works – Contracts – Tuscaloosa County

The purchase of a public address system to be installed in a courtroom is a public work as defined by section 39-2-1(5) of the Code of Alabama.

The county may let a contract for a public work involving $50,000 or less without advertising.

The Law Library Fund may reimburse the county for the purchase and installation of a public address system, or, in the alternative, the presiding judge may disburse the funds directly.

Dear Judge Malone:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

(1) Is the purchase and installation of a public address system for courtrooms located in a county courthouse a "public work" pursuant to section 39-2-1(5) of the Code of Alabama?

(2) If yes, may the county award a contract for the purchase and installation of these public address

> systems for four courtrooms without advertising or sealed bids if the total cost is less than $50,000?
>
> (3) If yes, may the Law Library Fund reimburse the county for the purchase and installation of the public address systems?

FACTS AND ANALYSIS

Your letter of request states that Tuscaloosa County has a Law Library Fund created pursuant to section 11-25-1, *et seq.*, of the Code of Alabama. The Tuscaloosa County circuit courts now wish to install public address systems in four courtrooms in the Tuscaloosa County Courthouse using money from the Law Library Fund. The county plans to purchase and install the system, and the Law Library Fund will reimburse the county.

Section 39-2-1(5) of the Code of Alabama defines "public works" as follows:

> As used in this title, the following words shall have the meanings ascribed to them as follows:
>
> . . .
>
> (5) PUBLIC WORKS. The construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.

ALA. CODE § 39-2-1(5) (Supp. 2009). Section 39-2-2(b) of the Code of Alabama further provides that "[a]n awarding authority may let contracts for public works involving fifty thousand dollars ($50,000) or less with or without advertising. . . ." ALA. CODE § 39-2-2(b) (Supp. 2009).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). This Office has previously determined that the plain language

of section 39-2-1(5) establishes a two-prong test for determining when a work is a public work: if the work (or improvement) is to be constructed or maintained on public property, ***and*** it is to be paid for, in whole or part, with public funds, the work is a public work. Opinion to Honorable Bobby Hayes, Mayor, City of Pelham, dated November 18, 2003, A.G. No. 2004-026.

The proposed public address system meets both statutory requirements of a public work. The system is an improvement to be maintained on public property, the Tuscaloosa County Courthouse, and will be paid for with public funds. Furthermore, section 39-2-2(b) expressly permits an awarding authority to enter into contracts for any improvement or other public work involving $50,000 or less without advertising.

Regarding your third question, this Office has previously determined that Law Library Funds may be used to purchase a public address system for a courtroom used by a circuit court. Opinion to Honorable L. Scott Coogler, Circuit Court Judge, Tuscaloosa County, dated February 27, 2001, A.G. No. 2001-103. Nothing in section 11-25-1, *et seq.*, of the Code prohibits the Law Library Fund from reimbursing the county for a purchase the Law Library Fund is authorized to make.

This Office has consistently advised governmental agencies that the best manner to accomplish these goals is to contract with the desired entity:

- Opinion to Honorable Broox G. Garrett, Jr., Chairman, Escambia County Soil and Water Conservation District, dated May 11, 2010, A.G. No. 2010-064;

- Opinion to Honorable Donald R. Priori, Chairman, Bullock County Hospital Board, dated February 13, 2006, A.G. No. 2006-053;

- Opinion to Honorable Ralph A. Bradley, Chairman, Cherokee County Health Care Authority, dated August 24, 2005, A.G. No. 2005-188.

In this matter, the parties should enter into a written agreement providing that the county commission will enter into a contract for a public work for which the Law Library Fund will reimburse the county.

Section 11-25-6 of the Code provides the following alternative:

> The presiding circuit judge for the county or county law librarian if one exists, shall administer the county law library and ***shall disburse the library funds***, and shall appoint such librarians and assistants as are necessary for the proper operation of the library.

> The presiding judge of the circuit shall appoint an advisory committee to the county law library.

ALA. CODE § 11-25-6 (2008) (emphasis added).

Based on the foregoing, it is the opinion of this Office that the Law Library Fund may reimburse the county for the purchase and installation of the public address systems. In the alternative, the presiding judge of the county may directly disburse the funds for the purchase and installation of the public address system.

CONCLUSION

The purchase of a public address system to be installed in a courtroom is a public work as defined by section 39-2-1(5) of the Code.

The county may let a contract for a public work involving $50,000 or less without advertising.

The Law Library Fund may reimburse the county for the purchase and installation of a public address system, or, in the alternative, the presiding judge may disburse the funds directly.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:

Brenda F. Smith

BRENDA F. SMITH
Chief, Opinions Division

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