

1980-1981 Ky. Op. Atty. Gen. 2-676, Ky. OAG
81-117, 1981 WL 142153 (Ky.A.G.)

*1 Office of the Attorney General

Commonwealth of Kentucky

OAG

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March 25, 1981

Mr. James S. Secrest
Allen County Attorney
Box 35
210 West Main Street
Scottsville, Kentucky 42164

Dear Mr. Secrest:

You write that in OAG 75-19 we advised that your county hospital would be required to advertise for bids for public liability insurance if the premium would exceed \$2,500.

Your question reads:

"In your opinion, can our local hospital participate in the COMPENSATION HOSPITAL ASSOCIATION TRUST (Brochure attached) and obtain Workmens Compensation coverage therefrom without advertising for bids?"

The Compensation Hospital Association Trust is a group self-insurance workers' compensation trust designed for Kentucky's hospitals in providing hospital workers' compensation benefits.

Obviously the participation by the fiscal court, on behalf of the county hospital, in a program of group selfinsurance would eliminate any bidding procedure relating to such workers' compensation insurance.

You told us that Allen County has not adopted the

Kentucky Model Procurement Code, as mentioned in [KRS 45A.350](#). Thus Allen County must observe [KRS 424.260](#), whatever that calls for.

The Court of Appeals, in [McCloud v. City of Cadiz, Ky., App., 548 S.W.2d 158 \(1977\)](#) held that a city was not required, under the bidding statute, [KRS 424.260](#), to let out the city's insurance coverage contracts under bidding procedure. The Court advanced the reason that insurance services are "professional" under that statutory exception.

We, therefore, conclude that Allen County Fiscal Court, on behalf of the county hospital, can participate in the self-insuring Compensation Hospital Association Trust in connection with a workers' compensation benefits program. OAG 70-687 and 75-19 are modified accordingly.

It must be kept in mind that so long as the hospital in question is operated as a county hospital, the fiscal court must exercise its overall control and fiscal management of the hospital. [Knox Cty. Fiscal Court v. Knox Cty. Gen. Hosp., Inc., Ky., 528 S.W.2d 672 \(1975\)](#). This explains why the participation in the self-insurance program must be decided by fiscal court. See [KRS 67.083\(3\)\(d\)](#).

In OAG 81-109, copy enclosed, we found that Henderson County had specifically adopted certain sections of the Kentucky Model Procurement Code. Thus the Code, instead of [KRS 424.260](#), governs in that county. The question there related to the county's procuring insurance coverage of county buildings and other property. We concluded, from the express provisions of the Procurement Code, in OAG 81-109 that the fiscal court in that county should either let the insurance contracts under competitive bidding or by noncompetitive negotiation, depending upon the feasibility of competitive bidding.

However, as we said, since Allen County did not adopt the Procurement Code, [KRS 424.260](#) applies. In that situation the Court of Appeals, in [McCloud v. City of Cadiz](#), above, has held that insurance

business comes within the exception of
“professional services.”

Sincerely,

*2 Steven L. Beshear
Attorney General

By: Charles W. Runyan
Asst. Deputy Attorney General

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