



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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FILE NO. 00-014

TOWNSHIPS:
Bidding on Contract to
Perform Assessor's Duties

The Honorable Calvin L. Giles
Chairman, Local Government Committee
State Representative, 8th District
2090-M Stratton Building
Springfield, Illinois 62706

Dear Representative Giles:

I have your letter wherein you inquire whether a township must comply with the competitive bidding requirements of section 85-30 of the Township Code (60 ILCS 1/85-30 (West 1998)) in awarding a contract or extension thereof to a person who is performing the duties of a township assessor pursuant to section 2-60 of the Property Tax Code (35 ILCS 200/2-60 (West 1998)). For the reasons hereinafter stated, it is my opinion that such services are professional in nature, and for that reason contracts for their performance are excepted from the bidding requirements of section 85-30.

Subsection 2-60(b) of the Property Tax Code provides, with respect to vacancies occurring in the office of township

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assessor, that either a qualified successor shall be appointed
or:

" * * *

(b) In the alternative, a township or multi-township assessment district shall contract with a person qualified as required under Section 2-45 or as revised by the Department under Section 2-52 to do the assessing at a cost no greater than the maximum salary authorized for that township or multi-township assessment district under Section 2-70."

Sections 2-45 and 2-52 of the Property Tax Code (35 ILCS 200/2-45, 2-52 (West 1998)) prescribe the qualifications to hold the office of township or multi-township assessor. Although the statutes set out alternative standards of qualification, either the successful completion of a course of study or designation by an approved professional assessing or appraisal association is required.

Section 85-30 of the Township Code provides:

"Purchases; bids. Any purchase by a township having fewer than 10,000 inhabitants and located in a county with a population under 3,000,000 for services, materials, equipment, or supplies in excess of \$5,000 (other than professional services) and any purchase by a township in a county with a population of 3,000,000 or more, or by a township having 10,000 or more inhabitants and located in a county with a population of less than 3,000,000, for services, materials, equipment, or supplies in excess of \$10,000

(other than professional services) shall be contracted for in one of the following ways:

(1) By a contract let to the lowest responsible bidder after advertising for bids at least once (i) in a newspaper published within the township, or (ii) if no newspaper is published within the township, then in one published within the county, or (iii) if no newspaper is published within the county, then in a newspaper having general circulation within the township.

(2) By a contract let without advertising for bids in the case of an emergency if authorized by the township board.

This Section does not apply to contracts by a township with the federal government."
(Emphasis added.)

The term "professional services" does not have a definite and fixed meaning. The term is not necessarily limited to services provided by members of one of the recognized professions, such as lawyers or engineers, however. Rather, an essential element in defining professional services is the need for confidence, trust and belief in not only the ability but the talent of the person performing the services. Furthermore, it is well recognized that professional services are not primarily work or labor oriented, but instead involve essentially a mental product. 1971 Ill. Att'y Gen. Op. 8, 9-10.

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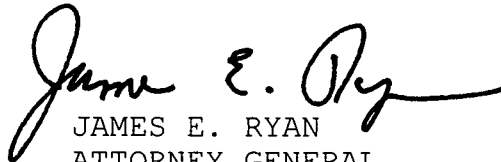
The principal duty of a township assessor is to determine as nearly as is practicable the value of each property listed for taxation as of January 1 of the year of valuation. (35 ILCS 200/9-70, 9-155 (West 1998).) This involves the appraisal of the value of the property, based upon the education, training, experience and talent of the assessor. Such services entail primarily a mental product. Moreover, it is crucial that not only the township board but also the property owners who are subject to taxation have a high degree of confidence in the ability of the person performing the assessments.

The assessment of property requires professional skill and expertise. The inability of a contractor to perform such functions in accordance with recognized principles of assessment could have a disastrous effect upon the financial stability of a township. Further, competitive bidding requirements are keyed to contracts for the furnishing of goods and services for a price or fee. Where the particular services are dependent upon the high degree of skill and expertise possessed by the contractor and involve a number of variables which must be worked out, the contract may be one which, by its "very nature [is] not suitable to competitive bids". Charlton v. Champaign Park District (1982), 110 Ill. App. 3d 554, 561.

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It is my opinion, therefore, that a contract for the performance of the duties of a township assessor is in the nature of professional services contract, which may be awarded without compliance with the competitive bidding requirements of section 85-30 of the Township Code.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL