

Honorable Glenn A. Olds  
Commissioner  
Department of Commerce  
and Economic Development

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465-3600

Applicability of  
Procurement Code to  
insurance license test  
administration

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You have asked whether the State Procurement Code, AS 36.30, applies to contracts for the administration of insurance license tests by the Division of Insurance. You have stated that the division does not pay the testing service any money for the administration of the licensing examinations.

This issue was discussed in an earlier opinion concerning the Division of Occupational Licensing. 1989 Inf. Op. Att'y Gen. (Dec. 6; 663-89-0241). The testing arrangements in that situation appear to be identical to the arrangement employed by the Division of Insurance. In that opinion, we determined that the State Procurement Code was not applicable. Similarly, because no state funds are involved in the arrangement between the Division of Insurance and the testing service, we conclude that the State Procurement Code does not apply.

AS 36.30.850(b) provides that the State Procurement Code "applies to every expenditure of state money by the state, acting through an agency, under a contract . . . ."

"State money" is defined as "any money appropriated to an agency or spent by an agency irrespective of its source, including federal assistance except as otherwise specified in AS 36.30.890, but does not include money held in trust by an agency for a person." AS 36.30.990(20).

As you have described the testing arrangement, the division does not pay any money to the testing service. Instead, all test fees are paid by the applicants directly to the testing service. Therefore, these fees paid do not fit within the definition of state money, and the State Procurement Code does not apply to the division's arrangement with the testing service.

I hope this adequately addresses your concerns. Please let me know if I can be of further assistance.

AG:prm