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90-A-1 Public Funds & Contracts
La. R.S. 46:1055
La. R.S. 38:2211 et seq

Acadia-St. Landry Hospital Service District may enter into a management contract pursuant to La. R.S. 46:1055 B without having to comply with public bid law.

Dear Mr. Wimberly:

We received your request for an opinion on behalf of the Acadia-St. Landry Hospital Service District regarding the District's ability to enter into a management contract with a private corporation.

La. R.S. 46:1055 B provides as follows:

In addition to the powers and duties set forth in Subsection A of this Section, the commission may enter into a special services agreement with any person, including but not limited to a hospital management firm or hospitals, to manage, operate, and administer a hospital or hospitals, or any part thereof, under the control of the commission for the benefit of the hospital service district. Any special services agreement may include a negotiated lease of the district's facilities where the agreement provides for permanent improvements to be made, constructed, or placed upon the leased facilities in the amount of not less than one million dollars, providing that the term of the lease shall not exceed fifty years, and the lessor shall reserve all mineral rights to any land involved. The term of all such negotiated leases in force on July 1, 1987, may be extended by an additional term not to exceed twenty years, on such terms and conditions as may be negotiated between hospital service districts and their respective lessees. Any lease may be mortgaged, pledged, hypothecated, subleased, transferred, or assigned only for the purpose of financing the permanent improvements. The notice of intent to enter into a special services agreement shall be published in the official journal at least sixty day prior to the effective date of the contract. However, any such hospital service district, including any such district which has contracted with an association or entity primarily engaged in the operation of hospitals to manage, operate, and administer a hospital or hospitals within the hospital service district, shall be considered a public entity as defined under the provisions of R.S. 38:2211(A)(1) and all construction work undertaken shall be performed in accordance with the provisions of

R.S. 38:2212. The provisions of this Subsection shall not apply to any facility of the charity hospital system of the state of Louisiana.
(Emphasis added).

Pursuant to this statute, a hospital service district is granted broad authority to enter into special service agreements for the management, operation and administration of a hospital. However, the agreement must be for the benefit of the hospital district. A Notice of Intent to enter into such an agreement must be published in the official journal at least sixty days prior to the effective date of the contract. Thus, the Acadia-St. Landry Hospital Service District may enter into a special service agreement for the management of a hospital provided that such agreement benefits the hospital service district and proper notice is given.

Louisiana's Public Bid Law does not require that a contract for services be let by the public bidding process. See La. R.S. 38:2211 et seq. Our office previously opined that a hospital management contract need not be let by public bid. See Atty. Gen. Op. Nos. 97-250 and 84-1017. Therefore, it is our opinion that the Acadia-St. Landry Hospital Service District may enter into a management contract without having to comply with the public bid law.

You also question if the contract with the management company may include incentives for the management company. According to the information in your request, the District is considering an arrangement whereby the management company will share in the profits of the hospital at the end of its fiscal year if the hospital's performance has improved. Alternatively, if the hospital's performance does not improve or is unsuccessful, the management company will receive little or no fee. Again, La. R.S. 46:1055 grants a hospital service district broad authority to enter into a management contract. We are unaware of any prohibition of such an arrangement but simply reiterate that any such contract must benefit the District.

We trust that this adequately responds to your request. If you have any questions, please do not hesitate to contact us.

With kindest regards,

Yours very truly,

RICHARD P. IEYOUB
Attorney General

BY: 
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