



**TEXAS  
EDUCATION  
AGENCY**

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**RQ-836**

July 26, 1995

The Honorable Dan Morales  
Attorney General of Texas  
P.O. Box 12548  
Supreme Court Building  
Austin, Texas 78711-2548

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Opinion Committee

SBM

FILE # ML-34544-95

I.D. # 34930

Re: Request for opinion

Dear General Morales:

I am writing to seek clarification of A.G. Op. DM-347 (1995) in light of changes made to the Education Code by S. B. 1, Acts of the 74th Legislature (1995).

DM-347 concluded that the purchase of insurance by a school district constituted the purchase of personal property subject to competitive bidding under former Section 21.901, Education Code. That section has been replaced by Subchapter B, Chapter 44, Education Code, as enacted by S.B. 1. My questions are as follows:

1. In complying with the requirements of DM-347 to purchase insurance, may a district use any of the purchasing methods allowed under Section 44.031(a)?
2. DM-347 requires competitive bidding when a contract for the purchase of insurance is valued at \$25,000 or more for a 12-month period. Does DM-347, as applied to new Section 44.031(a), Education Code, preclude a school district from entering into an insurance contract for a period longer than 12 months?
3. If your answer to Question 2 is "no", does the same answer apply for Section 44.033 with respect to contracts valued between \$10,000 and \$25,000? If so, can a school district comply with the notice required by Subsection (b) by publishing a notice of a period greater than 12 months?
4. Many districts have expressed concern over what constitutes "insurance" for purposes of competitive bidding and whether different types of insurance (e.g., worker's comp and health coverages) would have to be aggregated to determine whether the bidding threshold had been reached. May a school district assume that coverages in different "lines" of insurance, as defined by rule of the commissioner of insurance, need not be aggregated for that purpose? Must coverages under different types of insurance be aggregated if they are available under a single contract in the local market?
5. Many self-insured school districts contract for claims administration services. In A.G. Op. JM-1038 (1989), for the purposes of a purchasing statute in the Local Government Code, the attorney general concluded that whether the services of a third party administrator (TPA) under former Article 21.07-5, Insurance Code, were "professional services" depended on the particular services to be provided under a specific contract. Does that conclusion apply to services of a TPA licensed under Article 21.07-6, Insurance Code, for the purposes of Section 44.03(f), Education

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Code? More specifically, are reinsurance procurement duties included in a claims administration contract with a licensed TPA considered "professional services" under Section 44.031(f), Education Code? If any of the services included in a contract with a TPA are not professional services, is the contract subject to Sections 44.031(a) and 44.033, Education Code?

Sincerely yours,



Mike Moses  
Commissioner of Education

MM:SHS