

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
450 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-0485

RECEIVED
DISTRICT ATTORNEY'S
OFFICE

September 24, 1992

SEP 25 1992

OPINION NO. U92-107

Requirement of a General Contractor's License

QUESTIONS

1. Is Montgomery County required under any circumstances to hold a general contractor's license?
2. Are any of the County employees performing the actual work required under any circumstances to hold a general contractor's license?
3. If so, under what circumstances?

OPINIONS

1. No.
2. No.
3. In view of the answer to question two, this question need not be addressed.

ANALYSIS

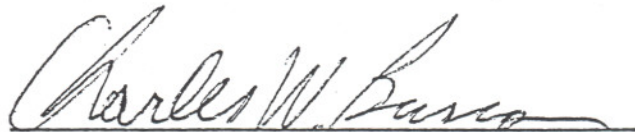
1. Any person, firm or corporation engaged in contracting must be licensed. T.C.A. § 62-6-103. A "contractor" is "any person, firm or corporation who engages or offers to engage in contracting." T.C.A. § 62-6-102(2). "Contracting" is

undertaking, for a fixed price, fee, commission, or gain of whatever nature, to construct, erect, alter, repair, supervise, superintend, oversee, direct, or in any manner assume charge of the construction, erection, alteration, or repair of part or all of any structure, or private work or utility of any nature or character whatsoever, including railroads, municipal works, water supply systems, sewerage and drainage systems, levies, locks and dams, canals, industrial works, or any highway, road, bridge, or similar structure or project, where the cost of the completed work, or of different projects under a single contract, equals or exceeds twenty-five thousand dollars (\$25,000).

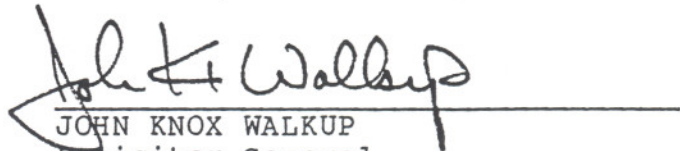
T.C.A. § 62-6-102(1)(A).

A state or political subdivision is not subject to a statute unless specifically mentioned therein or unless such application is necessarily implied. Keeble v. City of Alcoa, 204 Tenn. 286, 319 S.W.2d 249 (1958). Therefore, it is the opinion of this Office that Montgomery County itself would not be required to hold a general contractors license.

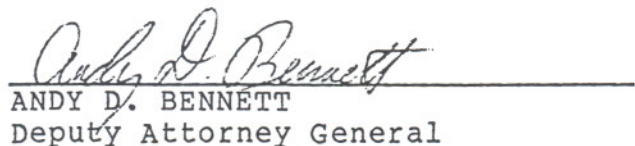
2-3. T.C.A. § 62-6-102(2) and 103 show a clear legislative intent that all persons who engage in contracting within the meaning of T.C.A. § 62-6-102(1)(A) be licensed. It is the opinion of this Office that salaried employees of a political subdivision are not contracting to do such work in the sense contemplated by the statute. Therefore, salaried employees are not required to possess licenses under the Contractors Licensing Act.



CHARLES W. BURSON
Attorney General & Reporter



JOHN KNOX WALKUP
Solicitor General



ANDY D. BENNETT
Deputy Attorney General