

The fact that the words "for cause" have been introduced into this new provision would not appear to change the character or type of service provided by the position in question. We believe that the individual so concerned will remain in the unclassified service.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By: JOHN W. GRIGGS,  
*Deputy Attorney General.*

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SEPTEMBER 11, 1952.

THE HONORABLE J. LINDSAY DE VALLIERE,  
*Comptroller and Director of the Budget,*  
State House,  
Trenton, New Jersey.

FORMAL OPINION—1952. No. 32.

DEAR MR. DE VALLIERE:

You have asked whether the Director of the Division of Fish and Game, Department of Conservation and Economic Development, can legally award to a specified party a State contract to print and publish a periodical devoted to conservation, fishing and hunting, without requiring the preparation of specifications, the submission of bids and the award of the contract to the highest bidder. It is presumed that the expenditure involved exceeds \$1,000.00.

It is my opinion that the Director of Fish and Game may not lawfully so contract. Where the cost of the project exceeds \$1,000.00, public advertisement for bids is required, according to specifications to be furnished by the Division of Fish and Game. The statute in this respect is Title 52:34-1 and reads as follows:

"No contract or agreement for the construction of any building, for the making of any alterations, extensions or repairs thereto, for the doing of any work or labor, or for the furnishing of any goods, chattels, supplies or materials of any kind the cost or contract price whereof is to be paid with State funds and shall exceed the sum of one thousand dollars, shall be awarded, made or entered into by the board of managers or board of trustees of any State institution, or by any State department or commission, or by any person acting for or on behalf of the State, without first having publicly advertised for bids for the same, according to the specifications to be furnished to or for the inspection of prospective bidders by the board of managers or board of trustees of any State institution, or by the State department or commission, or by the person acting for or on behalf of the State, authorized to procure the same."

These statutory provisions have applied to general contracts for printing since 1907. The precise statute was considered by the Appellate Division of the Superior Court in a case decided May 7, 1949 (*Gann Law Books vs. Ferber and Soney and Sage*), 3 N. J. S. 236. In that case, the court distinguished between the awarding

of a general State contract for printing and the awarding by a court reporter, of a contract to print the reported decisions of our higher courts. Limited and specific legislation controls the latter type of printing contract and is not applicable to the situation to which this inquiry relates. I know of no changes in the statutory provisions and no changes in present practice which would warrant deviation from strict adherence to the requirements of the statute.

In addition to Title 52:34-1, attention is invited to Title 52:18A-19 in which the procedure employed by the Director of the Division of Purchase and Property for the handling of the State contracts is set forth in detail. That section reads as follows:

"Each using agency shall, at all times, in the form and for the periods prescribed by the director of the Division of Purchase and Property, present to him detailed applications and schedules for all articles to be purchased. The director shall then arrange such schedules or parts thereof for purchase and contract, in the manner best calculated to attract competition and advantageous prices. He shall award contracts or orders for purchase to the lowest responsible bidder meeting all specifications and conditions. He shall have authority to reject any and all bids or to award in whole or in part if deemed to the best interest of the State to do so. In case of tie bids, he shall have authority to award orders or contracts to the vendor or vendors best meeting all specifications and conditions. Public bids shall not be waived except with the written approval of the State Treasurer and except after notice in writing to the State Auditor. The director shall prescribe the terms and conditions for delivery, inspection, payment and all other detail whatsoever.

"Upon the award of contracts or orders for purchase, the director of the Division of Purchase and Property shall thereupon make an encumbrance request to the director of the Division of Budget and Accounting in the Department of the Treasury for the amount necessary to defray the cost thereof, indicating the appropriations or authorizations to spend funds against which the contract or purchase order will be charged.

"The bills for such purchases shall be apportioned by the director of the Division of Purchase and Property among the using agencies in proportion to the purchases made therefor, and certified as apportioned to the director of the Division of Budget and Accounting, to be charged against the respective appropriations or authorizations to spend as indicated by the certificate of the director of the Division of Purchase and Property. The bills therefor shall be paid by warrant check of the director of the Division of Budget and Accounting and State Treasurer.

"Nothing in this section shall be construed to repeal or otherwise affect any law of this State relating to the purchase or use of the products of the labor of the inmates of a charitable, reformatory or penal institution of this State."

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: ROBERT CAREY, JR.,  
*Deputy Attorney General.*