

Opinion No. 55-6177

June 2, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. D. M. Smith, Jr., State Comptroller, State Capitol Building, Santa Fe, New Mexico

You have requested the opinion of this office relative to whether or not the Village of Deming may budget a sum of money to provide for contributions from the General Fund to either of two hospitals located in Deming. You state that one of the hospitals is privately owned and the other is a non-profit hospital association.

You mention further that you have studied the provisions provided and set forth in Section 14-21-31, N.M.S.A., 1953. This provision together with those set forth in Sections 14-33-1 through 14-33-21, N.M.S.A., 1953, are not at all applicable to this problem since they deal strictly with municipal owned and operated hospitals.

This proposed contribution by the Village of Deming to a hospital other than one municipally owned and operated would be violative of Article 9, Section 14 of the Constitution of the State of New Mexico which reads as follows:

"Neither the state, nor any county, school district, or municipality, except as otherwise provided in this Constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons."

It is, therefore, our opinion that the Village of Deming cannot contribute money to either of these two hospitals in contravention of this constitutional provision. This is not to say, however, that the Village of Deming cannot pay for the care of indigent persons on a case basis, or as provided by Sections 13-2-1 and 13-2-2, 1953 Compilation.

By J. A. Smith

Assistant Attorney General