

## Opinion No. 57-125

June 10, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Jr., Assistant Attorney General

**TO:** C. W. Burrell, State Labor Commissioner, State Labor and Industrial Commission, Santa Fe, New Mexico

### QUESTIONS

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1. Must a contract in excess of \$ 2,000 for construction, alteration and/or repairs, including painting and decorating of public buildings, public works, or public roads of the State, which requires and involves the employment of mechanics and/or laborers to which the State or any of its political subdivisions is a party thereto, contain the minimum wage figures to be paid to the various classes of mechanics and laborers as determined by the State Labor Commission?
2. Does the State Labor Commissioners have the power to issue an order that would cause the contractor to furnish a glass enclosed water proof case, or bulletin board built to certain specifications for the purpose of posting the scale of wages applicable to his particular contract?

#### ANSWERS

1. Yes.
2. No.

### OPINION

#### ANALYSIS

Section 6-6-6, N.M.S.A., 1953 Compilation, provides, in part, as follows:

"The **advertised specifications** for every contract in excess of \$ 2,000, to which the state of New Mexico, or any political subdivision thereof is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works or public roads of the state of New Mexico, and which requires or involves the employment of mechanics and/or laborers **shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics** which shall be based upon the wages that will be determined by the state labor commissioner to be prevailing for the corresponding classes of laborers and mechanics employed on

projects of a character similar to the contract work in the city, town, village, or other civil subdivision or district of the state in which the work is to be performed there; . . ."  
(Emphasis Supplied.)

The language in the above statute is clear and unambiguous. It requires the inclusion in every contract to which this statute applies of a provision stating the maximum wage figures to be paid the various classes of mechanics and laborers. It provides further that the minimum wage figures contained in said contract must be based upon the wages determined by the State Labor Commissioner to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision or district of the State in which the work is to be performed.

In answer to your second question, the following language of the same statute is relevant:

"The scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; . . ."

This language cannot, in our opinion, be construed as giving the State Labor Commissioner the power to compel a contractor to provide any specified type of case on bulletin board for the purpose of posting the scale of wages applicable to his particular contract. The only requirement of the statute is that the scale be posted in a prominent and easily accessible place at the cite of the work.