

Opinion No. 57-48

March 13, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Edward M. Hartman, State Comptroller, Santa Fe, New Mexico

QUESTIONS

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An agreement for bridge repair work was made with a county. The repairs were completed, and the county was presented with a statement for \$ 510.00. No bids were requested. Is the county liable?

CONCLUSION

No.

OPINION

ANALYSIS

A county is without question a "purchaser" within the meaning of the Public Purchasers Law. § 6-5-1, N.M.S.A., 1953 Comp.

Turning to § 6-5-4, N.M.S.A., 1953 Comp., it is provided, among other things, that contracts for labor to be performed, involving expenditure at any one time of over \$ 500.00, shall only be made and entered into after notice by publication that bids will be received. In which event, the bid of the lowest responsible bidder will be accepted; however, if said bid does not meet the specifications, the lowest bid in compliance therewith shall be accepted; but all bids may be rejected. In any event, bids are unquestionably contemplated by the law, in instances of this nature.

§ 6-5-4, supra, does dispense with bids where the public interest will best be served and where it is impractical to obtain them. We fail to see a basis for either condition in this instance. Furthermore, the purchaser must secure the written approval of the State Board of Finance, when it is desired to enter into a contract without obtaining bids. Since your letter did not state that such written approval was given, we assume it was not. Clearly the Public Purchases Law has been violated.

§ 6-5-4 states, in part:

"Any purchase or sale made in violation of this section shall be void - - - -."

We are of the opinion that such language includes contracts for labor as well. To hold otherwise would, in large measure, defeat the purpose of the Legislature in enacting the Public Purchases Law. Notice also that the language, used in the disjunctive, includes two categories, to-wit: "purchase or sale - - -." Furthermore, a reading of § 6-5-4, in its entirety, convinces us that contracts for labor, or repairs, were clearly contemplated by the Legislature.

The contract is thus void, and of no effect. The county is not liable thereon.

Assuming your inquiry has been answered, we remain