

Opinion No. 66-55

May 6, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General George Richard Schmitt,
Assistant Attorney General

TO: Mr. Alex Armijo, State Auditor, State Capitol Building, Santa Fe, New Mexico

QUESTION

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Is the Executive Director of the Commission on Indian Affairs required to post bond during the time of his appointment and while he is in the performance of his duties?

CONCLUSIONS

No.

OPINION

{*68} ANALYSIS

The subject of official bonds is covered in Sections 5-2-1 through 5-2-12, N.M.S.A. 1953 Comp. Section 5-2-9, supra, requires:

"Recording as prerequisite to discharging duties of office. -- Each and every person who may hereafter be elected or appointed to office in this state, required by law to give bond, shall file the same for record before entering upon the discharge of the duties of the office."

According to the statute cited above, a public official must only file a bond when he is required by law to give such bond. See also Section 11-2-37, N.M.S.A., 1953 Comp., which deals with the "form" and "payment" of official bonds and also recites that the official must be required to give bond "by the laws of this state" before the statute becomes operative.

Turning to the New Mexico law relating to the Commission on Indian Affairs, we find no such requirement. Sections 73-31-2 through 73-31-6, N.M.S.A. 1953 Comp., provide for the establishment, organization and duties of the Commission, but is completely silent as to a bond requirement by any of the Commission members.

We conclude, therefore, that no official surety bond is required by law for the office or position of Executive Director of the Commission on Indian Affairs.