

Opinion No. 69-109

September 15, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Gary O'Dowd, Deputy Attorney General

TO: Honorable Horace DeVargas, New Mexico State Senator, Fairview Lane, Espanola, N.M. 87532

QUESTIONS

QUESTIONS

Does Section 6-1-4, N.M.S.A., 1953 Comp. (Repl. 1966), require insurance contracts be awarded to companies or agencies doing business in the county in which the building is located, whether or not there is a lower bid offered by a company or agency located outside that county?

CONCLUSION

See analysis.

OPINION

{*176} ANALYSIS

Section 6-1-4, N.M.S.A., 1953 Comp. (Repl. 1966) provides in relevant part as follows:

"[O]n public buildings belonging to the state or the various counties other than Santa Fe County, said insurance in each case, must be taken out with companies or agencies in the counties where such buildings may be located, **and** said insurance on both state and county buildings shall be given to the company or agency offering the lowest premium and rate of insurance. ***" (Emphasis added.)

The language, "must be taken out with companies . . ." is an emphatic directive that the insurance shall not be awarded to companies or agencies other than those located in the same county as the building. The words, "shall be given to the company or agency offering the lowest premium . . ." specify an **additional** requirement, not an **alternative** requirement.

"Where two or more requirements are provided in a section and it is the legislative intent that all of the requirements must be fulfilled in order to comply with the statute, the conjunctive 'and' should be used." 2 Sutherland, Statutory Construction, sec. 4923 (3rd ed. 1943).

Therefore, in order to comply with the statute, the insurance must be awarded to that insurance company or agency, located within the county, which offers the lowest premium and rate of insurance and otherwise complies with the requirements of the section.

It should be noted, however, that this preference provision of Section 6-1-4, **supra**, applies only to "public buildings belonging to the state or the various counties other than Santa Fe County . . ." It does not apply to [a]ll officers and boards charged with the custody and control of public buildings belonging to the state and political subdivisions including municipalities . . ." which are the subject of the first part of Section 6-1-4, **supra**, that part of the section dealing only with coverage minimums, not with purchasing preferences.