

Opinion No. 69-78

July 17, 1969

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

TO: Mr. Morris Stagner, District Attorney, Ninth Judicial District, County Courthouse, Clovis, New Mexico

QUESTIONS

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1. Are the moneys received by county-municipal hospital in connection with its operation public moneys, thereby requiring bonding of the personnel and persons responsible for these moneys?
2. Is a county-municipal hospital a "local public body" as defined in the Public Purchases Act, 6-5-17 to 6-5-35, N.M.S.A., 1953 Compilation, as amended?

CONCLUSIONS

1. Yes.
2. Yes.

OPINION

{*120} ANALYSIS

County-municipal hospitals are authorized by Section 14-45-3, N.M.S.A., {*121} 1953 Compilation. Such a hospital is governed by a board of trustees consisting of five members, three appointed by the board of county commissioners and two by the governing body of the municipality. It is clear that the members of a county-municipal hospital board are public officers. It is also clear that all money received by the hospital is designed for a public use, operating the hospital. In Opinion of the Attorney General No. 67-128 this office said that:

Although many definitions of the term 'public moneys' may be found, the generally accepted concept is described by the Court in *Storen v. Sexton*, 209 Ind. 589, 200 N.E. 251 as:

. . . all funds impressed with a public interest, that is, funds raised by general taxation, or special levies upon special assessment districts, or the income from publicly owned

properties, or funds arising from private sources in the hands of public officers which are designed for public use

In Opinion of the Attorney General No. 69-76, issued July 16, 1969, this office concluded that funds held by a county hospital are public moneys under the above definition. Similarly, it is our opinion that under the above definition of public money, funds held by a county-municipal hospital are public moneys.

Although we find no specific requirement that personnel of a county-municipal hospital be bonded. There is no question that the board has not only the authority but the duty to see that those personnel responsible for receiving and spending funds of such a hospital are bonded in accordance with good administrative practice

In answer to your second question, the provisions of the Public Purchases Act, Sections 6-5-17 through 6-5-35, N.M.S.A., 1953 Compilation apply to all local public bodies. A local public body is defined in Section 6-5-18 B of the Public Purchases Act as:

every political subdivision of the state created under either general or special acts, which receives or expends public money from whatever source derived, including but not limited to counties, county institutions, boards, bureaus or commissions, incorporated cities, towns or villages . . . and every office or officer of any of the above.

It is the opinion of this office that a county-municipal hospital comes within the above quoted definitions of local public body and therefore purchases made by such a hospital must be made in compliance with the provisions of the Public Purchases Act.