

Opinion No. 72-11

March 7, 1972

BY: OPINION OF DAVID L. NORVELL, Attorney General Frank N. Chavez, Assistant Attorney General

TO: Mr. Donal D. Hallam, City Attorney, City of Hobbs, P. O. Box 1117, Hobbs, New Mexico 88240

QUESTIONS

FACTS

The City of Hobbs has numerous accounts receivable totaling in excess of \$ 15,000.00, which accounts accrued to the City by virtue of services furnished citizens, primarily consisting of emergency ambulance services. Most of these accounts average \$ 20.00 and because most of the claims are from indigent and other low-income recipients it has proven impossible to collect the accounts merely by billing. A collection agency in the City of Hobbs has offered to collect as many of these accounts as possible, without cost to the City, for a percentage of the amount recovered. The percentage would vary from one-third to one-half.

QUESTIONS

May a municipality assign accounts receivable to an independent agency whose compensation for such services would be based on a percentage of the amount collected?

CONCLUSION

See analysis.

OPINION

{*13} ANALYSIS

The assignment of the right to collect accounts receivable to a collection agency entails a contractual agreement between the municipality and the collection agency. A municipality has general powers to enter into a contract, Section 14-17-1, N.M.S.A., 1953 Comp. (1971 P.S.).

The municipality of Hobbs is a local public body as defined in Section 6-5-18, N.M.S.A., 1953 Comp. (1971 P.S.). As such the municipality of Hobbs is bound by the Public Purchases Act, Section 6-5-21, N.M.S.A., 1953 Comp. (1971 P.S.). Because the contract for services in this particular case would ultimately involve amounts up to \$

7,500 it is our opinion that bids must be let for the purchasing of these services pursuant to Section 6-5-26, N.M.S.A., 1953 Comp. (1971 P.S.), unless it can be shown that this is a technical professional service as excluded by Section 6-5-34, N.M.S.A., 1953 Comp. (1971 P.S.).

The central purchasing agent shall provide by rule or regulation what technical and professional services are. Section 6-5-34(B), **supra**.

Thus, it is our opinion that the municipality of Hobbs may enter into a contract with a collection agency only *{*14}* so long as bids are received, unless the central purchasing agent has ruled that this type of debt collections is a technical or professional service.