

Opinion No. 45-4665

February 19, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. H. N. McDaniel Ass't. State Purchasing Agent Santa Fe, New Mexico

{*25} We are in receipt of your letter of February 15, 1945, in which you ask our opinion as to whether or not the bid of a State employee for state owned property advertised by your office for sale may be accepted.

Nowhere in our Statutes is there any general prohibition which would prevent a State employee from purchasing State owned property.

Section 13, Chapter 124 of the Laws of 1943, being the State Purchasing Agent Act, prohibits the Purchasing Agent and all of his subordinates and employees from entering any contract, or making any bid in connection with purchases or sales made by the Purchasing Agent.

In view of the foregoing, it is my opinion that any State employee, other than the Purchasing Agent, or his subordinates or employees, may lawfully bid on property to be sold by your department.

However, I would not attempt to advise you on the policy question of whether or not State employees should be permitted to bid on State property. If you should consider it to be improper for State employees to tender such bids, your attention is directed to the 3rd paragraph of Section 4, which authorizes the State Purchasing Agent to make reasonable rules and regulations with respect to the making of bids. It would appear that under this paragraph he would have authority to provide, by regulation, that bids would not be accepted when tendered by State employees.

By ROBERT W. WARD,

Asst. Atty. General