

Opinion No. 46-4929

July 22, 1946

BY: C. C. McCULLOH, Attorney General

TO: Harry D. Robins Assistant District Attorney Second Floor Court House
Albuquerque, New Mexico

{*253} We are in receipt of your letter of July 19, 1946, in which you relate the following facts: The Bernalillo County School Board published notice of sale for various school bond issues. It received two bids, one from a private concern, and one from the State of New Mexico. Upon opening the bids, it found that though the bids differed in form, they were substantially the same. In view of these circumstances, you ask our opinion as to whether the School Board may reject both of these bids and then sell the bonds to the State Treasurer at private sale.

Section 7-618, governing the advertisement and sale of bonds, provides, in part, as follows:

"The bonds shall be sold to the bidder making the best bid, subject to the right of the corporate authorities to reject any and all bids and re-advertise." This section also provides:

"Provided, that said bonds or any part thereof may be sold to the State of New Mexico at private sale without advertisement, for not less than par and accrued interest."

{*254} It is seen that this statute gives the school board the specific authority to reject all bids. It is further specifically given the right to sell to the State Treasurer without advertisement.

It is my opinion that this right to sell to the State Treasurer is not lost by the board of education through advertising the bonds for sale. Nor can I see how the right of the board of education to take advantage of a private sale to the Treasurer would be lost simply because the State Treasurer bids on the bonds at a public offering.

In view of the foregoing, it is my opinion that the school board may reject all bids received and later, if they see fit, sell to the State Treasurer at private sale without advertisement.

By ROBERT W. WARD,

Asst. Atty. General