

**Opinion No. 47-5102**

November 19, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{\*109} This will acknowledge receipt of your letter of November 18, 1947 in which you request the opinion of this office on the matter of acceptance by a municipal board of education of a certain bid for construction of a building.

It appears that the Lovington Municipal Board of Education opened bids on the proposed construction of a gymnasium. The bids were submitted, but since the school did not have sufficient funds on hand, the Board temporarily declined to accept any bid. Now, at a later date, the Municipal Board of Education desires to accept the original low bid. However, the original low bid, according to facts submitted, would be increased by a sum not to exceed 5% of the original bid. It also appears that the school board is setting up fourteen alternates to be considered by the low bidder.

From the facts as submitted, it appears to me that the bid now submitted by the original low bidder amounts to a new bid and an acceptance of that bid by the Municipal Board of Education would amount to letting of a contract involving expenditure of \$ 500.00 or more without proper notice and advertisement as provided by Section 55-807, N.M.S.A., 1941 Compilation.

In view of the above, I am of the opinion that the Lovington Municipal Board of Education cannot accept the new bid for the erection of the gymnasium without readvertising.

By WM. R. FEDERICI,

Asst. Atty. General