

Opinion No. [53-543]

January 30, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: H. F. Scott State Purchasing Agent Santa Fe, New Mexico

{*39} In your letter of January 22, 1953, you state that the Welfare Department owns a house in Albuquerque which it desires to sell and that this Department has requested the Purchasing Agent to handle the sale of this real estate. In the event the highest bid is not acceptable, you contemplate rejecting all bids and to sell the real estate to another State agency. You request an opinion concerning this procedure and also whether an inter-departmental transfer from one State agency to another is prohibited.

Under Section 73-103, New Mexico Statutes Annotated, 1941 Compilation, the State Department of Public Welfare is declared to be a public corporation and under subsection (f) the corporation is authorized to purchase, lease and hold real and personal property and to dispose of the same in any manner. Under Section 6-708, 1941 Comp., p.s., the Purchasing Agent is authorized to transfer supplies from one department to another when not needed by the first department and to sell at private sale any surplus or unneeded supplies or property in his hands owned by the State or any department thereof. This language on its face does not specifically cover real estate and in view of the fact that under Section 6-228, 1941 Comp., p.s., any State department is empowered to sell or dispose of real or personal property belonging to such State department subject to the approval of the State Comptroller, this latter procedure should be followed.

As a practical matter, I suggest that the Welfare Department and the State Comptroller agree upon the procedure to be followed and the price to be obtained for this property, particularly if it is contemplated that a sale be made to another State agency.

By: C. C. McCulloh

Assist. Attorney General