

Opinion No. 55-6133

March 22, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: E. B. Swope, Warden, Penitentiary of New Mexico, Post Office Box 1059, Santa Fe, New Mexico

In your letter dated March 14, 1955, you refer to § 42-1-36, 1953 Comp., and inquire whether the Board of Penitentiary Commissioners may designate a bonded employee of the Penitentiary to approve and sign all purchase and service vouchers in view of this statute.

§ 42-1-36 is a statute passed in 1889 which provides that claims for services, supplies or materials may be paid after being certified as being rendered by the superintendent and being ordered and allowed by the Board, in which event a certificate is furnished to the claimant and the claims thereupon to be paid by a warrant of the auditor. This procedure concerning payment of claims has been superseded by § 11-1-8, 1953 Comp., which provides the procedure for payment of claims of states, counties and state and county institutions, penal, reformatory, educational, charitable, etc.. Under this section, the State Comptroller prescribes the form of vouchers to be used in the payment to a claimant of monies due for supplies furnished or services rendered. The section specifically provides that all such vouchers, before payment is made thereon, must have the approval in writing of the head office or department to which the claim appertains thereon, and it must be duly signed and sworn to by the applicant.

Purchases required to be made through the State Purchasing Agent may be paid only when the voucher is approved by the Purchasing Agent or his chief clerk, pursuant to § 6-7-12, 1953 Comp.

In view of the provisions of § 11-1-8, the Board of Penitentiary Commissioners may designate a bonded employee of the Penitentiary to approve and sign purchase and service vouchers. The designation, of course, should be filed with the State Auditor for his information.

By C. C. McCulloh

Assistant Attorney General