

Opinion No. 56-6518

September 18, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. C. F. Horne, State Purchasing Agent, P. O. Box 749, Santa Fe, New Mexico

You have indicated to us that the Girls' Welfare Home at Albuquerque desires to dispose of forty-three head of dairy cattle. You ask whether or not these may be sold at public auction.

It is our opinion that such can be done under the following statutory authority and procedure:

Section 6-7-8, N.M.S.A., 1953, provides that the Purchasing Agent shall have the power to, among other things:

". . . sell the same for less than cost thereof, to the highest and best bidder for cash, after advertising the same in the manner provided by law for the sale of personal property upon execution, . . ."

The quoted language refers to the sale of personal property belonging to State departments, and the statute extends to the Girls' Welfare Home.

Sales of personal property upon execution are controlled by § 24-2-1 and § 10-2-10, N.M.S.A., 1953. The procedure is, where the value of the property exceeds \$ 300.00, to publish in the county where the sale is to be made once each week for four consecutive weeks. And the last publication must be at least three days before the sale. The sale must be conducted between the hours of 9:00 in the morning and the setting of the sun on the same day, and the time and place where the sale is to be made and a full description of the property shall be contained in that notice.

It is further our opinion that you, or some agent of your office, must be in charge of the sale. This is not to say that you or your representative must do the actual auctioning, but the sale and all things done in connection therewith must be under your control.

I trust the above answers your inquiry.

By Santiago E. Campos

Assistant Attorney General