

Opinion No. 56-6547

November 27, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Charles G. Sage, Major General, AGC, The Adjutant General, Santa Fe, New Mexico

Reference is here made to your letter dated November 16, 1956, together with copy of a letter dated November 8, 1956, issued for the Chief, National Guard Bureau.

We understand that the Judge Advocate General of the Army issued an opinion upon which the Deputy Chief of Staff for Logistics bases a ruling that the United States Property and Fiscal Officer for New Mexico may no longer be designated as the State Contracting Officer for construction of National Guard facilities where Federal funds are used. Your inquiry requests an opinion from this office as to whether an officer of the State Armory Board may properly be designated as the State Contracting Officer in these and kindred matters.

The State Armory Board Act, § 9-7-1, N.M.S.A., 1953, and subsequent, would appear to control the situation. Without attempting to cite the entire, rather voluminous provisions concerning this matter, this office wishes to point out that § 9-7-2 vests in the State Armory Board "the responsibility and authority for the control and supervision of all construction, acquisition, maintenance and operation of such facilities" as are used by the National Guard of this State. Section 9-7-3 provides, among other things, that the State Armory Board "is authorized to enter into contracts on behalf of the State with the United States Government, or any of its agencies, for the purpose of participating in any joint Federal-State military construction program, or for the purpose of receiving Federal money for military construction." Section 9-7-10 provides that "the State Armory Board may employ such administrative, technical, clerical and legal assistance and may make such other expenditures in carrying out the purposes of this Act (the State Armory Board Act) as the Board shall deem necessary."

Hence, this office is of the opinion that the State Armory Board is authorized to act, or appoint someone to act, as a State Contracting Officer in the above matters.

By Howard M. Rosenthal

Assistant Attorney General