

## **Opinion No. 57-250**

October 4, 1957

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Alfred P. Whittaker

**TO:** Mr. Glenn B. Neumeyer, Assistant District Attorney, Office of the District Attorney, Second Floor Court House, Las Cruces, New Mexico

### **QUESTION**

#### QUESTION

Can the Board of County Commissioners apply used structural bridge steel as partial payment upon the purchase of motor driven equipment under a rental purchase agreement?

#### CONCLUSION

Yes.

### **OPINION**

#### ANALYSIS

This office does not have before it the terms of the proposed rental purchase agreement; and it may be that the proposed transaction is not a purchase within the meaning of § 6-5-1 et seq., for the reasons set forth in Opinion No. 5425 of this office, copy of which is attached for your information.

If we assume, as you do in your inquiry, that the proposed transaction is, in fact, such a purchase, then the proposed purchase is governed by the terms of Chapter 233, Laws of 1939 as amended, § 6-5-1 et seq., N.M.S.A., 1953 Compilation. Section 6-5-8, which bears particularly upon the question raised, provides as follows:

"In the purchase of motor vehicles, machinery, equipment or furniture, where it is desired to "trade in" or "exchange" used articles as part payment on the purchase-price of new articles, the purchaser shall, in the advertisement and call for bids, describe such used property and therein advise and inform prospective sellers of such new articles, the location and place where such used property may be examined and inspected. In all such cases, the bidder shall state separately the sale price of the new article, and the sum to be allowed as credit thereon for the "trade in" or "exchange" article. The difference between such amounts shall be deemed the "bid" of such seller, for the purposes of this act."

This office considers that the above provision is clear authority for the proposed transaction, and that the Legislature expressed no intention therein to restrict exchanges of used articles, in connection with purchases of new articles, to an exchange of like article for like article. Under orthodox rules of statutory construction, words are construed to have their ordinary and usual meaning, unless the words used have a well settled technical meaning in the field involved (see 82 C.J.S., Statutes, § 316 (b)).

It is apparent that the terms "trade-in" and "exchange", used in this statutory provision, were used in their commonly accepted sense. In common usage neither term carries any connotation of the receipt of like for like.

Accordingly, it is the conclusion of this office that used articles of any of the classifications set forth in the statute may be applied in part payment of the purchase price of new articles of any of the classifications described.