

Opinion No. 64-110

August 19, 1964

BY: OPINION OF EARL E. HARTLEY, Attorney General Oliver E Payne, Assistant Attorney General

TO: Mr. Patrick F. Hanagan, District Attorney, P. O. Box 1617 Hobbs, New Mexico

QUESTION

QUESTIONS

1. Should the Lea County Fair Board secure bids on the printing of its Fair Book, the printing costs of which will probably exceed \$ 1,000?
2. Are the records of the Lea County Fair Board public records and thus available for public inspection?

CONCLUSIONS

(1) Yes.

(2) Yes.

OPINION

ANALYSIS

As we understand it, the Lea County Fair Board annually publishes a fair book and sells advertising which is printed in the book. The cost of the printing exceeds \$ 1,000.00. The board proposes to have the book printed without securing bids, but intends to use the proceeds of the advertising sales to pay for such printing.

Section 45-21-1, N.M.S.A., 1953 Compilation is the statute authorizing county fairs and provides that:

"It shall hereafter be lawful for counties of this state to own, maintain, operate and sell, real estate and personal property for the purpose of maintaining and conducting county fairs . . ."

Section 6-5-1, N.M.S.A., 1953 Compilation, the Public Purchase Act, provides that the word "purchaser" as used in the Act means, among other things, boards of county commissioners and all county officials, any person acting as a purchasing agent for any political subdivision, and "every person or body charged with the duty of expending or authorizing the expenditure of public moneys in this State."

This definition is certainly broad enough to include a county fair board. And the funds expended, although derived from the sale of advertising space, are public money since as used in Section 6-5-1, supra, public money and revenue are synonymous. **Hays v. State**, Okl., 210 Pac. 728.

Section 6-5-4, N.M.S.A., 1953 Compilation (P.S.) provides in pertinent part as follows:

"Purchases, or contracts for the construction, repair or improvement of buildings, or for materials or labor to be furnished or performed, which involve the expenditure at any one time of more than one thousand (\$ 1000), shall only be made or entered into after notice that sealed bids will be received at a time and place designated in the notice has been published for at least once each week for two consecutive weeks in a newspaper of general circulation in the county in which the purchaser is located."

"The bid of the lowest responsible bidder shall be accepted, except where the specification of the goods offered do not meet the specifications of the purchaser, the lowest bid which does meet such specifications shall be accepted; Provided, however, a purchaser may reject all bids."

It is the conclusion of this office that the provisions of Section 6-5-4, supra, must be followed in the present instance.

In regard to your second question, Section 71-5-1, N.M.S.A., 1953 Compilation provides that "Every citizen of this state has a right to inspect any public records of this state except records pertaining to physical or mental examinations and medical treatment of persons confined to any institutions and except as otherwise provided by law."

Section 71-5-2, N.M.S.A., 1953 Compilation provides that:

"All officers having the custody of any state, **county**, school, city or town records in this state shall furnish proper and reasonable opportunities for the inspection and examination of all the records requested of their respective offices and reasonable facilities for making memoranda abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them for any lawful purpose." (Emphasis added.)

Since the legislature has specifically granted counties the authority to conduct county fairs (Section 45-21-1, supra), a county fair board is an arm of the county and its records are county records within the purview of Section 71-5-2, supra. Thus they are subject to inspection as provided in Sections 71-5-1 and 71-5-2, supra.