

**Opinion No. 75-57**

October 17, 1975

**OPINION OF:** TONEY ANAYA, Attorney General

**BY:** W. Royer, Assistant Attorney General

**TO:** Representative William O'Donnell Chairman Legislative Finance Committee 231 State Capitol Building Santa Fe, New Mexico 87503

**QUESTIONS**

Is the State Armory Board required to obtain the approval of the State Board of Finance for the construction, major renovation or remodeling of facilities under the control and supervision of the Armory Board.

**CONCLUSION**

Yes.

**ANALYSIS**

{\*155}

The State Armory Board Act, Sections 9-7-1 to 9-7-34, NMSA, 1953 Comp., describes the duties and responsibilities of the State Armory Board with respect to construction, acquisition, maintenance and operation of facilities under the control and supervision of the State Armory Board. Section 9-7-2, **supra**, provides:

Armories, stables, storehouses, arsenals, depots, and other agencies and facilities for the use of the national guard of this state shall be built, or acquired by this state, and the responsibility and authority for the control and supervision of all such construction, acquisition, maintenance and operation of such facilities shall be vested in the state armory board.

Section 9-7-3, **supra**, provides in part:

Said board [the State Armory Board] is authorized to acquire property deemed necessary for military purposes, in its name on behalf of the state, by purchase, grant, gift, or condemnation, and is authorized to sell or exchange such property when said board determines it to be no longer necessary or suitable for military purposes; **Provided, that all acquisitions by purchase and all dispositions by sale or exchange shall be accomplished only after approval thereof by the state board of finance.**

\* \* \*

The state armory board shall make such repairs to arsenals, armories, stables, quarters, campgrounds {*\*156*} and rifle ranges, depots and storehouses owned by the state as may be necessary to keep same in good and serviceable condition from funds appropriated or otherwise made available for that purpose, and all moneys expended for the erection or repair of such buildings, grounds, and target ranges shall be expended by the state armory board **in the same manner as other moneys appropriated for military purposes are authorized to be expended.** (Emphasis added)

Section 9-7-10, **supra**, provides:

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 as the board shall deem necessary, **Provided, that expenditures shall be made only in conformity with budgets covering such expenditures which have been approved by the state board of finance.** (Emphasis added)

It is our opinion that the construction, major renovation or remodeling of any facilities under the control and supervision of the State Armory Board is an acquisition by purchase of facilities or services and requires the approval of the State Board of Finance pursuant to Section 9-7-3, **supra**. In addition, it is our opinion that Section 9-7-10, **supra**, requires that the budget for such expenditures be approved by the State Board of Finance since such expenditures are being made in carrying out the purposes of the State Armory Board Act.