

Opinion No. 23-3698

April 30, 1923

BY: MILTON J. HELMICK, Attorney General

TO: Requested by: James A. French, State Engineer, Santa Fe, New Mexico.

Contracts for Improvements on Highways Involving More Than One Thousand Dollars Can be Let Only After Advertisement and Bid.

OPINION

{*49} This inquiry arises upon the form of a contract submitted to this office by the State Engineer, acting on behalf of the Highway Commission. It is a form of a proposed contract which the Highway Commission has been requested to enter into.

The form submitted provides that the contractor shall furnish twenty-five (25) crews for repair work on State and Federal Highways in District No. 2, at the rate of \$ 7.50 per day for each crew. for a period of two years: The State to keep the crews employed for at least 312 days per year. It contains various other provisions for inspection, termination, et cetera.

It is useless to scrutinize the terms of this contract because I think it clearly beyond the power of the State to enter into it without advertisement and bid. Section 9 of Chapter 38 of the laws of 1917 provides that where improvements on highways will exceed \$ 1,000.00, it shall be the duty of the State Highway Engineer to let the same on contract, after advertising for bids, subject to the approval of the Highway Commission. The law further provides if no satisfactory bid is received, the work may then be done, without letting a contract, as may be determined by the State Engineer with the approval of the State Highway Commission. There is no escape from the plain proposition that the contract submitted involves improvements of more than \$ 1,000.00 and there is equally no escape from the plain provisions of the law that no such contract can be let except after advertisement and bid. If no satisfactory bids are received the work can probably be done in piece meal fashion, but no contract obligating the state to pay more than \$ 1,000.00 can be let.

For the foregoing reasons I am returning the contract herewith.