

Opinion No. 31-199

July 1, 1931

BY: E. K. Neumann, Attorney General

TO: Hon. J. M. Lujan, State Comptroller, Santa Fe, New Mexico.

{*82} Your inquiry under date of June 30th, 1931, as to whether Section 33-4231 of the 1929 Code applies to independent auditing contracted for by counties under authority of Section 134-507 of the 1929 Code. Section 33-4231, provides that when any public work is to be done by order of the Board of County Commissioners of any of the counties in this State, said Board of County Commissioners is required to advertise the said work, etc.

The case of Heston, et al. v. Atlantic City, et al., 107 Atlantic 820, holds that:

"Act April 1, 1912 (P. L. p. 593), prohibiting the award of a contract for the doing of work or furnishing of any material or labor in excess of \$ 500 except to the lowest responsible bidder after public advertisement, does not invalidate resolution of commissioners of a city selecting auditors of city's books for a year, as required by statute, at a compensation of \$ 1,175, such services not constituting 'work, materials, or labor'."

In view of the above cited authority, it is my opinion, that it is unnecessary for the Board of County Commissioners of any county to comply with the terms of Section 33-4231 before entering into contracts with independent auditors as provided by Section 134-507.

By Quincy D. Adams,

Asst. Attorney General