

**Opinion No. 34-801**

August 9, 1934

**BY:** E. K. NEUMANN, Attorney General

**TO:** Mr. Fred S. Merriau, Attorney at Law, Raton, New Mexico.

{\*151} We have your letter of August 7, 1934 in which you ask the following questions:

"Is it necessary for the Board of Education of a Municipal School District to publish notice of receiving bids for transportation contracts in a newspaper of general circulation in the County, once each week for four weeks, as is provided in Section 120-804, Code 1929?"

"Also:

"If the average daily attendance in a heretofore municipal district was less than 100 during the last school year, but no certificate to that effect has been filed with the County Board of Education as provided by section 120-817, Code, is that District, at law, a municipal or rural school from the standpoint of regulatory laws in connection with its administration."

Section 120-804 of the 1929 Code as amended by Section 5, Chapter 119, Laws of 1931 provides that "contracts involving the expenditure of \$ 500.00 or more shall be in writing and upon sealed competitive bids, after notices and advertisement of such bids shall have been published once a week for four consecutive weeks in some legal newspaper of general circulation in the county." My interpretation of this statute is that the notice must be to the effect that bids will be received upon a certain proposed contract and not necessarily that bids **have been** received. It seems to me that the purpose of the statute is to give an opportunity to anyone interested to bid upon the proposed contract. In my opinion such notice and advertisement is necessary before bids can legally be accepted.

As to Section 120-817 of the 1929 Code, it appears to me that the certificate of the county school superintendent to the effect that the average daily attendance for the last two preceding school terms has been less than 100 in a certain school district, is a condition precedent to its being classed and governed as a rural district. Consequently, in the case you mention, it is my opinion that the district is still a municipal district.

By: QUINCY D. ADAMS,

Asst. Attorney General