

## Opinion No. 34-798

August 8, 1934

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

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

{\*150} In your letter of August 6, 1934 you present for the consideration of this office the following proposition:

{\*151} "Can the Board of Directors of a municipal school district lawfully refuse to let a transportation contract to the lowest responsible bidder? In the instant case a majority of the Board refuses to let contracts to two of the lowest bidders for transportation routes, solely upon the ground that these two low bidders each have other means of making a living, whereas the two next high bidders would be entirely dependent upon their compensation as school bus drivers. In other words, no objection has been or can be made, either to the financial responsibility of these two low bidders or to their moral or personal qualifications."

Section 5 of Chapter 119, Laws of 1931 is applicable to municipal boards of education. See Chapter 22, Laws of 1933. Under this section contracts involving the expenditure of \$ 500.00 or more must be in writing and upon sealed competitive bids after notice and advertisement, etc. It is my opinion that this statute means that such contract shall be let to the lowest responsible bidder since, as you say, otherwise there would be no particular object in requiring competitive bids. Naturally, the school board would have some discretion in determining who was the lowest responsible bidder, but such discretion should not be abused. The mere fact that the low bidder had other means of making a living would not in my opinion be a valid reason for rejecting his bid.

By: QUINCY D. ADAMS,

Asst. Attorney General