

Opinion No. 45-4664

February 19, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. L. D. Wilson Office Engineer State Highway Department Santa Fe, New Mexico

{*24} We are in receipt of your letter of February 15, 1945, in which you ask whether or not it is necessary that contracts for overhauls and extensive repairs to heavy highway equipment when let to private individuals must be made by the State Purchasing Agent. You also ask whether or not it is necessary to clear with the State Purchasing Agent when the equipment is repaired by the employees of the State Highway Department.

Your attention is directed to Section 3, Chapter 124 of the Laws of 1943, which provides in part that:

"The State Purchasing Agent * * * shall make and execute for the state and each department thereof, all contracts for buildings and the repair thereof, or for any improvement upon any property of the state or any department thereof, and every character of service other than personal services usually provided for by contract."

Inasmuch as contracts for repairs on Highway Department equipment are contracts for the improvement of property of the Highway Department, and the service rendered is a type of service usually provided for by contract, it is my opinion that such contracts must be entered into by the State Purchasing Agent. It is further my opinion that the exceptions contained in Section 11 of this Act do not cover contracts of the nature mentioned, but only apply to contracts for construction of highways and air strips.

As to repairs made by employees of the Highway Department, the act does not apply, as there is no contract let for such repairs, and as it does not apply to the hiring of the employees, all the supplies necessary to make the repairs would have to be purchased by the Purchasing Agent in the same manner as other supplies of the Highway Department are purchased.

By ROBERT W. WARD,

Asst. Atty. General