

March 29, 1939.

Major General A. M. Tuthill,
Adjutant General of Arizona,
Phoenix, Arizona.

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ARIZONA ATTORNEY GENERAL

Dear Sir:

We are in receipt of your letter of March 29, 1939, requesting an opinion with respect to the construction of National Guard Headquarters building in Phoenix. We have before us also a copy of Works Progress Administration Project Proposal designated as Sponsor's Proposal No. 07-849, State of Arizona Local No. 07-1425, State Application No. 30130, which as we understand it describes the project concerning which you desire the opinion.

This project is authorized by Chapter 6 of Thirteenth Legislature, 4th Special Session. That chapter authorizes the Adjutant General to cause to be constructed a military headquarters building, same not to be located on the capitol grounds, and to equip and furnish the same. In Section 2 of this act for the purpose of defraying the state's share of the cost of said military headquarters building the legislature appropriated the sum of \$8,187.14 under subsection (a), and \$5,562.86 under subsection (b), making a total of \$13,750.00. Section 4 of the bill exempts the appropriation from the provisions of the financial code. The material part of the bill, so far as this opinion is concerned, is Section 3 thereof, which reads as follows:

"Conditions. (a) Said appropriation is conditioned upon the receipt of a grant or grants by or from the public works administration of the United States, or other agency of the federal government, of approximately 45% of the cost of said military headquarters building. (b) All items of construction and all purchases of furnishings and equipment shall be by contract after call for bids."

Construing the section just quoted it is our opinion that the legislature in making the appropriation authorized the Adjutant General to take whatever action should be necessary in

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complying with the rules and regulations of any federal agency and federal law in order to procure a grant of federal funds to cover at least 45% of the cost of said military headquarters building. We believe that the action of the Adjutant General in procuring such grant from the Works Progress Administration was proper and in accordance with the authority given him under Chapter 6. It is our further opinion that the Adjutant General is not required to request bids for labor or for material that the Works Progress Administration is to furnish as he has no control over the expenditure of federal funds allotted to the project. It will be proper for the Adjutant General to issue invitations for bids and to award contracts for all construction material, furnishings and equipment which under the agreement with W. P. A. the state is required to purchase with its funds. The provisions of subsection (b) of Section 3 of Chapter 6 require that all items of construction and all purchases of furnishings and equipment shall be by contract after call for bids. It is our opinion that within the meaning of this provision it will be proper for the Federal Procurement Office acting as agent for your department, after being duly authorized so to do, to call for bids and award contracts for such items as the state is required to pay for provided the action of such office in awarding the particular contract in each case receives the approval of your department.

Trusting this opinion may be of some assistance in the matter, I am

Very truly yours,

JOE CONWAY
Attorney General

LIN ORME, JR.
Assistant Attorney General

EARL ANDERSON
Special Assistant
Attorney General