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February 1, 1951  
Op. No. 51-38

*MR*

Mr. Robert Morrison  
County Attorney, Pima County  
Tucson, Arizona

Attention: Mr. W. T. Holmes,  
Civil Deputy

Dear Mr. Holmes:

We have your letter of January 17 wherein you request our opinion as to whether advertising for bids is required by Section 17-312 ACA 1939 in the purchase of books, stationery and supplies for use in the offices of the Board of Supervisors, Sheriff, County Attorney, Assessor, Treasurer, Recorder, Clerk and "all other county offices".

The section to which you refer reads in part:

"Contract for supplies and buildings.--Competitive bids.-- All books, stationery, and supplies for county institutions for the ensuing year, \* \* \* shall be let by contract, after advertisement made for bids therefor for not less than ten (10) days nor more than four (4) weeks in the official paper of the county. Such advertisements shall state that sealed bids will be received at the office of the board of supervisors until a date therein named, the nature of the bids, and that specifications therefor may be seen at the office said board; or, it may call for specifications and bids. The board shall let the contract to the lowest bidder, or may reject all bids and readvertise."  
(Section 17-312 ACA 1939) (Emphasis supplied)

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As you point out, our Court has held that this section has no application to the purchase of such supplies when they are for the use of the county itself as distinguished from "county institutions". Prescott Courier v. Bd. of Supervisors, 49 Ariz. 423, 67 P. 2d 483.

We find that the legislature has also recognized a distinction between "office" and "institution" in the following definition:

"Definitions.-- By the word 'office', 'board,' or 'commission,' used in law, is meant any office, board or commission of the state, or any political subdivision thereof, the salary or compensation of the incumbent or members of which is paid out of a fund raised by taxation, or by public revenue; by the words 'public institution' is meant any institution the maintenance of which is paid out of a fund raised by taxation, or by public revenue; by the word 'officer', or 'public officer', unless the context otherwise requires, is meant the incumbent of any office, member of any board or commission, his deputy or assistant exercising the powers and duties of such officer other than clerks or mere employees of such officer." (Section 12-101 ACA 1939)

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From the language in the Prescott Courier case and that in Section 12-101, supra, it appears that Section 17-312, supra, has application to supplies used by an organization or institution operated by the county but not to supplies actually used in the operation of a county "office".

It is readily apparent that such a distinction will, in some cases, be difficult to make, as in the case of the Sheriff who, in addition to the maintenance of his own office proper, also has the duty of operating the county jail. However, this distinction must be made upon the circumstances existing in each particular case.

It is our opinion that books, stationery and supplies purchased for the official use of county officers, but not for the use of any institution under the control of such officers, are purchased for the use of the county itself; such goods are not for the use of "county institutions" and therefore such purchases need not be made in accordance with the provisions of Section 17-312, supra.

Trusting the foregoing will be of some assistance to you, we are

Very truly yours,

FRED O. WILSON  
Attorney General

WILBERT E. DOLPH, JR.  
Assistant Attorney General

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