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December 9, 1952  
Op. 52-302

Mr. T. R. Mofford  
State Treasurer  
State Capitol  
Phoenix, Arizona

*T.R.*

Dear Mr. Mofford:

This acknowledges receipt of your letter of your letter of November 21, 1952, wherein you ask the following:

1. Whether or not the recalling of the Yuma County Refunding Bonds, dated July 15, 1934, must be done by advertisement.
2. Who bears the expense of said advertising.

The answer to your first question is that redemption of the bonds must be done by advertisement. Section 10-408 ACA 1939 provides that the State Treasurer shall advertise in the same manner as bids for the sale of bonds are required to be advertised.

"10-408. Redemption of bonds--Report.--  
Whenever, after the expiration of fifteen (15) years from the date of issuance of any bonds, there is in the redemption fund a surplus of ten thousand dollars (\$10,000) or more, the state treasurer shall advertise, as bids for the sale of bonds are required to be advertised, stating the amount of money in the redemption fund, and that such amount has been set apart to pay and discharge the number of bonds, naming them by number in the order of their issuance. A copy of such advertisement shall be mailed to each bank or trust company

at which the interest was made payable. If such bonds numbered in such advertisements are not presented for payment and cancelation at the expiration of such publication, then such fund shall remain in the treasury to discharge such bonds whenever presented, but they shall draw no interest after the expiration of such publication. Before any such bonds shall be paid they shall be presented to the state auditor, who shall indorse on each bond the amount due thereon, and shall write across the face of each bond the date of its surrender and the name of the person surrendering. The state auditor shall keep a record of all bonds issued and disposed of by the state treasurer, showing their number, rate of interest, date, and amount of sale, when, where, and to whom payable, and if exchanged, for what, and when presented for redemption the date, amount due thereon, and person surrendering."

Section 10-404 ACA 1939 sets forth the procedure to be followed in advertising for bids for the sale of bonds which, under Section 10-408 ACA 1939, is the same procedure used in recalling bonds.

"10-404. Sale of bonds.--Whenever the loan commissioners may be authorized to issue bonds, or decide to refund or redeem all or any part of the existing indebtedness of the state, they shall direct the state treasurer to advertise for a sale of the bonds to be issued for that purpose, by causing a notice of such sale to be published once a week for one (1) month in three (3) newspapers published in the state, no two of which shall be published in the same county, and, if desirable, in a publication in the city and state of New York, and in San Francisco, California. Such notice shall state the amount of bonds to be sold, the place, day, and hour of sale, and that bids will be received by the treas-

Mr. T. R. Mofford  
State Treasurer

Page three  
Dec. 5, 1952

urer for the purchase of said bonds within one (1) month from the expiration of such publication. At the place and time named in said notice the loan commissioners shall open all bids received by the treasurer and shall award the purchase of said bonds, or any part thereof, to the best bidder therefor. The loan commissioners may reject any and all bids, and may refuse to make any award unless sufficient security be furnished by the bidder for complying with his bid."

In answer to your second question, it is our opinion that since Section 10-408 ACA 1939 provides that the State Treasurer shall advertise, the cost of advertising is primarily an expense of your office. However, if you have no funds for this purpose, we suggest that you try to get Yuma County to bear this expense, or at least advance the money, and at the next session of the Legislature, a bill may be introduced to refund the money so advanced by Yuma County.

Sincerely yours,

FRED O. WILSON  
Attorney General

RICHARD R. GREENFIELD  
Assistant Attorney General

RRG:mw