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ARIZONA ATTORNEY GENERAL

October 23, 1953  
Opinion No. 53-176

TO: The Honorable Norman Whiting  
Apache County Attorney  
Apache County Court House  
St. Johns, Arizona

RE: Power of High School Board of  
Education to repair a school  
building when the total cost of  
repair is above \$2,500.00 without  
letting bids.

QUESTION: Can a High School Board of Education  
repair a high school heating unit  
by purchasing a boiler and hiring a  
person who is not a contractor to do  
the job, or must it let bids to a  
registered contractor when the cost  
is over \$2,500.00?

The answer to the question raised in your letter of September 3, 1953, is that the repair must be contracted for upon bids submitted by licensed contractors.

It is a universal rule that public officers or agencies such as the Board of Education for a High School District have such powers as are expressly granted by Statute, or necessarily implied therefrom, and no others.

Section 54-907, A.C.A. 1939 grants the Board of Education of High School Districts such powers "for the management of high schools \* \* \* all the powers and duties vested in school trustees".

The applicable powers and duties of School Trustees as granted by Section 54-416, A.C.A. 1939, as amended, Subsection 3, is:

"54-416. Powers and Duties of Board of Trustees.-- \* \* \* \* \*

3. The board shall manage and control the school property within their districts;  
\* \* \* repair \* \* \* the school property of the district; \* \* \*."

The Honorable Norman Whiting  
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October 23, 1953  
Page Two

If any limitation exists upon this power of a board to "repair" school buildings, it must be found in other general provisions of law. Chapter 9, A.C.A. 1939, amended in part, entitled "Public Buildings" governs the method to be used by a Board of Education in making repairs where the total cost is over \$2,500.00.

A limitation upon the right of an "agent" to construct or alter any building without calling for bids and contracting is found in Section 9-105, A.C.A. 1939, as amended, Subsection 4 (b).

"9-105. Notice to contractors to submit bids.--  
4. (b) If the agent believes the work can be  
done more advantageously, any building, structure,  
addition, or alteration not exceeding twenty-  
five hundred dollars (\$2,500) in total cost,  
may be constructed by day's work or force  
account and advertisement for bids dispensed  
with." (Emphasis supplied)

It is apparent from this section that only such projects for the building or repair of existing buildings, which do not exceed \$2,500.00 in total cost may be performed without compliance with Chapter 9, supra.

The total cost limitation found in this Section would prevent the Board of Education from dividing the project into parts; that is, purchasing the boiler separately from the work of installing the equipment.

Section 9-106, A.C.A. 1939, as amended, requires the agent to enter into a contract with the "lowest responsible bidder". Section 9-104, A.C.A. 1939, as amended, permits bids to be submitted by a "responsible contractor". Article 23 of Chapter 67 (SS 67-2301 - 67-2325) A.C.A. 1939, as amended, "Contracting", provides for the licensing and supervision of contractors.

It follows, therefore, that where repair is required to be done under contract after bids that it must be done by licensed contractors.

ROSS F. JONES  
The Attorney General

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