

FEBRUARY 14, 1958

HONORABLE DWIGHT R. G. PALMER
Commissioner of State Highway Department
1035 Parkway Avenue
Trenton, New Jersey

MEMORANDUM OPINION—P-9

DEAR COMMISSIONER:

Our opinion has been requested as to the extent of the limitation on the expenditure of certain State Aid funds as contained in *R.S. 27:14-48*. You have asked

"In view of the provision of *R.S. 27:14-48*, are we justified in permitting the use of not more than 50% of the annual State Aid allotment to each county, for debt service?"

R.S. 27:14-48 reads as follows:

"If the public body referred to in section 27:14-47 of this title shall not have sufficient funds with which to pay its share of the cost of such repairs, it may issue bonds in a sum not exceeding the sum to be advanced by the commissioner for and towards such repairs as stated in its certificate, to defray and pay its share of the costs.

"The commissioner may, in his discretion, approve and permit the use of not more than fifty percent of the motor vehicle fund allotment made by the State to the counties each year to be used toward the payment of interest on such bonds, and for the retirement of such bonds, except that he shall not permit the use of the State motor vehicle funds for such purposes in an amount which, if subtracted from the total allotment by the State to the county would, in the opinion of the commissioner, leave an amount insufficient for the proper repair and maintenance of the other existing county roads.

"No motor vehicle funds shall be used for any work or contract performed or entered into by a county prior to March twenty-sixth, one thousand nine hundred and nineteen."

To determine the extent of the limitation referred to in the above statute, we must first refer to *R.S. 27:14-47* which reads:

"When an improved public road is in need of *extraordinary* repairs or reconstruction, the public body charged with its care shall prepare specifications and any plans and cross sections necessary to explain and describe the repairs contemplated and forward them to the commissioner, who may in his discretion approve them and certify the amount of State moneys he will set aside for the repair of such roads.

"Upon the approval and issuance of the certificate of the commissioner as provided in this article, the public body shall advertise for bids and thereafter proceed as provided in this article." (Emphasis supplied)

It will be noted that *R.S. 27:14-47* refers to *extraordinary* repairs or reconstruction and that the bonds issued under *R.S. 27:14-48* are those issued with respect to the payment of the costs of such repairs. The latter statute says in essence that when

a county does not have sufficient funds for extraordinary repairs as provided for in *R.S. 27:14-47*, it may issue bonds in a certain sum to defray the costs of such repairs. The commissioner may permit up to 50% of the motor vehicle fund allotment made by the State to the counties each year to be used for the payment of interest on such bonds or for the retirement of such obligations. The commissioner is further limited by the statute as to the amount he may allow for debt service because he must at all times leave in the allotment an amount sufficient for proper repair and maintenance of the other existing county roads, i.e., for *ordinary* repairs.

Thus, where the fund is to be used to pay interest and principal on bonds issued to finance extraordinary repairs or construction, the clear legislative intent is to limit the amount of the fund that may be allocated thereto to not more than 50% as prescribed by *R.S. 27:14-48*.

Very truly yours,

HAROLD KOLOVSKY
Acting Attorney General

By: HAROLD J. ASHBY
Deputy Attorney General

FEBRUARY 19, 1958

BOARD OF GOVERNORS
Rutgers, The State University
New Brunswick, New Jersey

MEMORANDUM OPINION—P-10

GENTLEMEN:

You have requested our opinion as to whether Rutgers, The State University, can legally make a contract with a single contractor for the construction of certain projected university buildings or whether multiple contracts should be let.

R.S. 52:32-2 provides:

“When the entire cost of the erection, construction, alteration or repair by the State of any public buildings in this State will exceed one thousand dollars, the person preparing the plans and specifications for such work shall prepare separate plans and specifications for the plumbing and gas fitting and all work kindred thereto, the steam and hot water heating and ventilating apparatus, steam power plants and all work kindred thereto, and electrical work, structural steel and ornamental iron work.

“The board, body or person authorized by law to award contracts for such work shall advertise for, in the manner provided by law, and receive separate bids for each of said branches of the work and shall award contracts for the same to the lowest responsible bidder for each of the branches respectively.”

Under the provisions of this statute, contracts for the “construction * * * by the State of any public buildings,” no matter how or by whom the construction is financed, are not to be let to a single bidder for the entire job, but are to be awarded