

**Board of County Commissioners, Authority of to Erect Public Buildings. Public Buildings, Authority of Board of County Commissioners to Erect.**

In the erection of public buildings for the county, the board of county commissioners is vested with discretionary power and are governed by that which is for the best interests of the county, keeping in mind the fact that no more than ten thousand dollars may be expended for any single purpose without the consent of the electors.

April 2, 1913.

Hon. B. E. Berg.  
Columbus,  
Montana.

Dear Sir:

I am in receipt of your letter of the 29th ult., submitting the question:

"Is it necessary for the board of county commissioners of a newly created county to let by contract to the lowest bidder

the erection of public buildings, etc., without advertising for sealed bids?"

As stated by you in your letter, Subdivisions 7, 8 and 9 of Sec. 2894, Revised Codes, appear to confer upon the board of county commissioners the authority to erect necessary public buildings for the use of the county, and subdivision 7 seems to apply particularly to cases where there are no county buildings. I have not been able to find any law which specifically directs that the erection of such buildings shall be let by contract after advertising. A discretionary power seems to be vested in the board of county commissioners, and they are governed by that which is for the best interests of the county under the circumstances. The constitutional limit, however, must be kept in mind, for not more than ten thousand dollars may be expended for any single purpose without the consent of the electors of the county, and it has been held that the purchase of a site and the erection of buildings thereon is a single purpose.

Hefferlin v. Chambers, 16 Mont. 349.

However, I could not advise the erection of buildings by private contract without advertising as a particular course to be pursued, except in extreme cases. Public advertising or competitive bidding is a safeguard, not only to the public but to the officers having the matter in charge, otherwise they might be accused of favoritism, and it is the usage and custom throughout the state to advertise for bids.

Very truly yours,

D. M. KELLY,  
Attorney General.