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CONTRACT—TO INSTALL AIR CONDITIONING UNIT OR ANY OTHER IMPROVEMENT OF COUNTY HOSPITAL—COST IN EXCESS OF ONE THOUSAND DOLLARS—SECTION 339.05 RC REQUIRES ADVERTISEMENT FOR BIDS.

**SYLLABUS:**

The provision of Section 339.05, Revised Code, requiring advertisement for bids, applies to a contract for the installation of an air conditioning unit or any other improvement of a county hospital, the cost of which is in excess of one thousand dollars.

Columbus, Ohio, February 26, 1954

Hon. Lloyd George Kerns, Prosecuting Attorney  
Union County, Marysville, Ohio

Dear Sir:

I have before me your communication requesting my opinion and reading as follows:

“The trustees of our county hospital operating under Section 339.06 of the Revised Code, desire to make certain changes in the hospital building (in this case, air-conditioning to cost approximately \$10,000.00). Our question, therefore is:

“Must the trustees of a county memorial hospital, operating under Section 339.06 of the Revised Code, proceed by public advertising and bidding in order to make capital changes in their hospital building, such as installing an air-conditioning unit costing approximately \$10,000.00?

“Must they so proceed on purchase of any equipment?

“If so, what are the maximum amounts of purchases of new equipment or building improvements that can be made without such requirements as part of the regular operating expenses?”

Under the provisions of Sections 339.02 and 339.03, Revised Code, when the electors of a county have by vote authorized a tax levy or bond issue for the purchase or construction of a county hospital and a board of hospital trustees has been appointed, the powers and duties of such board are prescribed in the several sections which follow.

Prior to the amendment of these sections in 1951, 124 O. L., 701, the construction of such hospital was in the hands of a board appointed by the governor, and the management of the hospital when completed was committed to another board appointed by the county commissioners. By amendment of Section 3137, General Code, Section 339.06, Revised Code, the board, appointed by the commissioners with the concurrence of the probate and common pleas judges, to construct the hospital, is also charged with its maintenance and operation.

Section 339.03, Revised Code, reads in part, as follows:

“The board of county hospital trustees shall have complete charge of the selection and purchase of a site for a county hospital,

taking title to such site in the name of the county, the selection of plans and specifications, the determination and erection of all necessary buildings on such site, and of the selection and installation of all necessary and proper furniture, fixtures, and equipment. \* \* \*

I call particular attention to the language of the above quoted section in that it includes not only the erection of the hospital, but also "all necessary and proper furniture, *fixtures* and *equipment*." Certainly, an air conditioning unit is within the classification of equipment and is probably a fixture.

Section 339.05, Revised Code, Section 3135, G. C., reads as follows:

"Before making a contract for the expenditure of money on any structure or improvement in excess of one thousand dollars, the board of county hospital trustees shall advertise according to law for bids, and shall cause plans, specifications, and detailed drawings to be distributed among the bidders."

It is true that as the law existed prior to the amendment of 1951, Section 3135, General Code, requiring bids for the erection of a hospital, appeared to have reference only to the first board above referred to; but when that board was also endowed with the responsibility for permanent management, it appears to me that it was the intention of the legislature to leave such board subject to the requirement of advertising in all subsequent contracts for additional buildings or improvements, including furniture, fixtures and equipment involving an expenditure of more than one thousand dollars.

Note that the section last quoted covers every contract for "any structure or improvement." It is my opinion, therefore, that the provision of Section 339.05, Revised Code, requiring advertisement for bids, applies to a contract for the installation of an air conditioning unit or any other improvement of a county hospital, the cost of which is in excess of one thousand dollars.

Respectfully,  
C. WILLIAM O'NEILL  
Attorney General