best responsible bidder, and that the successful bidder is an independent contractor and not eligible for social security coverage as an employee of a school corporation.

OFFICIAL OPINION NO. 42

July 9, 1954

Mr. Howard Patrem, Director
Board of Industrial Aid and Vocational Rehabilitation for the Blind
536 West 30th Street
Indianapolis, Indiana

Dear Mr. Patrem:

I have your request for an opinion which reads as follows:

"I would appreciate your official opinion as to the legality of the Board of Industrial Aid and Vocational Rehabilitation for the Blind, Acts of 1915 amended 1947, Chapter 97; of processing linens and toweling for the various state institutions and hospitals, and paying wages to the blind people performing work on these items.

"All raw materials would be purchased through the Division of Public Works and Supply on bid basis and then processed by blind employees, the purpose and intentions of this agency.

"At present our products are sold retail and wholesale on the open market, therefore we are not classified by law as a member of institutional industries.

"The Board of Industrial Aid and Vocational Rehabilitation for the Blind would not process all linen and toweling material required by the state, but only a portion thereof."

By the Acts of 1915, Ch. 59, as found in Burns' Indiana Statutes (1933), Section 22-801, the Board of Trustees of the Indiana School for the Blind performed the duties imposed by the provisions of that Act. This Act provided by Section 4
thereof, as found in Burns' Indiana Statutes (1933), Section 22-804, that:

"The board may establish schools for industrial training of the adult blind, and workshops for the employment of suitable blind persons and shall be empowered to equip and maintain the same, to pay such blind persons employed in such workshops suitable wages and to devise means for the sale and distribution of the products thereof. The board may also provide or pay for, during their training, temporary lodging and support for pupils or workmen received at any industrial school or workshops established by it."

The Acts of 1915, Ch. 170, Sec. 1, as found in Burns' Indiana Statutes (1933), Section 22-811, provides as follows:

"The state institutions, except where similar articles are made therein, and political divisions of the state using supplies such as are produced under the supervision of the board of industrial aid for the blind, shall be required to purchase such articles in the same manner and under the same conditions as articles produced in the Indiana reformatory are now required to be purchased by law."

There is an annotation under Burns' Indiana Statutes (1933), Section 22-801, supra, to the effect that this Section was repealed by the Acts of 1947, Ch. 97, Sec. 16. However, an examination of that section discloses that said Act was not expressly repealed by said Section 16. Said section did repeal Chapter 59 of the Acts of 1915 and Chapter 179 of the Acts of 1941, but did not repeal Chapter 170 of the Acts of 1915. Burns' Indiana Statutes has restored the above section in the 1953 Pocket Supplement.

The Acts of 1945, Ch. 110, Sec. 11, as found in Burns' Indiana Statutes (1951 Repl.), Section 60-622, which is a part of the Act relating to the Division of Procurement and Supply, provides as follows:

"The exchange or purchase of products or articles or equipment between the several penal or benevolent institutions is hereby permitted and authorized at valua-
tions which may be fixed by the director, and the director may, with the consent of the superintendent of an institution, lend equipment or other property from one institution to another so that such property may be used by one institution when not needed by the institution owning the same and thereby avoid the expense of buying additional equipment. It is further provided that the live stock or fowls belonging to the separate institutions may be loaned or transferred from time to time for breeding purposes for the improvement of the different herds or flocks. [Acts 1945, ch. 110, § 11, p. 235.]

In 1947 the General Assembly, by Chapter 97, repealed said Chapter 59 of the Acts of 1915, as above stated, and created a Board of Industrial Aid and Vocational Rehabilitation for the Blind, Burns’ Indiana Statutes (1950 Repl.), Section 22-823 et seq.

Section 15 of this Act, as found in Burns’ Indiana Statutes (1950 Repl.), Section 22-837, transferred all the powers and duties not in conflict with the provisions of that Act which were theretofore conferred upon the Board of Industrial Aid and Vocational Rehabilitation for the Blind to the Board of Industrial Aid and Vocational Rehabilitation created by that Act. Also by Section 5 of said Act, as found in Burns’ Indiana Statutes (1950 Repl.), Section 22-827, it was provided:

“The board may establish schools for the industrial training of the blind, and workshops for the employment of suitable blind persons and shall be empowered to equip and maintain the same, to pay such blind persons employed in such workshops suitable wages and to devise means for the sale and distribution of the products thereof. The board may also provide or pay for, during their training, temporary lodging and support for the pupils or workmen received at any industrial school or workshops established by it. [Acts 1947, Ch. 97, § 5, p. 286.]” (Our emphasis)

The Acts of 1947, Ch. 279 provided for fiscal reorganization of state government and state agencies. Agencies of the state by Section 1 of said Act were defined to “include every officer,
board, commission, department, division, bureau, committee, employee and other instrumentality of the state including without limiting the effect of the foregoing, state hospitals, state penal institutions and other state institution enterprises and activities wherever located * * *,” with certain exceptions not pertinent here.

The Acts of 1947, Ch. 279, Sec. 25, as found in Burns’ Indiana Statutes (1951 Repl.), Section 60-1825, provides as follows:

“All the rights, powers, and duties now by law imposed upon and vested in the Board of Public Buildings and Property and the appointees thereof, and in the Division of Procurements and Supply, excepting only such jurisdiction, rights, powers, and duties as may be in conflict with this Act, are hereby transferred to and imposed upon the Director of Public Works and Supply. The Board of Public Printing, the Board of Public Buildings and Property, and the Division of Procurement and Supply are hereby abolished. The officers of the Director of Procurement and Supply, as heretofore existing, the Superintendent of Public Buildings, and the Director of Printing Purchases are hereby abolished. All records, papers, files, property, equipment, contracts, pending matters, business and causes of or relating to said agencies, Boards and Divisions are transferred to and shall be the property of the Division of Public Works and Supply. The unexpended balances of any and all appropriations made to or for any of said agencies, Boards and Divisions or any officers thereof are hereby transferred to the General Fund.”

By the above section the power vested in the Division of Procurement and Supply by the Acts of 1945, Ch. 110, Sec. 11, above-quoted, became vested in the Director of Public Works and Supply, provided for by said Acts of 1947, Ch. 279.

By Acts of 1953, Ch. 197, Sec. 503, as found in Burns’ Indiana Statutes (1951 Repl.), Section 60-2043, the Commissioner in charge of the Division of Medical Institutions was given complete administrative control and responsibility for the Indiana School for the Blind, and all the powers and duties of the Board of Trustees of the above institution were pre-
served and conferred upon said Commissioner of the Division of Medical Institutions. By Section 505 of said Act, supra, the Board of Trustees of the School for the Blind was abolished.

The above statutory history is an example of the confusion which can arise from the blanket transfer of powers from an abolished board to a newly created board or official, and particularly where there is a succession of such transfers.

It is my opinion that the authority to employ suitable blind persons and to pay the same suitable wages in the workshops provided has been preserved and is now vested in the Commissioner of the Division of Medical Institutions. I am further of the opinion that under the power vested in the Division of Procurement and Supply, which power was transferred to and became vested in the Director of Public Works and Supply, that the exchange or purchase of products or articles between the penal and benevolent institutions is permitted and authorized at valuations fixed by the Director of Public Works and Supply; that the Vocational School for the Blind is a benevolent institution and that except where similar articles are made therein, the political divisions of the State using such supplies produced under the supervision of Industrial Aid for the Blind are required to purchase such articles, such transactions being handled by the Director of Public Works and Supply, under the Acts of 1947, Ch. 279.

OFFICIAL OPINION NO. 43

July 12, 1954

Dr. L. E. Burney, M. D.
Commissioner of Health and Preventive Medicine
State Board of Health
1330 West Michigan Street
Indianapolis, Indiana

Dear Doctor Burney:

I have your letter of April 14, 1954, requesting an Official Opinion, which reads as follows:

"I am in receipt of correspondence from Doctor Henry G. Nester, Director of Public Health of the