



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD  
ATTORNEY GENERAL

December 30, 1955

Honorable James A. Bethea  
Executive Director  
Board for Texas State Hospitals  
and Special Schools  
Austin, Texas

Letter Opinion No. MS-250

Re: Availability of certain  
federal funds for expen-  
diture by the Board for  
Texas State Hospitals  
and Special Schools.

Dear Mr. Bethea:

Your request for an opinion reads as follows:

"A difference of opinion has arisen between the offices of the State Comptroller of Public Accounts and the Board for Texas State Hospitals and Special Schools as to whether or not charges for certain items covered by orders placed after March 3, 1955, can be paid from the appropriation accounts assigned for the construction of the Harlingen State Tuberculosis Hospital and the additional facilities at the San Antonio State Tuberculosis Hospital under authority of Senate Bill 11, Acts of the 53rd Legislature.

"The State Comptroller maintains that all funds credited to the above mentioned appropriation lapsed when the two year period of the appropriation made by Senate Bill 11 expired, including Federal funds appropriated by Senate Bill 11 and reappropriated by Sec. 16, Art. II, H.B.111 of the 53rd Legislature and Sec. 6, Art. II, H.B.140, 54th Legislature. Federal funds granted for these projects were credited to the appropriations assigned to the State funds appropriated for these projects. We are of the opinion that since these Federal funds have been received at intervals covering the entire period up to the present date that the provisions cited reappropriate these funds, and that the March 3, 1955, expiration date which applies to the funds provided by the State, does not apply to the Federal funds. We feel that our position is supported by A.G.O. V-1416 covering a similar situation.

"You are requested to advise this office, with a copy to the State Comptroller of Public Accounts, whether or not the amounts credited to the above mentioned appropriations which represent Federal funds can legally be expended to pay claims covering items ordered after March 3, 1955."

You have supplied us with the additional information that all of the orders were placed before September 1, 1955.

Section 5 of Senate Bill 11, Acts of the 53rd Legislature, Chapter 29, page 36, provided:

"In addition, there also is appropriated to the Board for Texas State Hospitals and Special Schools such Federal funds as the U. S. Government may grant for the construction of the Harlingen State Tuberculosis Hospital and the San Antonio State Tuberculosis Hospital and such other funds as may be given or granted by any State Agency, and said Board is authorized and directed to obtain and to expend such funds as are available for those two projects."

Section 16 of Article II of House Bill 111, Acts of the 53rd Legislature, Chapter 81, at page 164, provided:

"United States Aid. The Governing Boards, within their discretion, may take advantage of and accept any aid extended by the Federal Government for research, buildings, improvements and repairs at the institutions; provided; however, that in taking advantage of or accepting any aid extended by the Federal Government the Governing Boards shall not incur any indebtedness which would necessitate a supplemental or additional appropriation out of any fund of this State; and provided, further that in taking advantage of and accepting any aid extended by the Federal Government the Board and/or Council shall not deplete any of the funds herein appropriated to the several institutions to an amount which would necessitate a supplemental or additional appropriation out of any fund of this State to replenish said fund or funds. Any funds received by the Governing Boards from the United States Government are hereby appropriated to the purposes for which the grant was make."

Senate Bill 11 was passed by the Legislature on March 2, 1953 and House Bill 111 was passed by the Legislature on April 13, 1953. Senate Bill 11 became effective on March 4, 1953, and

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House Bill 111 became effective on September 1, 1953.

It is our opinion that the appropriation contained in Section 16, of House Bill 111 replaced the appropriation contained in Section 5 of Senate Bill 11 on September 1, 1955, and such appropriation did not expire until August 31, 1955.

Since all of the orders were placed during the life of the appropriation, you are advised that the Federal funds in question can legally be expended to pay claims covering items ordered after March 3, 1955 and prior to September 1, 1955, out of the appropriation in House Bill 111.

Yours very truly,

APPROVED:

JOHN BEN SHEPPERD  
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