



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable J. S. Murchison
Executive Director
State Department of Public Welfare
Austin, Texas

Dear Mr. Murchison:

Opinion No. O-3464

Re: Matter of the authority of the State Board of Public Welfare to destroy the records, reports, etc. as scrap paper formerly constituting the archives of the Texas Relief Commission.

This will acknowledge receipt of your letter of April 29, 1941, as follows:

*Of date September 1, 1939, the Texas Relief Commission, along with other agencies, was merged into the State Department of Public Welfare. Prior to September 1, 1939, and since that time, certain records, files, and reports which represent an accumulation covering the operations of the Texas Relief Commission for the period from 1932 to September 1, 1939, remained stored in various cities of the state. These records, files, and reports consist principally of copies of Work Project Reports, copies of miscellaneous correspondence, disbursing order registers, time reports, accounting records, work cards, copies of original checks, and many other records.

*A considerable quantity of the records are now stored in the basement of a building in San Antonio, Texas. The Area Supervisor has notified the State Department of Public Welfare that notice has been given the Area Office to vacate the building by May 21, 1941, which will necessitate the removal of the records from the basement of this building. Upon investigation, it has been determined that to remove the records from San Antonio to Austin it will require an outlay of funds in the approximate sum of \$150.00.

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"I anticipate that from time to time this agency will be confronted with a similar situation in other cities of the state where records are stored, and it is my opinion that some disposition should be made of the records as they are of no value to this agency and no further useful purpose could be served by keeping them in storage and to continue to pay freight in having them removed from one place to another when a situation arises as the one in the city of San Antonio.

"Of date August 19, 1939 the State Board of Control entered into a contract with M. A. Carter Company for a detailed audit of the activities and operations of the Texas Relief Commission from July 1, 1936 to August 31, 1939 and to incorporate into such audit certain financial information from November 1, 1932 to August 31, 1939. This audit was duly made and a copy of same was filed with the Board of Control and acknowledged by the Chairman of said Board as being acceptable to said Board. Likewise, a copy of the audit was filed in the office of Mr. Corrington Gill, Assistant Commissioner of the Federal Works Agency, Washington, D. C., and in his acknowledgment of the receipt of the copy of the audit, he stated, among other things, as follows:

"The report presents a very orderly picture of the Commission's activities and brings me to the conclusion that the financial affairs of the Commission were conducted in a very businesslike and commendable manner. I feel that the Commission is to be complimented highly."

"It is the intention of this agency to keep in storage pay-rolls, vouchers, and any other basic records where it appears some necessity might exist in the future that reference would have to be made to them, and to disregard the files, et cetera, which, in my opinion, are of no further value.

"In view of the above statement, I desire your opinion on two questions, namely:

- "1. Does the State Board of Public Welfare have the authority to destroy the records or to dispose of the records, reports, et cetera, as scrap paper by sale under the direction and supervision of the State Board of Control?

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"2. In the event you answer question No. 1 in the affirmative, then, should the proceeds be credited to the General Revenue Fund or to the General Relief Fund of the State Department of Public Welfare?"

We beg to advise that the State Board of Public Welfare, as legal successor to the Texas Relief Commission, does not have the authority to destroy the records, or to dispose of the records, reports, papers, documents, etc., mentioned in your inquiry.

It is a well-recognized governmental policy for the various departments of the Government to keep and preserve the papers, documents, instruments, rulings, orders, and the like, of such department, and no argument needs to be advanced to show the desirability, and even the necessity, in most instances, for such policy.

Article 3731 of the Revised Civil Statutes declares that:

"Certified copies, under the hands and official seals of the heads of departments, of all notes, bonds, mortgages, bills, accounts, or other documents, properly on file in any department of this State, shall be received in evidence on an equal footing with the originals in all suits now pending, or which may be hereafter instituted in this State, where the originals of such notes, bonds, mortgages, bills, accounts or other documents would be evidence."

We think the department here referred to includes boards and commissions such as the State Board of Public Welfare, and the Texas Relief Commission. And the purpose and object of the statute could be accomplished only through a preservation of such documents, papers, etc., constituting the archives of the particular department.

Moreover, there is another and even better reason why such archives should be permanently preserved. The State itself is governmentally concerned with keeping as nearly as may be possible a complete record of the affairs of its departments with respect to the matters committed to them. Such things represent the functioning of the State.

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Your Board, like other boards, commissions and governmental agencies, has just such powers and none other, as are conferred upon it either by express law or by necessary implication. There is no law authorizing the destruction of the archives mentioned, and, therefore, the power to destroy them is not vested in any one.

Our ruling follows our Opinion No. 0-2241, giving similar advice to the Chairman and Executive Director of the Texas Unemployment Compensation Commission, a copy of which opinion we hand you herewith.

APPROVED MAY 7, 1941

Very truly yours

George Allen
FIRST ASSISTANT
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant

OS-MR

Enclosure



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5/7/41*