



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable John H. Winters, Executive Director  
State Department of Public Welfare  
Austin 3, Texas

Dear Mr. Winters:

Opinion No. O-6594

Re: Destruction of certain records  
held by the Department of Public  
Welfare concerning Federal  
matters.

You request an opinion from this Department concerning  
the above subject matter, as follows:

"We shall appreciate your consideration and  
opinion of the following: Section 7 of House  
Bill 611, Acts of the 47th Legislature, Regular  
Session, known as the Public Welfare Act of 1941,  
designated the State Department of Public Welfare  
as the State Agency to cooperate with the Federal  
Government in the proper administration and dis-  
tribution of Federal surplus commodities and any  
other Federal resources on hand and available for  
distribution. The State Department of Public Wel-  
fare was also designated as the State Agency to  
administer or supervise referrals and certifica-  
tions to the Works Projects Administration, the  
National Youth Administration, and the Civilian  
Conservation Corps.

"Pursuant to these provisions, the Department  
of Public Welfare accepted responsibility for the  
general supervision of the direct distribution of  
Federal surplus commodities. Under the Intake and  
Certification program, the eligible applicants  
were certified for surplus commodities. The cop-  
ies of the orders to individuals, reports of dis-  
tribution, and all other necessary records were  
kept in the possession of the Department of Pub-  
lic Welfare. Although the employees working on  
the distribution program were under a W.P.A.  
project and were Federal employees, the Depart-  
ment had general supervision over the program.

Honorable John H. Winters-page 2

The commodities, which were distributed, were Federal; and the records were considered by the Department as being Federal records. There are at the present time more than 500 files containing these records stored in the County Department of Public Welfare offices and warehouses.

"We have received a letter from the U. S. Department of Agriculture, Food Distribution Administration, informing us that the Washington office of the Department of Agriculture has given permission for the welfare agencies to dispose of any records in connection with the direct distribution program relating to operations prior to 1940. The Department of Agriculture further advised that the records maintained commencing with 1940 cannot be disposed of without special permission but that consideration would be given to any request for the destruction of the records subsequent to 1940.

"Senate Bill 250, Acts of the 48th Legislature, Regular Session, gives the Department of Public Welfare permission to dispose of certain obsolete records. Reference is also made to your Opinion Number O-3464 and O-5467 wherein you have interpreted Senate Bill 250.

"1. Since these records are of no benefit to the Department of Public Welfare and since the Federal Government has authorized the destruction of them, may the Department of Public Welfare destroy these obsolete records?

"2. If you answer the first question in the affirmative, then is the Department of Public Welfare obligated to follow the procedure outlined in Senate Bill 250 cited above in destroying the records?

"3. If Senate Bill 250 is considered inapplicable in this instance, then what procedure should be followed by the Department of Public Welfare in destroying the records?

"4. If the Department cannot dispose of the records, may the Department transfer the records to the U. S. Department of Agriculture, Food Distribution and Administration, for disposal?"

Honorable John H. Winters - page 3

We construe your inquiries as embracing all obsolete and useless records in your Department, and shall answer them accordingly.

1. Your only authority for destroying obsolete records is found in Senate Bill 250 of the Regular Session of the 48th Legislature (page 353). That Act embraces only "certain records for the years 1932 to September 1, 1939", and "all duplicate old-age assistance records accumulated for the year 1936 through October, 1938."

So that, under the facts stated by you, all obsolete and useless records coming within Senate Bill No. 250 may be destroyed. While such records as you may deem to be obsolete and useless but not coming within that Act of authority to destroy may not be destroyed, but should be preserved intact.

2. Since Senate Bill 250 prescribes the procedure for destroying the obsolete records embraced therein, it is your duty to follow that procedure in making such disposition.

3. What we have said in answer to questions 1 and 2 sufficiently answers No. 3.

4. Your question No. 4 should be answered in the negative — that is to say, obsolete and useless records authorized by Senate Bill 250 to be destroyed should be destroyed in accordance with that Bill, as above stated, and as to those records which are thought to be obsolete and useless, but which do not fall within the compass of Senate Bill 250, may not be transferred to the U. S. Department of Agriculture, Food Production and Administration, for that would be doing by indirection what we have said may not be done at all.

We trust that what we have said sufficiently answers your inquiries.

Very truly yours

APPROVED SEP 12 1945

ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer  
Assistant

COMMITTEE

BY *W. T. J.*  
CHAIRMAN

OS-MR