



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

March 19, 1953

Hon. Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Letter Opinion No. MS-10.

Re: Authority of the Comptroller to honor claim presented on March 3, 1953, under a contract let on September 26, 1949, against funds appropriated for two years beginning March 7, 1949.

Dear Sir:

Your request for an opinion relates to the legality of the issuance of a warrant to pay a claim against the appropriations contained in Chapter 22 of the 51st Legislature, Regular Session, 1949, page 19. Your question is:

"Please advise if the prohibition contained in Article 4357, V.C.S., prohibits me from paying the claim in question which was presented to me for payment on March 3, 1953."

Article 4357, Vernon's Civil Statutes, requires that claims paid from appropriations be presented to the Comptroller "within two (2) years from the close of the fiscal year for which such appropriations were made." In construing the provisions of Article 4357 it is stated in Attorney General's Opinion V-1416 (1952):

". . . Under these facts, we are of the opinion that the 'fiscal year for which such appropriations were made' should be construed to mean the fiscal year during which the appropriated funds become available for disbursement. . ."

This construction of Article 4357 was not intended to limit the fiscal years to the first year the appropriated funds were available, but is intended to apply to all fiscal years during which the appropriated funds are available for disbursement.

Hon. Robert S. Calvert, page 2 (MS-10)

The appropriation involved in the instant request is for a period of two years beginning March 7, 1949, and covers a part of three fiscal years - 1948-1949; 1949-1950; 1950-1951. The claim involved in your request was presented on March 3, 1953, and the close of the fiscal year during which the appropriated funds were available for disbursement was August 31, 1951. Therefore, the claim was presented "within two (2) years from the close of the fiscal year for which such appropriations were made," and Article 4357 does not prohibit payment of the claim in question.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
John Reeves
Assistant

JR:am:wb