



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

February 6, 1957.

Honorable Ralph R. Wolf  
Executive Director  
Texas State Building Commission  
110 West 14th Street  
Austin, Texas

Opinion No. WW-20

Re: Is the Building Commission authorized to reject Item 9a and Item 9j of the appropriation bill and use such sums (totalling \$87,433) or the necessary portion thereof, to complete adequately the improvements and modernization specified by the bill for the Land Office Building and related questions.

Dear Mr. Wolf:

Your request for an opinion concerning expenditure of appropriations to the State Building Commission is as follows:

"Is the Building Commission authorized by law to divert specific appropriations contained in the law for improving the State Capitol Building and the Old Land Office Building from such purposes to the improvement and modernization of the Land Office Building? Specifically, is the Building Commission authorized to reject Item 9a and Item 9j of the appropriation bill and use such sums (totalling \$87,433) or the necessary portion thereof, to complete adequately, the improvements and modernization specified by the bill for the Land Office Building?"

Pertinent provisions of the appropriation to the State Building Commission (Acts 1955, Page 1416) are as follows:

	For the Years Ending	
	Aug. 31, 1956	Aug. 31, 1957
"9. For specific projects of modernizing and remodeling the Capitol and State Office Buildings, including equipment, materials, and labor	\$332,086	Unexpended balance
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"Total, appropriations from State Building Fund..	\$632,086	\$ 50,000 plus designated unexpended balances

"It is hereby declared to be the Legislative intent that the foregoing appropriation in the amount of Three Hundred and Thirty-two Thousand and Eighty-six Dollars (\$332,086) shall be expended under the supervision of the State Building Commission as nearly as practicable in the following manner:

State Capitol Building:		For the Years Ending	
		Aug. 31, 1956	Aug. 31, 1957
"a. Replace clay tile floor with Terrazzo on 3rd floor and parts of 2nd floor. . . . .	\$ 27,433		Unexpended balance
"b. Install floodlights	6,993		Unexpended balance
"c. Install new freight lift at northeast basement entrance . . . . .	7,500		Unexpended balance
"d. Install a high voltage power circuit from Capitol to power plant to Land Office Building	21,860		Unexpended balance
"e. Install safety tread on Capitol stairways . . . .	1,300		Unexpended balance

Land Office Building:	For the Years Ending	
	Aug. 31, 1956	Aug. 31, 1957
"f. Remodel and complete 5th floor . . . . .	\$ 30,000	Unexpended balance
"g. Modernize electric wiring in Land Office Building to provide power requirements for office machines and air-conditioning	15,000	Unexpended balance
"h. Air-condition the Land Office Building . . . . .	150,000	Unexpended balance
"i. Extend elevator service to 5th floor, install new brake and safety locking devices, and convert rear freight elevator to automatic operation . . . . .	12,000	Unexpended balance
Old Land Office Building on the Capitol Grounds:		
"j. For modernizing and remodeling said Old Land Office Building (museum) . . . . .	60,000	Unexpended balance

"Any of the monies appropriated above for specific projects of modernizing and remodeling the Capitol and State Buildings may be expended by the State Building Commission through the Board of Control, and the Comptroller is hereby authorized to transfer from that appropriation item to an account for the Board of Control such funds as the Building Commission may direct."

It is noted that the Legislature has appropriated \$332,086 to be expended for specific projects for modernizing and remodeling the Capitol and State Office Buildings and has

instructed the Building Commission to expend such amount "as nearly as practicable" in the manner set out in Items a. through j. Therefore it is our opinion that the specific projects listed in Items a. through j. are meant to be a Legislative guide to the expenditure of funds appropriated in Item 9, and it is the duty of the State Building Commission to expend such money in compliance with the Legislature's instruction. These items can be allocated in a different manner only when the allocation provided for by the Legislature cannot be done as a practical matter. Otherwise, the State Building Commission may expend any amount necessary for the specific projects of modernizing and remodeling the capitol and state office buildings so long as the appropriation contained in Item 9 is not exceeded.

In other words if, after tabulation of bids, the appropriation for the replacement of clay tile floor with Terrazzo on the 3rd floor and parts of the 2nd floor of the State Capitol Building is insufficient and if, after tabulation of bids, the appropriation for modernizing and remodeling the Old Land Office Building is insufficient, it would be impractical for the State Building Commission to reject both projects. In such event, the State Building Commission would be authorized to divert monies allocated to Item 9a from such portions and expend the necessary portion of such funds for the purposes listed in Item 9j, and, if necessary, would be authorized to reject Items 9a and 9j and use such sums, or the necessary portion thereof, to complete adequately the improvements and modernization justified by the bill for the Land Office Building.

Of course, there may be other circumstances which make the expenditure of monies appropriated in Item 9 in accordance with the allocation in Items a through j impracticable, but it is the duty of the State Building Commission to expend money appropriated in Item 9 in accordance with the Legislative instruction as nearly as practicable as allocated in Items a through j.

#### SUMMARY

It is the duty of the State Building Commission to expend monies appropriated in Item 9 in compliance with the Legislative allocation contained in Items 9a through 9j, and the State Building Commission can allocate Items 9a through 9j in a different manner only when the allocation provided by the Legislature cannot be done as a practical matter.

Honorable Ralph R. Wolf, Page 5 (WW-20)

Very truly yours,

WILL WILSON  
Attorney General

By *John Reeves*  
John Reeves  
Assistant

JR:jl

APPROVED:

OPINION COMMITTEE

H. Grady Chandler  
Chairman