



**THE ATTORNEY GENERAL
OF TEXAS**

ACSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

May 3, 1957.

Honorable W. B. Harwell,
State Librarian
Capitol Station,
Austin, Texas.

Opinion No. WW-117

Re: Whether or not the State Librarian has the authority to use federal funds allocated to the State Library by the United States Government for travel when in the interest of the Federal Library Service Program.

Dear Mr. Harwell:

You have requested the opinion of this office as to whether or not the State Librarian has the authority to use federal funds allocated to the State Library by the United States Government for travel when in the interest of the Federal Library Services Program.

Federal funds allocated and granted by the United States to the State of Texas may be used for any purpose which does not violate the terms and conditions of the federal grant. Attorney General's Opinions Nos. 0-290, 0-330, 0-5299.

It has been held that funds may properly be placed in the hands of the State Treasurer as custodian thereof, when, in truth and in fact, the funds do not belong to the State, and do not belong in the State Treasury. Friedman v. American Surety Company of New York, et al, 137 Tex. 149, 151 S.W. 2d 570 (1941); Manion v. Lockhart, 131 Tex. 175, 114 S.W. 2d 216 (1938). It is our understanding that the funds here in question are being so held, out of the State Treasury, but by the State Treasurer, as custodian thereof, in a special account. Such funds have not been placed in the State Treasury.

Title 20, Section 351, U.S.C.A., declares the purpose of the Public Library Services for Rural Areas Act to be, "to promote the further extension by the several States of public library services to rural areas without such services or with inadequate services."

Title 20, Section 354, U.S.C.A. requires the State to provide a State plan for the future extension of Public Library Services under the provisions of the Act. Subsection (a)(2) provides for the receipt by the State Treasurer of all funds paid to the State pursuant to this chapter, for the proper safeguarding of such funds, and further provides that such funds shall be expended solely for the purposes for which paid. Subsection (a)(3) requires the State to provide policies and methods of administration to be followed in using any funds made available, and requires the State Library Administrative Agency to certify that such agency will, in its judgment, assure the use of such funds to maximum advantage in the further extension of Public Library Services to Rural Areas without such services or with inadequate services. Subsection (b) of Section 354 provides that the Federal Commissioner of Education shall approve any State plan which fulfills the conditions specified in Subsection (a) of this Section.

Article 5434, V.C.S., provides for the creation of the Texas Library and Historical Commission. Article 5435 provides in part that the Commission shall aid and encourage libraries. Article 3436 empowers the Commission to accept donations, gifts of money or property, in furtherance of its programs. It further specifies that the Commission shall conduct Library Institutes and encourage Library Associations. Article 5440 authorizes the Commission to elect a State Librarian, who shall be allowed his actual expenses when traveling in the service of the Commission. Pursuant to the enactment of the Federal Public Library Services for Rural Areas Act, the Commission, in December of 1956, adopted a plan for the further extension of library services to rural areas. We are advised that this plan was approved by the Department of Health, Education and Welfare of the Federal Government on March 6, 1957. The said plan provides policies and methods of administration to be followed in using the funds made available under the Federal Act.

It is our opinion that travel by the State Director of the program is essential to the proper fulfillment of the purposes of the Act as set forth in Section 351. It is, therefore, our further opinion that the above quoted provisions indicate that the Federal Act envisions the use of a portion of the Federal Funds provided for in the Act, for travel, as a necessary incident of administration in carrying out the purposes of the Act. You are advised that the State Librarian has the authority to use Federal Funds allocated by the United States Government by the Public Library

Services for Rural Areas Act, for travel, when in the interest of the Federal Library Services Program.

SUMMARY

The State Librarian has the authority to use Federal Funds, allocated to the State Library by the United States Government, for travel when in the interest of the Federal Library Services Program.

Very truly yours,

WILL WILSON
Attorney General of Texas

By *B. H. Timmins, Jr.*
B. H. Timmins, Jr.
Assistant

BHT:pf:rh

APPROVED:

OPINION COMMITTEE

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Elbert M. Morrow

Mrs. Marietta Payne

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REVIEWED FOR THE ATTORNEY GENERAL

BY:

Geo. P. Blackburn