



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

Overruled by 10 743

September 9, 1958

Honorable O. B. Ellis  
Director  
Department of Corrections  
Huntsville, Texas

Opinion No. WW-496

Re: Authority of the Department of Corrections to negotiate an interagency agreement with the State Board of Education for the repair and rebinding of public school textbooks.

Dear Mr. Ellis:

We quote from your request for an opinion as follows:

"For some time we have been negotiating with the State Board of Education for public school textbook repair project. This has been a successful prison industry in many states. We are particularly interested in the project from a standpoint of giving gainful employment to the physically-handicapped inmates in our charge. From preliminary studies with the Board of Education, it seems we could do an excellent job, make some money for the Department of Corrections, and save some money for the school system. The Board of Education and administrative officers have expressed a willingness to co-operate with us. They asked their counsel for an opinion, and they were told that such a project would violate the Constitution of the State of Texas.

"In reality, this is not a binding job and neither is it a printing job, but it is a repair project. The work consists of cleaning up used textbooks by erasing all writing and sanding all the edges. The very badly damaged books are separated, missing pages are replaced from discarded books, and when the cover is in bad shape the cover is replaced and the book rebound. The only printing involved is stamping the title on the cover."

Section 21 of Article XVI of the Constitution of Texas, requires that all contracts for public printing and binding be given to the lowest responsible bidder, and reads as follows:

"Sec. 21. All stationery, and printing, . . . paper used in the Legislative and other departments of the government, . . . shall be furnished, and the printing and binding of the laws, journals, and department reports, and all other printing and binding . . . , shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations, as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contracts; and all such contracts shall be subject to the approval of the Governor, Secretary of State and Comptroller."

Contracts for the repair and rebinding of books required to be placed in permanent covers have long been awarded by the Board of Control, with the approval of the Governor, Secretary of State and Comptroller, to the lowest responsible bidder in accordance with the foregoing constitutional provision. The fact that certain phases of the work contemplated by the interagency agreement between the Department of Corrections and the State Board of Education would not constitute "printing" or "binding", does not render that part of the agreement calling for rebinding of books less objectionable. The rebinding of books by interagency agreement is prohibited by Section 21 of Article XVI of our State Constitution. The cleaning and repair of books up to the rebinding stage, however, is not prohibited.

You are, therefore, advised that the contemplated interagency agreement between the Department of Corrections and the State Board of Education which, among other things, covers the rebinding of school textbooks, would be violative of Section 21 of Article XVI of the Constitution of Texas and hence illegal.

SUMMARY

The contemplated interagency agreement between the Department of Corrections and the State Board of Education which, among other things, covers the rebinding of school textbooks, would be violative of Section 21 of Article XVI of the Constitution of Texas, and hence illegal.

Yours very truly,

WILL WILSON  
Attorney General of Texas

By   
Leonard Passmore  
Assistant

LP:zt

APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

William E. Allen

Byron Fullerton

Jack Goodman

REVIEWED FOR THE ATTORNEY GENERAL

BY: W. V. Geppert