



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

January 28, 1960

Honorable Dallas J. Matthews, Director
Texas National Guard Armory Board
West Austin Station
Austin, Texas

Opinion No. WW-792

Re: Joint Utilization of Texas National
Guard Armory Board Facilities.

Dear General Matthews:

You have requested our opinion concerning the authority of the Texas National Guard Armory Board to participate in a joint utilization project outlined by the National Guard Bureau in its communication dated July 28, 1959, addressed to the Adjutants General of all States, Hawaii, Puerto Rico and the District of Columbia.

The Texas National Guard Armory Board is charged with the "acquisition, construction, rental, control, maintenance and operation of all Texas National Guard Armories" and has plenary powers concerning the use of such Armories so long as their use is deemed by the Board to be necessary or desirable "in connection with or for the use of units of the Texas National Guard." Article 5890b, Vernon's Civil Statutes.

In 1952, the United States Government proposed to the Texas National Guard Armory Board alternative contracts covering construction of armory facilities to be erected in the State of Texas. Since the State of Texas did not have the authority to contribute funds to the Federal Government, but it did have the authority to accept funds from the Federal Government for the construction of armories, the Texas National Guard Armory Board accepted the option which provided that the State of Texas would contract for all work, materials, and/or services required for the construction of facilities for armories in the State of Texas and in October, 1952, entered into such agreement, which was to remain in full force and effect for a period of twenty-five years Pursuant to this agreement, the Texas National Guard Armory Board has entered into numerous contracts for the construction of armories in compliance with the provisions of Article 5890b, Vernon's Civil Statutes. See Attorney General's Opinions Nos. MS-179 (1955); S-185 (1956); WW-168 (1957).

Honorable Dallas J. Matthews, page 2 (WW-792).

Your communication indicates that the Department of Army is making a survey on joint utilization of training facilities throughout the Army National Guard, and desires information as to whether there are any State legal restrictions which would preclude participation by the Texas National Guard in a joint utilization project whereby Departments of the Army Units would with your units jointly utilize National Guard facilities. As pointed out in the second paragraph of this opinion, your Board has plenary powers concerning the acquisition and use of armories but this power is limited to "in connection with or for the use of units of the Texas National Guard." Subdivision (f) of Section 2 of Article 5890b, V.C.S. We conclude that this language restricts utilization of your facilities to use by units of the Texas National Guard only and does not authorize utilization thereof by any other units.

You are, therefore, advised that under existing law you are not authorized to participate in the joint utilization project outlined by the National Guard Bureau submitted with your request.

SUMMARY

The Texas National Guard Armory Board has the authority to enter into any agreement it deems necessary or desirable in connection with or for the use of units of the Texas National Guard. It cannot, under existing law, enter into an agreement whereby National Guard Armories will be utilized by reserve components not connected with the Texas National Guard.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
John Reeves
Assistant

JR:mfh
APPROVED:
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