



**THE ATTORNEY GENERAL  
OF TEXAS**

February 21, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Honorable William P. Clements, Jr.  
Governor  
State of Texas  
Officer of the Governor  
P. O. Box 12428, Capitol Station  
Austin, Texas 78711

LO-89-15

Dear Governor Clements:

You refer in your request to the following language in article V, section 64, of the Appropriations Act for the 1988-1989 biennium:

All funds appropriated in this Act for utilities shall be used for this purpose and no other. . . .

Acts 1987, 70th Leg., 2d C.S., ch. 78, at 862.

You ask whether payment of professional utility rate consultants is a "utility expenditure" for purposes of the above-quoted language from section 64. You explain in your request letter that, since the setting of utility rates and adjustment of current utility billings for certain public institutions and agencies are often done through negotiation, the engagement of utility rate experts to assist in such negotiations often results in lower utility costs. You urge that

since such consulting services can have a direct and immediate impact on the charge for the utility service being purchased it would be appropriate to include the cost of such services in the definition of utilities to allow for proper expense accounting and control.

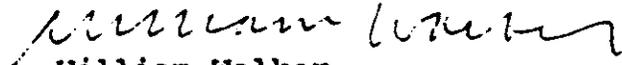
In response to a similar question on the scope of language in an Appropriations Act, this office ruled in Attorney General Opinion H-1168 (1978) that sums appropriated for a building program with "the use of prison labor insofar as possible" might be used to pay for guards for

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such laborers "if reasonably necessary to the completion of the project," since without guards for prison labor the use of paid construction workers might be required. Notably, the Appropriations Act provision under consideration specifically provided for payment of "salaries of engineers, supervisors and superintendents of construction," etc., but not for payment of guards. Acts 1977, 65th Leg., ch. 872, at 2870. See also S. & G. Construction Co. v. Bullock, 545 S.W.2d 953 (Tex. 1977); Attorney General Opinions H-1152 (1978); H-575 (1975); V-799 (1949); Attorney General Letter Advisory No. 72 (1973); 53 Tex. Jur. 2d Statutes, § 141.

In our opinion, if the engagement of utility rate consultants to assist in the negotiation of utility rates and adjustment of current utility billings is reasonably necessary to minimize utility expenditures for public agencies to which section 64 is applicable, then the payment of such consultants would be for the purpose of "utilities" within the meaning of section 64.

Very truly yours,

  
William Walker  
Assistant Attorney General  
Opinion Committee

APPROVED: Sarah Woelk  
Letter Opinion Section

WW/SW/mc

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Enclosure