



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Mr. D. C. Greer  
State Highway Engineer  
Austin, Texas

Dear Sir:

Opinion No. O-4093

Re: Does the Texas Highway Department have authority to destroy such old reports and records which are not deemed important or which are not supporting to other documents.

This will acknowledge receipt of your letter of October 3, 1941, wherein you request the opinion of this Department on the fact situation set out therein as follows:

"For a number of years in the past, this Department has accumulated a vast amount of old records consisting of detailed reports and duplicate records which are not important because the original of such records are on file either in the Highway Department or the State Comptroller's office. Most of these records have not been used or referred to in several years.

"Will you please advise this Department if we have authority to destroy such old reports and records which are not deemed important or which are not supporting to other documents? It is not our desire to destroy any official minutes or their supporting papers, nor any project construction files, nor important correspondence. Your early advice will be appreciated."

Based on these facts you ask us the following question:

Does the Texas Highway Department have the authority to destroy such old reports and records which are not deemed important or which are not supporting to other documents, where the original of such records are on file either in the Highway Department or the State Comptroller's office?

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The Texas Highway Department, being a creature of the statute as a governmental agency, has only those powers that are conferred upon it by the statute, either expressly or by necessary implication. We have been unable to find any provision in the statute creating the Texas Highway Department, which would authorize the Department to destroy any of its original records, and therefore no lapse of time would authorize the destruction of any original records of the Highway Department.

As we understand the question propounded in your letter, however, it is whether or not the Highway Department has the right to destroy copies of detailed reports and duplicate records, which are not important because the originals of such records are on file either in the Highway Department or the State Comptroller's office. It is the opinion of this Department and you are therefore advised that in the case of these records, where the originals thereof are retained in the files of the Highway Department or the State Comptroller's office, that you would be authorized to destroy the copies thereof. You understand of course that this opinion is restricted to the specific fact situation presented in your letter of October 3, 1941, and shall not be construed as holding that the Highway Department has general authority to destroy its old records.

Trusting that this answers your question, we are

Yours very truly

APPROVED OCT 22, 1941

ATTORNEY GENERAL OF TEXAS

*Tom Miller*

FIRST ASSISTANT  
ATTORNEY GENERAL

By

*Douglas E. Bergman*

Douglas E. Bergman  
Assistant

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