



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN,

GROVER SELLERS
ATTORNEY GENERAL

Honorable D. W. Stakes
General Manager
Texas Prison System
Huntsville, Texas

Dear Sir:

Opinion No. 0-6196

Re: Authority of the Texas Prison System to purchase from the Factory and Shop materials and supplies appropriation, steel to be processed and used as grills in doors and windows of prison dormitory.

Your recent communication to this department reads as follows:

"On requisition No. 944R, dated Aug. 11/44 the Texas Prison System requested the State Board of Control to purchase a quantity of Tool and Heat-Resisting Steel to be used for the manufacture of grills to be placed in a dormitory at one of the units of the Texas Prison System.

"The purchase of this material was authorized by the Prison Board because of the fact that the steel now in use is of an inferior quality and can be easily cut by the inmates and quite a number have effected their escape in this manner.

"Included in our appropriation bill for the current biennium is an item designated as Factory and Shop Materials and Supplies in the amount of \$100,000.00.

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"Is the Texas Prison System authorized to purchase from the above designated appropriation the Tool-and Heat-Resisting Steel to be processed and used as grills in the doors and windows of one of the prison dormitories?"

Senate Bill 332, Chap. 400, Acts of the 48th Legislature, is the current appropriation bill covering the executive and administrative departments. The appropriation for the Texas Prison System begins on page 978 of said Acts. On page 981 appears, as Item 117, an appropriation of \$100,000.00 for each fiscal year of the biennium for "Factory and Shop Materials and Supplies." The very next item of appropriation is for "Repairs-- Building and Non-structural Improvements including materials and Contracts." This is Item 118, and carries an appropriation of \$5,000.00 for each of said years. (Emphasis ours)

The tool-and heat-resisting steel is to be processed and used as grills in the doors and windows of one of the prison dormitories. It is clear, therefore, that it is material to be used in building improvements and not for "Shop materials and supplies".

The appropriations under item 117 are for materials and supplies necessary to operate the print shop, garment factory, textile mill, sugar mill, canning plant, license plate plant, brick plant, tannery and any other industry of the prison system not provided for by specific items of appropriation. Item 104 is an appropriation of \$45,000.00 for each year of the biennium for "shoe shop materials and supplies". Thus, shoe shop materials and supplies cannot be paid for out of the appropriations under item 117. They must be paid for out of the specific appropriation therefor.

Under the "General Provisions" of Senate Bill 332, Chap. 400, aforesaid, we find subsection (15)b of Section 2, which reads as follows:

"The appropriations herein provided are to be construed as the maximum sums to be appropriated to and for the several purposes named herein, and the amounts are intended to cover, and shall cover the entire cost of the respective items and the same shall not be supplemented from any other sources; and, except as otherwise provided, no other expenditures shall be made, nor shall any other obligations be incurred by any

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department of this State, provided, however, that nothing herein shall prevent any department head from paying less than the maximum amount set forth herein for any salaried positions." (Emphasis ours).

The foregoing provision is plain and unambiguous. It clearly prohibits the supplementation of the appropriations under item 118 from those under any other item, and vice versa. It also harmonizes with the constitutional provision that "No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law." Art. 8, Sec. 6, State Constitution.

For the above reasons, the question submitted is answered in the negative.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By


L. H. Fleweller
Assistant

LHF:BT



