OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Gibb Gilchrist, President
Agricultural & Mechanical College of Texas
College Station, Texas

Dear Mr. Gilchrist:

Opinion No. O-7254

Re: Whether the Board of Directors of A & M College can legally sell the refunding bonds to refinance the issue in question without advertising for bids.

We acknowledge receipt of your opinion request of June 1st and we quote from your letter as follows:

"On August 1, 1941, the Board of Directors of this College issued $300,000 face value bonds, known as 4% Office Building Revenue Bonds, Series of 1941, callable on any interest paying date on and after August 1, 1946.

"The Board has received offers from three different investment firms to refinance this bond issue at a lower rate of interest. The best offer is a rate of 2½% plus a cash premium of $664.10 with the cost of printing the refunding bonds and all other fees and expenses paid. This will make a net interest cost to the College of 2.4% on the proposed new bonds, which will be callable at the Board's option on or after 5 years from their date, at any time on 30 days notice.

"Before accepting an offer to refinance these bonds we would like to know whether the Board of Directors of this College can legally sell the refunding bonds to refinance this issue without advertising for bids.

Express statutory authority to issue bonds implies the power to issue them in the ordinary and usual manner and the governing body may, by virtue thereof, sell the bonds and use the proceeds for the purposes intended. Where the statute

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prescribes the method of sale, such method is the only method which can be followed. (34 Tex. Juris., 671; City of Lubbock v. Geo. L. Simpson & Co., 31 S. W. 2d, 163; Gibson v. Davis, 236 S. W. 202.)

The bonds mentioned in your request were authorized by Article 2613a-4, Vernon's Annotated Civil Statutes (H. B. No. 338, 47th Legislature). The only specific reference for the sale of these bonds is found in Section 3 of said Act, which reads in part as follows:

> "For the purpose of constructing or acquiring, extending or improving and equipping any one or more of said buildings, said Board of Directors is authorized to issue, sell, and deliver its negotiable revenue bonds, from time to time and in such amounts or amount as it may consider necessary. * * *."

The statutes of this State prescribe certain bonds must be advertised for sale, such as road district bonds, where such district is located in two or more counties (Art. 778-k, Revised Civil Statutes), but we find no such provision for the sale of A * M bonds, either in this act or in the general law. Therefore, it is our opinion that the bonds described in your request may be legally sold without advertising for bids.

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY: /s/ Claud O. Boothman

Claud O. Boothman
Assistant

COB:V:fb

APPROVED JUN. 6, 1946

/s/ Ocie Speer (Acting)

ATTORNEY GENERAL OF TEXAS

APPROVED, OPINION COMMITTEE
By: B.W.B., Chairman