



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

March 5, 1965

**WAGGONER CARR  
ATTORNEY GENERAL**

Hon. Dorsey B. Hardeman, Chairman  
Finance Committee  
State Senate  
Austin, Texas

Opinion No. C-395

Re: Validity of an appropriation  
out of general revenue to the  
Panhandle-Plains Museum.

Dear Senator Hardeman:

Your request for an opinion reads as follows:

"The Senate Finance Sub-committee has directed me to request an opinion on the matter of whether funds appropriated out of General Revenue may be used for the construction of an annex or addition to the Panhandle-Plains Museum is a valid appropriation, in view of the College Building Fund established originally in 1947 and subsequently amended.

"Your early consideration of this important question will be greatly appreciated, as the Committee is in the process of finalizing the Sub-committee report."

Section 17 of Article VII of the Constitution of Texas prohibits the use of "any General Revenue funds for the acquiring or constructing of buildings or other permanent improvements" by designated institutions of higher learning. West Texas State University at Canyon is a designated institution of higher learning specified in Section 17 of Article VII of the Constitution of Texas. Therefore, your question involves whether an appropriation for the construction of an annex or addition to the Panhandle-Plains Museum constitutes an appropriation to a designated institution of higher learning for the acquiring or constructing of buildings or other permanent improvements.

The General Appropriation Act of the 42nd Legislature for the biennium ending August 31, 1933, contained the following item of appropriation to West Texas State Teachers College, Canyon

(now West Texas State University at Canyon):

"For one unit of library and museum building provided, however, this appropriation will be available only in the event the sum of \$25,000.00 is raised by private subscription and deposited with the Board of Control for the purpose of supplementing this fund, and to be paid out on order of the Board of Control..... 25,000.00"

Pursuant to the conditions contained in the above-quoted item of appropriation, The Panhandle-Plains Historical Society raised by popular subscription \$25,000.00 and deposited said sum with the Board of Control of the State of Texas, and on August 8, 1932, entered into an agreement with the State of Texas whereby there would be constructed the building in question.

Paragraphs I and II of the agreement read as follows:

"I

Title and ownership of the building so to be constructed shall forever remain in the State of Texas.

"II

The use and occupancy of the building shall be made by The Panhandle-Plains Historical Society, subject to the reasonable rules and regulations as may be hereafter promulgated by the Board of Regents of the State Teachers Colleges of the State of Texas or any other administrative board acting for or on behalf of the State of Texas as may succeed to or hereafter exercise like administrative functions or similar thereto as is now being exercised by the Board of Regents of the Teachers Colleges of the State of Texas, in accordance with law, such regulations always to safeguard unto The Panhandle-Plains Historical Society the reasonable use and occupancy of said building for the purpose of housing its collection as it now exists and as hereafter augmented and for the purpose of carrying the activities of The Panhandle-Plains Historical Society in conformity to and in consonance with its chartered purposes."

Hon. Dorsey B. Hardeman, page 3 (C-395)

The current General Appropriation Act contains the following appropriation:

"PANHANDLE-PLAINS HISTORICAL MUSEUM  
(Administered by West Texas State University)

	For the Years Ending	
	August 31, 1964	August 31, 1965
General Operating Expenses, Including Salaries and Wages	\$ 40,000	\$ 40,000
For the construction of a memorial Museum Building, the purchase of display cases and other equipment and materials in connection with the construction and completion of such building; providing that none of the funds appropriated in Item 2 shall be used for repairs or rehabilitation of present structures	<u>25,000</u>	<u>10,000 &amp; U.B.</u>
Total, Panhandle-Plains Historical Museum	\$ <u>65,000</u>	<u>50,000"</u>

In view of the foregoing, it is our opinion that the Panhandle-Plains Museum constitutes an entity separate and apart from the West Texas State University at Canyon. The title and ownership of the property is in the State of Texas. The Board of Regents of the State Teachers Colleges of the State of Texas acts merely as an administrative agent of the Museum for the State of Texas and the Legislature has so treated the Museum since its inception. It is therefore our opinion that Section 17 of Article VII of the Constitution of Texas does not apply to appropriations made to the "Panhandle-Plains Museum." You are therefore advised that an appropriation to the Panhandle-Plains Museum out of General Revenue, for the construction of an annex or addition to the Panhandle-Plains Museum building, would be a valid appropriation.

SUMMARY

The Panhandle-Plains Museum constitutes an entity separate and apart from West Texas

Hon. Dorsey B. Hardeman, page 4 (C-395)

State University at Canyon, and an appropriation to the Panhandle-Plains Museum out of the General Revenue Fund for the construction of an annex or addition to the Panhandle-Plains Museum building would be a valid appropriation, since Section 17 of Article VII of the Constitution of Texas is not applicable to such appropriation.

Yours very truly,

WAGGONER CARR  
Attorney General

By   
John Reeves  
Assistant

JR:ms

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman

J. C. Davis

Roy B. Johnson

Carlos Vela

Milton Richardson

Linward Shivers

APPROVED FOR THE ATTORNEY GENERAL

By: Stanton Stone