



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**WAGGONER CARR
ATTORNEY GENERAL**

May 3, 1966

Dr. Dorman H. Winfrey
Director and Librarian
Texas State Library
Austin, Texas

Opinion No. C-673

Re: Whether it is permissible
under existing state laws,
for the Texas State Library
to make monetary grants to
local public library units
under Title I of the Library
Services and Construction
Act of 1964, Public Law
88-269.

Dear Dr. Winfrey:

Your recent letter requests of this office an opinion
on the following question:

"Whether it is permissible, under existing state
laws, for the Texas State Library to make monetary
grants to local public library units under Title I of
the Library Services and Construction Act of 1964,
Public Law 88-269."

The Library Services and Construction Act as amended,
Public Law 88-269 (1964), provides for increased federal
assistance to promote the development of public library services
to all areas without public library services, or with inadequate
service.

The Library Service and Construction Act provides as
follows:

"Sec. 2.(a) It is the purpose of this Act to
promote the further extension by the several States,
of public library services to areas without such
services or with inadequate services.

"(b) The provisions of this Act shall not
be so construed as to interfere with State and
local initiative and responsibility in the conduct
of public library services. The administration
of public libraries, the selection of personnel
and library books and materials, and insofar as

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consistent with the purposes of this Act, the determination of the best uses of the funds provided under this Act shall be reserved to the States and their local subdivisions." (Emphasis added)

Subsequent to this Amendment, the 59th Legislature of Texas amended Article 5436, Vernon's Civil Statutes, by adding the following provisions:

"(c) The commission is authorized to accept, receive, and administer federal funds made available by grant or loan or both to improve the public libraries of Texas.

"(d) The commission may enter into contracts or agreements with the governing bodies and heads of the counties, cities, and towns of Texas to meet the terms prescribed by the United States and consistent with state law for the expenditure of federal funds for improving public libraries."

As a result of these amendments, the Texas State Library and Historical Commission as agent for the State of Texas, prepared and secured the approval of a State Plan for the administration of Federal Funds granted or loaned for the purposes set forth in the Library Services and Construction Act of 1964.

Also, the 59th Legislature of Texas in the General Appropriation Bill (House Bill No. 12, Regular Session, 1965), made provision for the expenditure of the above mentioned Federal Funds as follows:

"For personal services, consumable supplies and materials, current and recurring operating expense and capital outlay including books and publications, for promoting development of public library service, estimated to be . . .

"Federal grants made to or received in Federal Public Library Fund No. 118 are hereby appropriated for the purposes for which such grants may be made; provided, however, that none of such moneys may be expended for personal services without advance written approval by the Governor."

Further provision is made in the General Appropriation Act for the expenditure of such Federal Funds in Sections 27 and 28 of Article V. Administering the funds in accordance with the State Plan for the fiscal year 1966, has necessitated that Texas State Library personnel handle the ordering of books and equipment, and because of the limited number of personnel, this procedure has become difficult and cumbersome. The authorization to make direct monetary grants of these Federal Funds to local public library units would alleviate these problems.

This office has earlier held that funds received by a State Agency for specific purposes from the Federal Government are "trust or special funds" and must be expended in accordance with terms of the agreement under which the funds were received. Attorney General's Opinions, C-530 (1965) and C-551 (1965).

The foregoing provisions as set out in the Library Service and Construction Act, clearly establish the purpose for which the funds are to be expended. The Legislature in amending Article 5436, as above quoted, delegated - in broad and general terms - the task of shaping the administrative procedure for expending, receiving and administering federal funds made available to improve libraries of Texas and authorized such commission to enter into contracts of agreement with the governing bodies of local library authorities so as to achieve the purpose of providing adequate library facilities. In delegating such authority, it is clear that the Legislature intended for the Commission to devise a method or methods for administering the funds which would expeditiously, efficiently and effectively achieve the purposes of the Act. In so doing, the Legislature manifested a clear intent that the Commission use its sound discretion in devising the method for the administration of the funds.

In the light of the foregoing, we are of the opinion that the Texas State Library and Historical Commission may, under existing State Laws, make direct monetary grants to local public library units under Title I of the Library Service and Construction Act of 1964, as amended; subject to the promulgation, submission and approval of a new or revised State Plan allowing such grants by the Commissioner of Education of the United States Health, Education, and Welfare Department.

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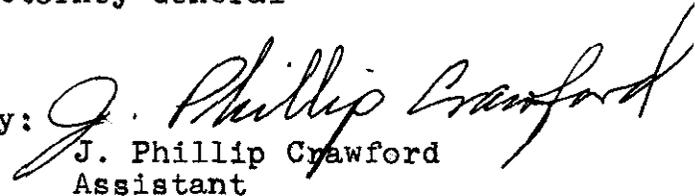
S U M M A R Y

Subject to the approval of a new or revised State Plan allowing direct monetary grants to local Public Library units, the Texas State Library and Historical Commission may make direct monetary grants to local public library units under Title I of the Library Services and Construction Act of 1964, Public Law 88-269, as amended.

Very truly yours,

WAGGONER CARR
Attorney General

By:


J. Phillip Crawford
Assistant

JPC:mll:mls

APPROVED:
OPINION COMMITTEE

W. V. Geppert, Chairman
Dean Arrington
C. Daniel Jones, Jr.
Kerns Taylor
H. Grady Chandler

APPROVED FOR THE ATTORNEY GENERAL
By: T. B. Wright