



**THE ATTORNEY GENERAL
OF TEXAS**

**WAGGONER CARR
ATTORNEY GENERAL**

**AUSTIN 11, TEXAS
May 12, 1965**

Col. Laurence T. Ayres
Executive Assistant
Emergency Resources Planning Committee
Box 4087 North Austin Station
Austin, Texas 78751

Opinion No. C-440

Re: Authority to pay travel
expenses incurred by members
of the Emergency Resources
Planning Committee Task
Groups

Dear Sir:

We are in receipt of your letter of recent date requesting an opinion on the question hereinabove stated.

We quote the following from your letter:

"On December 1, 1964, the Governor of the State of Texas, represented by Colonel Homer Garrison, Jr., State Coordinator, Office of Defense and Disaster Relief, entered into a contract with the United States of America, through the Office of Emergency Planning, wherein it was agreed that the State shall prepare, test and submit an Emergency Resource Management Plan in return for a monetary consideration not to exceed \$46,975. The estimate used to determine the amount of money necessary to complete the project included \$14,000 for travel purposes, of which \$9,000 was scheduled for communications and task group travel. This amount was considered sufficient to defray travel costs incurred by members of the Emergency Resources Planning Committee Task Groups, most of whom are private citizens of the State.

"This office is informed that the laws of the State of Texas preclude reimbursement of travel expenses of private citizens

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traveling on State business."

Sections 2 and 3 of Article 6889-4, Civil Protection Act, provide:

"Sec. 2. The Governor shall provide for the organization and coordination of a program of civil defense and disaster relief adequate to protect life and property in this State in case of natural disaster, enemy action, or the threat thereof.

"He may establish by executive proclamation a State Defense and Disaster Relief Council, consisting of the representatives of such State agencies, departments, and institutions of the State whose legal functions relate to important phases of this activity and representatives of public or quasi-public relief organizations, and who may be designated by the Governor.

"Sec. 3. The Governor, or upon his designation, the State Defense and Disaster Relief Council, may issue, within the limits of constitutional power, such directives and executive orders as may be necessary to effectuate the purpose of this Act, which directives shall be filed in the office of the Secretary of State and shall receive widespread publicity and notice unless such notice will be of aid and comfort to the enemy."

Section 5 of Article 6889-4, provides in part:

"Whenever the Federal Government or any other public or private agency or individual may offer to the State, . . . funds as gifts, grants, . . . for purposes of civil defense and/or disaster relief, the State, acting through the Governor, . . . may accept such offer in behalf of the State, . . . Where any gift, grant, or loan is accepted by the State, the Governor or, upon his designation, . . . the State Co-ordinator of Civil Defense and Disaster Relief, or such other officer or agency as the Governor may designate, shall have authority to dispense the . . . grant, . . . directly to accomplish the purposes for which it was made, . . . All such funds received by the State shall be placed in

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the State Treasury in a special fund or funds and shall be disbursed by warrants issued by the Comptroller of Public Accounts upon order of the Governor or his designated agent, . . ." As amended Acts 1953, 53rd Leg., p. 641, ch. 247, § 1; Acts 1953, 53rd Leg., p. 965, ch. 408, § 1.

Under date of January 17, 1963, Governor John Connally issued Executive Order No. 1 which is quoted as follows:

"EXECUTIVE ORDER NUMBER ONE

Division of Defense and Disaster Relief
Designation of State Coordinator

1. Pursuant to the authority vested in me by the Texas Civil Protection Act of 1951 (Acts 1951, 52nd Leg., Ch. 311, as amended), I hereby designate the Director of Public Safety as State Coordinator of Civil Defense and Disaster Relief and Chairman of the State Defense and Disaster Relief Council. In these capacities said Director shall serve as my designated agent in the administration and supervision of the State Civil Defense and Disaster Relief Program in accordance with the Act to exercise the powers granted to the Governor therein.

2. The State Civil Defense and Disaster Relief Council is hereby authorized to issue such directives and executive orders as may be necessary to effectuate the purpose of the Civil Protection Act and is further authorized and empowered to exercise the specific powers enumerated in the Act. All existing compacts, agreements, organizations, plans, operations, directives and executive orders not in conflict herewith are continued in full force and effect."

Under date of December 1, 1964, the United States of America, acting through the Office of Emergency Planning, entered into a contract with the State of Texas, acting by and through Colonel Homer P. Garrison, State Coordinator, Office of Defense and Disaster Relief, same being Contract No. OEP-SLP-64-9. Under Article II of said contract, the same provides:

"1. Consideration.

The Government agrees to pay the State of Texas as complete compensation for all work and services under this contract allowable and reimbursable costs not to exceed the amount of \$46,975. Allowable and reimbursable costs shall be determined in accordance with General Provision 2, COSTS, of Appendix A.

"2. Firm Budget.

The firm budget for this program is as follows:

	<u>Phase I</u>	<u>Phase II</u>	<u>Total</u>
Salaries	\$6,150	\$21,575	\$27,725
Travel	3,000	11,000	14,000
Printing	300	2,700	3,000
Communications	500	1,750	2,250
Total	\$9,950	\$37,025	\$46,975

This firm budget represents the total funds authorized to be expended by the State under this contract. Within the total established budget, the State may increase or decrease, in an amount not to exceed 15 percent, any of the line items contained in the firm budget without the express approval of the Office of Emergency Planning.

"3. Advance of Funds.

An advance in the amount of \$9,400 shall be provided to the State for purposes of establishing a working fund for use under this program. By executing this contract and accepting the advance, it is understood and agreed that the State shall handle the funds in accordance with subparagraphs b. (1), (2), and (3) of General Provision 3, ADVANCES, of Appendix A.

"4. Method of Payment.

The State shall submit vouchers monthly in accordance with the procedures prescribed in General Provision 4, METHOD OF REIMBURSEMENT, of Appendix A."

"Appendix A

"1. GENERAL.

The reimbursable costs of the project shall not exceed the actual costs nor the amount stipulated in Article II of the contract.

"2. COSTS.

a. Allowable Costs.

OEP shall reimburse the State for reasonable costs actually expended for salaries, travel, and printing necessary to the performance of the work required under the terms of this contract. (See limitations, OEP Regulation 1714.5). Proof of such expenditures must be adequately documented.

The following are allowable costs when related to the contract:

"

"(3) Travel expenses in accordance with regulations of the State; where no State travel regulations exist, travel expenses shall be in accordance with Standardized Government Travel Regulations.

(a) Travel of project staff, including unpaid personnel such as committee members or consultants utilized in the performance of the contract, when approved by the Emergency Planning Director.

(b) Travel outside of the State, when approved by the OEP Regional Director." (Emphasis added)

Homer P. Garrison, Jr., is shown to be the Emergency Planning Director of the State of Texas, as set out in directory issued from the Executive Office of the President.

Section 26 of Article V, House Bill No. 86, Acts 58th Leg., Regular Session, 1963, (Biennial Appropriation Bill), provides in part:

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"Sec. 26. FEDERAL CONTRACTS AND AGREEMENTS.
None of the Federal funds appropriated for use by
the terms of this Act may be expended pursuant to
a contract or agreement with the Federal Government
unless and until the appropriate State agency has
filed a copy of such contract or agreement with the
Secretary of State for recording. . . ."

We are advised that such contract has been filed with the
Secretary of State.

In view of the provisions of Section 5 of Article
6889-4, Revised Civil Statutes of Texas, and the contract
allowing travel expenses to be paid to: Travel of Project
Staff, including unpaid personnel such as committee members,
we are of the opinion that such travel expense can be paid,
when such travel expenses have been approved by the Emergency
Planning Director, from any sums available for such travel
expenses, which have been received by the State of Texas, by
virtue of the contract herein mentioned.

SUMMARY

Pursuant to Article 6889-4, travel expenses
incurred by members of the Emergency Planning
Committee Task Groups, can be paid, when such
travel expenses have been approved by the
Emergency Planning Director, from any sums
available for such travel expenses, which
have been received by the State of Texas,
by virtue of the contract herein mentioned,
on warrants issued by the Comptroller of
Public Accounts.

Yours very truly,

WAGGONER CARR
Attorney General

By


John H. Banks
Assistant

JHB:sj

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APPROVED:

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL
BY: Stanton Stone