



The Attorney General of Texas

October 23, 1984

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Mr. Homer A. Foerster
Executive Director
State Purchasing and General
Services Commission
L.B.J. State Office Building
P.O. Box 13047, Capitol Station
Austin, Texas 78711

Opinion No. JM-214

Re: Whether the State Purchasing and General Services Commission may use excess funds appropriated for construction of a parking garage to fund additional construction of the Travis Building

Dear Mr. Foerster:

You ask whether the State Purchasing and General Services Commission may use excess funds appropriated for construction of a parking garage to fund additional construction to the Travis Building.

The 1982-83 General Appropriations Act, Acts 1981, 67th Leg., ch. 875, art. I, at 3488 (H.B. 656), appropriated \$25 million for "[C]onstruction of new State Office Building." (item 9). The 1984-85 General Appropriations Act, Acts 1983, 68th Leg., ch. 1095, art. I, at 5893 (S.B. 179), contains the following riders:

10. Any unobligated balances remaining as of August 31, 1983, in appropriations made to the State Purchasing and General Services Commission by Acts of the Sixty-seventh Legislature, Regular Session, 1981, for Capital Acquisition, Construction, Repairs and Renovation, Item 10, and by riders, are hereby reappropriated for the same purpose and subject to the same restrictions for the biennium beginning September 1, 1983.

For the Years Ending	
August 31,	August 31,
1984	1985

Informational sub-listing of projects to be funded from Items 10.b and 10.c (Construction, Repairs and Renovations)

A. Construct Permanent Parking Structure, Capitol Complex	\$ 7,857,081	\$ U.B.
B. Fire/Safety Deficiency Corrections, Capitol Complex	575,611	U.B.

C. Remove and Stabilize Ceiling, Starr Building	324,113	U.B.
D. Remove and Stabilize Ceiling, Supreme Court Building	995,292	U.B.
E. Fire/Security Alarm System, Starr Building	27,110	U.B.
F. Relocation of Mechanical Facili- ties, Governor's Mansion	38,141	U.B.
G. Seal Exterior, Jones Building	91,831	U.B.
H. Repair Leaking Patios, Reagan and LBJ Buildings	207,519	U.B.
I. Replace Roofing, Supreme Court Building	106,688	U.B.
J. Replace Carpet, Austin Building	219,160	U.B.
K. Energy Conservation Measures, Capitol Complex	473,427	U.B.
L. Replace Gas Turbine Chiller with Electric Drive, Austin Building	490,427	U.B.
M. Seal Areaway Openings, Capitol	65,523	U.B.
N. Purchase of Land and Construction of Hangars, Ramps, Office and Maintenance Facilities, Aircraft Pooling Board	3,054,239	U.B.
O. Miscellaneous Projects, Not to Exceed \$3,300 each, Capitol Complex	100,000	U.B.
P. Renovate French Legation	35,000	U.B.
Q. Repairs to Permanent Parking Structures, Capitol Complex	74,102	U.B.
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GRAND TOTAL, CONSTRUCTION, REPAIRS AND RENOVATIONS	\$ 14,735,264	\$ U.B.
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11. The State Purchasing and General Services Commission may deviate from the exact sums for each project as may be necessary to fund any project.


The Travis Building is one of the items referred to in rider 10, supra, i.e., a project funded under item 9 of the 1982-83 General Appropriations Act. As a result, the balance of the \$25 million which remained unobligated on August 31, 1983, was reappropriated for construction of the Travis Building for the 1984-85 biennium. Rider 11 in the 1984-85 General Appropriations Act authorizes the commission to "deviate from the exact sums for each project as may be necessary to fund any project." If "any project" includes the further construction of the Travis Building described in rider 10, it follows that funds may be transferred from rider 10A, authorizing construction of a "permanent parking structure," for use on the Travis Building.

Rider 11 does not indicate any legislative intent to restrict transfer of funds to or from those items listed in riders 10A-Q. Indeed, it specifically permits deviation for "each project." In our opinion, this language includes any project authorized by the commission's 1984-85 appropriation. Since completion of the Travis Building is provided for in rider 10, we believe it constitutes such a project. To construe rider 11 otherwise would be to thwart completion of the Travis Building, when authorized unexpended funds exist from another, already completed, project. We do not address whether funds may be transferred under rider 11 if the specific projects in riders 10A-Q from which transfer is contemplated were not completed. We do not believe the legislature could have intended this result. Accordingly, the State Purchasing and General Services Commission may use excess funds appropriated for construction of a parking garage to fund additional construction of the Travis Building.

S U M M A R Y

The State Purchasing and General Services Commission is authorized to use excess funds appropriated during the 1984-85 biennium for a parking garage to fund additional construction of the Travis Building.

Very truly yours,



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