

GENERAL COUNSEL

December 13, 2000

The Honorable John Cornyn
Attorney General of Texas
Supreme Court Building
P.O. Box 12548
Austin, Texas 78711-2548

RE: Request for Attorney General Opinion

Dear General Cornyn:

The Board of Regents of Texas State Technical College requests an advisory opinion regarding whether a State Auditor may audit an educational foundation, a 501(c)(3) entity under the Internal Revenue Code, which was created for the benefit of a state agency, Texas State Technical College, and is holding funds donated by private parties for the benefit of a state agency.

Chapter 321 of the Texas Government Code addresses the powers and duties of State Auditors. Specifically, section 321.013(a) of the code states that "The auditor shall conduct audits of all departments, including institutions of higher education, as specified in the audit plan. At the direction of the committee, the State Auditor shall conduct an audit or investigation of any entity receiving funds from the state."

Although the above section makes it clear that a State Auditor has the authority to audit an institution of higher education, i.e. Texas State Technical College, there still remains an ambiguity as to whether a State Auditor may audit an educational foundation created by a state agency or state institution of higher education, Texas State Technical College.

Therefore, the Board of Regents of Texas State Technical College sincerely requests an advisory opinion regarding this matter. Thank you for your consideration.

Sincerely,



Ray Rushing
General Counsel

RR/ps

RQ-0328-JC

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OPINION COMMITTEE



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