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JUL 23 2018

**OPINION COMMITTEE**



FILE # ML-48395-18  
NO. # 48395

**RQ-0238-KP**

**Courtney Tracy Ponthier**

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July 23, 2018

Ken Paxton  
Texas Attorney General  
Via Email: [opinion.committee@oag.texas.gov](mailto:opinion.committee@oag.texas.gov)

RE: Opinion Request

Dear Sir:

Please accept this letter as a request for an opinion about payment of expenses for an individual that is not a County employee.

**Background**

Following Hurricane Harvey, grant money made employment available in Southeast Texas through Workforce Solutions. Newton County contracted with Workforce to receive a number of those employees. One of those contracted workers went to work for the County Judge, assisting with floodplain issues, as well as performing other secretarial duties.

In March 2018, the County Judge sent the contracted worker to a school in College Station for training. The State paid for the hotel for the worker, and there was no fee for tuition. The Judge requested mileage and per diem to be paid to the worker by the County. However, the County Auditor informed the Judge that the County could not pay for any expenses, being that the worker is not a county employee.

In May 2018, some charges were made with the County credit card that is issued to the County Judge. There was a \$45 charge on May 15<sup>th</sup> for membership to the Texas Floodplain Management Association for the contracted worker, and a charge on May 16<sup>th</sup> for the contracted worker for an exam fee to become a certified floodplain manager.

In June 2018, the credit card was used again for the contracted worker. On June 5<sup>th</sup>, a charge was made to Hotels.com for a room reservation for the worker. The total was \$576.79. On June 6<sup>th</sup>, \$50 was charged for the contracted worker, registering the worker for an advanced course through the Texas Floodplain Management Association.

Newton County adopted an updated Flood Damage Prevention Order (FDPO) on February 13, 2012. The FDPO was updated again on April 23, 2018 to say that the "Commissioners' Court or their designee" will serve as the floodplain manager. At the time

these credit card charges were made, the County did not have a designated floodplain manager, so by default, the Commissioners' Court was serving as manager. A designation was done July 9, 2018, when a person that is already an employee of the County was named floodplain manager during a regular meeting of the court.

The charges that were made on the credit card have been paid by the County, fulfilling our contractual obligation to settle those debts.

#### **Issue**

Can the County pay for tuition and travel expenses of a contracted worker who is not an employee of the County and was not authorized by the Commissioners' Court to incur those expenses?

#### **Discussion**

The Local Government Code addresses expenses of county agents. Section 152.901 authorizes the Commissioners' Court to pay for reasonable expenses of someone who is not an employee of the county if they were performing county business and authorized by the Commissioners' Court. Newton County does not have a county policy that is on point related to this issue.

Because the court did not authorize the contracted worker to act as an agent on their behalf, were the charges unauthorized? If they were unauthorized charges, is the County Judge responsible for reimbursement of the expenses?

Please let me know if you have any questions or if forming your opinion requires further information. Thank you for your time and attention in this matter.

Sincerely,



Courtney Tracy Ponthier