



Archer County



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VIA E-MAIL and FIRST CLASS MAIL

Office of the Attorney General
The Honorable Ken Paxton
Att. Opinion Committee
P.O. Box 12548
Austin, Texas 78711
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RQ-0494-KP
FILE# ML-49230-23
I.D.# 49230

Re: Request for Attorney General’s Opinion regarding capacity of Archer County Sheriff’s Commissary Fund to lease a vehicle for transportation of inmates to medical appointments.

Dear Attorney General Paxton:

I am writing in my capacity as Archer County Attorney. Archer County is a rural county in North Texas, with the closest source of medical and mental health treatment being in Wichita County. Inmates in the Archer County jail requiring anything other than routine medical care must be transported from Archer City to Wichita Falls for treatment. Archer County Sheriff Jack Curd has identified a need to have a dedicated vehicle equipped to safely provide transportation of inmates for medical and mental health treatment.

Sheriff Curd operates a jail commissary for the use of inmates in the Archer County Jail pursuant to under Texas Local Government Code §351.0415 (hereinafter “Commissary Fund”). Subsection (b)(1) provides that the Sheriff has “exclusive control” of commissary funds, the proceeds of which under subsection (c)(5) must be used for the “well-being, health, safety, and security of the inmates and the facility.” Subsection (g) reiterates that commissary fund proceeds are limited to those purposes set out in subsection (c), and further states that the commissioners court “may not use commissary proceeds to fund the budgetary operating expenses of a county jail.” There is a balance in the commissary fund of approximately \$19,000.00.

Archer County leases patrol vehicles for the Sheriff’s Department. A 2018 Chevrolet Tahoe has recently come off lease, with a balance remaining to purchase the vehicle outright of \$10,000.00. Current estimated market value of the vehicle is \$20,000.00, leaving an equity of approximately \$10,000.00. It is the practice of the Archer County Commissioners Court to apply

any such equity to the lease of a new replacement vehicle to reduce the lease amount on the new vehicle.

Questions presented:

1. May the Archer County Commissioners Court permit the sale of the vehicle by the leasing company directly to the Commissary Fund without declaring the vehicle surplus pursuant to Local Government Code §263.152(a)(1) and soliciting bids from prospective purchasers?

2. If the answer to question 1 is yes, does the equity in the vehicle remain an asset of the General Fund or is it transferred to the Commissary Fund along the vehicle?

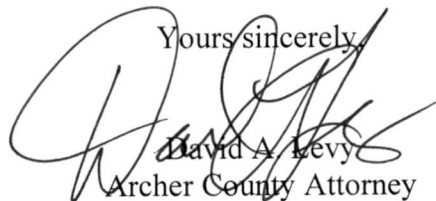
3. Is a vehicle to be used for transportation of inmates to medical and mental health appointments a permitted use of Commissary Fund proceeds under Local Government Code §351.0415(c)(5), or would it constitute an item more properly classified as a "budgetary operating expense" under §351.0415(g) and therefore not permitted to be purchased using Commissary Fund proceeds?

4. Does the Commissary Fund have the legal capacity to lease a vehicle without being subject to the approval and oversight of the Archer County Commissioners Court?

5. If the answer to question 4 is yes, may the Commissioners Court use money from the General Fund to pay insurance and maintenance costs on a vehicle leased by the Commissary Fund?

Any and all guidance you are able to offer on this matter is greatly appreciated.

Yours sincerely,



David A. Levy
Archer County Attorney