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County of Newton, State of Texas

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October 1, 2025

Hon. Ken Paxton  
Office of the Texas Attorney General  
Attn: Opinion Committee  
P.O. Box 12548  
Austin, TX 78711

*Via email to [opinion.committee@oag.texas.gov](mailto:opinion.committee@oag.texas.gov)*

RE: May a county commissioners court accept a monetary donation from an anonymous donor?

Dear Honorable Attorney General Paxton:

I am writing on behalf of Newton County, Texas to request your opinion on whether a county commissioners court may accept a monetary donation from an anonymous donor.

Background

Newton County operates the Newton County Senior Nutrition Center (the "Nutrition Center"). The Nutrition Center provides congregate and home-delivered meals to qualifying individuals. Its targeted population includes older individuals with the greatest economic and social need, low-income minorities, and those residing in rural areas, as identified in the Older Americans Act ("OAA").

The Nutrition Center is supported in large part through funding from the OAA, allocated by the Texas Health and Human Services Commission ("HHS") and administered by the Deep East Texas Council of Governments ("DETCOG") and the Area Agency on Aging, for congregate and home-delivered meals as well as program administration.<sup>1</sup> The Nutrition Center is also supported by funds directly from HHS for home-delivered meals, specifically.<sup>2</sup>

The OAA funding referenced above for congregate and home-delivered meals as well as program administration is provided via a contract between Newton County and DETCOG.

<sup>1</sup> The current contract between Newton County and DETCOG is attached hereto as Exhibit "A."

<sup>2</sup> The current contract between Newton County and HHS is attached hereto as Exhibit "B."

The DETCOG contract states:

Program income shall be earned and expended in accordance with 40 TAC 85.202(j), UGMS Subpart C\_\_\_\_, 25 and all applicable HHSC rules. Contractor shall use all program income and participant contributions collected to further eligible program outcomes. All program income and participant contributions collected and expended shall be documented and managed according to HHSC rules and regulations.

Program income received as contributions will be accounted for and deposited in accordance with the written policies and procedures established by Contractor in accordance with the HHSC rules and regulations.

Program income collected by Contractor shall consist only of those funds specifically provided by, or on behalf of, a program participant and directly attributable to the service provided.

The policies and procedures of the Area Agency on Aging provide:

#### **PART 4 – DONATIONS**

##### **General Guidelines**

1. All participants will be given the opportunity to donate to the cost of the meals.
2. Providers will develop suggested donation amounts after approval from the DETAAA Operations Manager
  - a. When developing donation amounts, the income demographic of older persons in the community will be considered and the provider's other sources of income will be considered
3. Suggested donation amounts cannot exceed the actual cost of the meal.
4. Providers will establish procedures to protect the privacy of each participant regarding his or her donation.
5. Each participant will determine the amount of his or her donation.
  - a. Donation amounts will not be used as a means test to determine eligibility for nutrition services.
  - b. No eligible person will be denied participation because of failure or inability to contribute.
  - c. A suggested contribution toward the cost of the meal service shall be requested of the participants on a regular basis, usually weekly.
6. All donations will be identified as "program income"
7. Providers will establish procedures and implement accounting measures to accurately collect donations and protect them from loss, mishandling, and theft.
8. Grantees will establish a separate account or project code to track Senior Nutrition Program Income.
9. All donations will be used: to increase the number of meals; to improve the quality of the meal service; and/or to provide other program enhancements.
10. Enhancements that cannot be directly attributed to increased participation in the program will be pre-approved by the DETAAA.
11. Providers will request prior approval from the DETAAA before increasing suggested donation amounts and/or Private Pay fees.

##### **Congregate Program**

1. Donation containers will be placed near the point of check-in, within view and in a location easily accessible to all participants and will be:
  - a. Anchored to a table or wall to prevent theft
  - b. Labeled "SUGGESTIONS/DONATIONS" to provide anonymity. Both are welcomed.
2. A sign will be posted at the meal site that states the suggested donation and the Private Pay fee for non-senior guests. The sign will also declare that no one, age 60 years or older, will be denied service if they choose not to donate.
3. All donations will be counted and verified by two (2) people. Both people must be paid staff members.
4. All donations will be secured in a safe location until time of deposit.
5. Donations will be deposited and recorded on a regular basis.
6. Deposit slips will be maintained on file for assessment/audit purposes.

Finally, the DETCOG contract states:

DETCOG shall not be liable to Contractor for expenditures made in violation of regulations promulgated under the OAA, as amended, or in violation of the HHSC rules, UGGMS, or this Contract.



The HHS funding referenced above for home-delivered meals, specifically, is provided via a contract between Newton County and the HHS.

The HHS contract states:

**The Contractor hereby agrees:**

**III.1 In General**

1. To provide all services in the Contract Type and in the Service Area, specified in Section I of this Contract.
2. To comply with all applicable federal and Texas state statutes and rules, including the following:
  - a. Title 42, Code of Federal Regulations (CFR), Chapter IV;
  - b. Title 45, CFR, Part 96;
  - c. Texas Human Resources Code, Title 2, Chapter 32;
  - d. Texas Human Resources Code, Title 6, Chapter 102;
  - e. Texas Health and Safety Code, Title 4, Chapters 250 and 253;
  - f. Title 1, TAC, Part 15, Chapter 355, or its successor; and
  - g. Title 40, Texas Administrative Code (TAC), Part 1, or its successor.
3. To comply with the following documents promulgated by HHSC:
  - a. applicable provider manuals or handbooks;
  - b. applicable billing guidelines; and
  - c. applicable provider communications, including provider letters, information letters and policy clarifications.
4. To comply with applicable federal and Texas laws and rules regarding confidentiality of information regarding a person. This provision shall not be construed as limiting HHSC's access to a person's records or other information relating to the person.

The HHS Home-Delivered Meals Provider Manual provide:

The following procedures are to be used by Title XX HDM providers when requesting donations from Title XX HDM individuals. These same procedures are used by Area Agencies on Aging (AAA) HDM providers.

Title XX HDM providers:

- must provide an individual with an opportunity to donate toward the cost of the meal;
- must not require an individual to donate towards the cost of the meal;
- may provide an individual with a donation schedule that only suggests an amount based on the income range of the program population being served, but may not determine an individual's income using an income test;
- must protect the individual's privacy with respect to the individual's donations;
- must establish appropriate procedures to secure and account for all donations made; and
- must use all of the individual's donations to support or expand services for which the individual donated, in accordance to state and federal laws, rules and regulations.

HDM providers are responsible for ensuring individuals receiving Title XX HDM do not feel pressured or harassed to contribute to the cost of meals. Historically, individuals receiving Title XX HDM have lower incomes and decreased ability to contribute to the cost of services.

Finally, the HHS contract states:

**III. 9 Sanctions**

1. That HHSC may apply, at its discretion, sanctions if the Contractor fails to comply with any provision of the Contract, including:
  - a. recouping overpayments;
  - b. suspending the Contractor's payments; and
  - c. initiating termination of the Contract.

## RELEVANT LAW

Under the above-referenced contracts with DETCOG and HHS, Newton County is currently obligated to accept donations from program participants and protect each donor's privacy with respect to their donation. At the same time, as a governmental entity, Newton County is obligated to maintain transparency with regard to its financial transactions, including donations.

Section 81.032 of the Local Government Code states: "The commissioners court may accept a donation of labor or services, gift, grant, donation, bequest, or devise of money or other property on behalf of the county...for the purpose of performing a function conferred by law on the county or a county officer." Section 81.032 does not address whether identification of donors must be recorded; however, Texas Attorney General Opinion GA-0345 (2005) observed that section 81.032 does not allow a commissioners court to accept donations for purposes contrary to the constitution or law.

The Texas Public Information Act (the "PIA") declares that it is the public policy of Texas that citizens are entitled to full and complete information regarding the affairs of the government. Tex. Gov't Code §552.001(a). The PIA defines "public information" very broadly to include information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with a transaction of official business by a governmental body. Tex. Gov't Code §552.002(a). A county commissioners court is one of the entities specifically listed in the PIA as a "governmental body." Tex. Gov't Code §552.003(1)(A)(ii).

Information is not confidential under the [Public Information Act] simply because the party submitting the information anticipates or requests that it be confidential. Texas Attorney General Opinion JM-0672 (1987) (citing *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668, 667 (Tex. 1976)). Otherwise, a governmental entity would be allowed to circumvent the very purpose of the Public Information Act. *Id.* Absent a specific grant of authority from the Legislature, a governmental entity must yield to the statute. *Id.*

## REQUEST FOR OPINION

In light of the above-referenced law and Newton County's current contractual obligations to DETCOG and HHS, may Newton County accept monetary donations from anonymous donors in support of the Newton County Senior Nutrition Center?

I thank you for your consideration and review of this matter.

Sincerely,



Courtney Ponthier

cc: Newton County Judge Ronnie Cochran (via email)  
Newton County Commissioner Pct 1 Danny Bentsen (via email)  
Newton County Commissioner Pct 2 Phillip White (via email)  
Newton County Commissioner Pct 3 Prentiss Hopson (via email)  
Newton County Commissioner Pct 4 Leanord Powell (via email)  
Newton County Auditor Sherry Moore (via email)