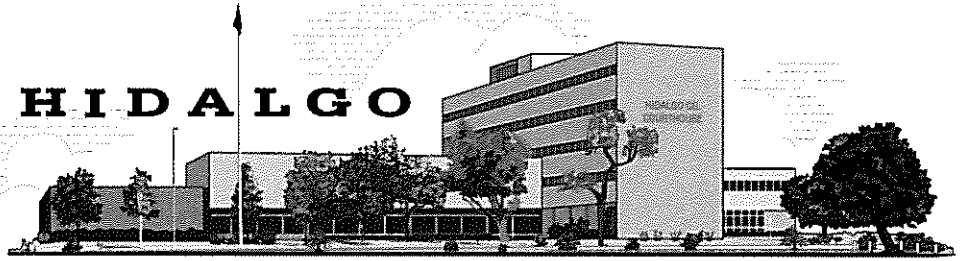


COUNTY of HIDALGO



EDINBURG, TEXAS 78539

HIDALGO COUNTY AUDITOR'S OFFICE
Hidalgo County Administration Building
2808 South Business Highway 281
Edinburg, Texas 78539-6243
PHONE: (956) 318-2511
FAX: (956) 318-2577
WEBSITE: www.co.hidalgo.tx.us/auditor

August 8, 2017

The Honorable Ramon Garcia, Hidalgo County Judge
The Honorable David Fuentes, Commissioner, Precinct No. 1
The Honorable Eduardo "Eddie" Cantu, Commissioner, Precinct No. 2
The Honorable Jose M. Flores, Commissioner, Precinct No. 3
The Honorable Joseph Palacios, Commissioner, Precinct No. 4

RE: Certification of Revenue

Dear Judge and Commissioners:

Pursuant to Local Government Code § 111.07075 SPECIAL BUDGET FOR REVENUE RECEIVED AFTER START OF FISCAL YEAR.

The county auditor shall certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget and not included in the budget for that fiscal year. On certification, the court may adopt a special budget for the limited purpose of spending the revenue for general purposes or for any of its intended purposes.

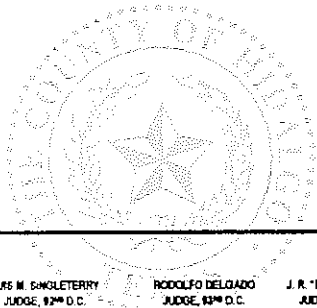
I, Ray Eufrazio, County Auditor of Hidalgo County, certify to the Hidalgo County Commissioners Court the revenue received from a transfer from Jail Commissary Trust Fund in the amount of \$74,296.00 to fund the purchase of water heaters (boilers) at the Hidalgo County Adult Detention Center. These funds may now be made available by creating a new special budget or amending a current budget for its intended purposes.

CERTIFIED BY:

Raymundo Eufrazio, CPA
Hidalgo County Auditor

8-24-17

Date



HIDALGO COUNTY DISTRICT JUDGES

LUIS M. SMOLETERRY
JUDGE, 12th D.C.

RODOLFO DELGADO
JUDGE, 13th D.C.

J. R. "BOBBY" FLORES
JUDGE, 13th D.C.

ROSE GUERRA REYNA
JUDGE, 20th D.C.

JUAN R. PARTIDA
JUDGE, 27th D.C.

MARIO E. RAMIREZ, JR.
JUDGE, 32nd D.C.

HOE GONZALEZ
JUDGE, 37th D.C.
OVERSEER

LETICIA LOPEZ
JUDGE, 38th D.C.

L. KENO VASQUEZ
JUDGE, 39th D.C.

ISRAEL RAMON, JR.
JUDGE, 43rd D.C.

RENEE R. BETANCOURT
JUDGE, 44th D.C.

Emilia Uriegas

From: Emilia Uriegas <emilia.uriesgas@hidalgoso.org>
Sent: Tuesday, August 01, 2017 11:53 AM
To: 'ray.eufracio@auditor.co.hidalgo.tx.us'; 'linda.fong@auditor.co.hidalgo.tx.us'
Cc: 'pedro.ramirez@hidalgoso.org'
Subject: Certification or Revenues Request -- \$74,296
Attachments: COR.REQ. \$74,296.pdf

Mr. Eufracio:

This is to formally request the Certification of Revenues for \$74,296 (Jail Commissary Account Program 2102) in reference to AI#60936. Our office will be requesting that the item be included for CC agenda of 08/08/17, if possible.

Should you require additional information, feel free to contact me.

Thank you.

Emilia Uriegas

*Budget Manager II
Hidalgo County Sheriff's Office
711 El Cibolo Road
Edinburg, Texas 78542
Main: 956-383-8114
Direct: 956-393-6028
Fax: 956-393-6027
Email: emilia.uriesgas@hidalgoso.org*

Sheriff's Office

AI-60936

CC - REGULAR

Meeting Date: 08/22/2017

Submitted For: Roy Quintanilha, SHERIFF DEPT.

Submitted By: Emilia Uriegas, SHERIFF DEPT.

Department: SHERIFF DEPT.

Information

CAPTION

1. Approval of certification of revenues as certified by County Auditor.
2. Approval of appropriation of funds in the Jail Commissary account for the amount of \$74,296.00.

BACKGROUND

Fiscal Impact

CALENDAR YEAR: 2017

ACCT. #: 7-2102-423-21-280-015-0-452

FUNDS AVAILABLE Y/N?: Y

MATCHING FUNDS Y/N?: N

BUDGETARY IMPACT:

Funds are available as of 07/31/17, as provided by the Jail Commissary Bank Account. Monies forwarded to County Treasurer's Office (Receipt No. 213087 dated 07/31/17).

Attachments

No file(s) attached.

Form Review

Inbox

Reviewed By

Date

Emilia Uriegas

08/01/2017 11:16 AM

Form Started By: Emilia Uriegas

Started On: 08/01/2017 11:16 AM

DATE: August 1, 2017
DEPARTMENT HEAD: J. E. "Eddie" Guerra
DEPARTMENT NAME: Jail Commissary
ACCOUNT NUMBER: 7-2102-423-21-280-015-0-XXX

SUBJECT: **Budget Amendments (Increases) in Accordance with Local Government Code, Chapter 111, Subchapter C**

Honorable Commissioners' Court of Hidalgo County:

I would like to request the following Amendments (increases) to my budget in accordance with Local Government Code, Chapter 111, Subchapter C

INCREASE ACCOUNT NUMBER(S)	ACCOUNT OBJECT NAME	AMOUNT
7-2102-423-21-280-015-0-452	Jail Commissary--Building Additions & Renovations	74,296.00
7-2102-391-03-000-426-0-000	Transfers In - Jail Commissary Trust Fund	74,296.00
TOTAL APPROPRIATIONS		<u><u>74,296.00</u></u>

REASON: To appropriate funding for purchase of 3 water heaters (boilers) and installation costs.

DEPARTMENT HEAD SIGNATURE

DATE

APPROVED COMMISSIONERS' COURT

ATTEST COUNTY CLERK



OFFICIAL HIDALGO COUNTY RECEIPT
OFFICE OF THE COUNTY TREASURER
NORMA G. GARCIA

Receipt No: 213087

Received From: SHERIFF'S JAIL COMMISSARY TRUST FUNDS

Date 07/31/17

1	5360	PURCHASE OF WATER HEATERS (BOILERS)	7-2102-391-03-000-426-0-000	74,296.00
				Total: 74,296.00

Check Total	74,296.00
Cash Total	.00
Credit Total	.00
Other Total	.00

HIDALGO COUNTY SHERIFF'S OFFICE
REVENUE REMITTANCE FORM
DATE: July 31, 2017

TO: HIDALGO COUNTY TREASURER

THE FOLLOWING REMITTANCE REPRESENTS COLLECTIONS FOR:

1. Sheriff's Office - Court Ordered Confiscations
(Seizure made prior to October 18, 1989)

\$ _____

- A. Credit Account Number: _____
- B. Actual date property seizure was made: _____
- C. Funds were awarded by District Court No. _____
on _____, CAUSE # _____
- D. These Funds must be Appropriated through Commissioner's
Court before they can be expended.

2. Undistributed Sheriff Fines and Court Costs ("D" Account)

\$ _____

- A. Credit Account Number: _____
- B. For Receipts Issued from No. _____ to No. _____
- C. For Date(s) _____

3. Sheriff's Office - Court Ordered Confiscations
(Seizure made on October 18, 1989 and thereafter)

\$ _____

- A. Credit Account Number: _____
- B. Actual date property seizure was made: _____
- C. Funds were awarded by District Court No. _____
on _____, CAUSE # _____
- D. These Funds must be Appropriated through Commissioner's
Court before they can be expended.

4. Sheriff's Office - Jail Commissary Trust Funds

\$ 74,296.00

- A. Credit Account Number: 7-2102-391-03-000-426-0-000
- B. For Purchase and Installation of Water Heaters (Boilers) (Physical Plant Improvement)
- C. These payments comply with all applicable State Statutes and any
applicable rules promulgated by the Texas Commission on Jail Standards.

GRAND TOTAL REMITTED TO TREASURER \$ 74,296.00

APPROVED BY:


HIDALGO COUNTY SHERIFF OR DESIGNEE

7/31/17
DATE

PREPARED BY:


ACCOUNTANT IV

213087
TREASURER'S RECEIPT NO.



HIDALGO COUNTY JAIL COMMISSARY
P.O. BOX 1228
EDINBURG, TX 78540
PH. 956-381-7900 EXT. 7928

LONESTAR NATIONAL BANK
WWW.LONESTARNATIONALBANK.COM

88-1158/1149

7/31/2017

PAY TO THE
ORDER OF

Hidalgo County Treasurer

**74,296.00

\$

Seventy-Four Thousand Two Hundred Ninety-Six and 00/100

DOLLARS

Hidalgo County Treasurer

Void After 90 Days

MEMO

Funding For The Purchase Of Water Heaters (Boiler

⑈005360⑈ ⑆114911687⑆ 710 15949⑈

HIDALGO COUNTY JAIL COMMISSARY

Hidalgo County Treasurer

7/31/2017

Funding For The Purchase Of Water Heaters (Boiler
3 Quotes Obtained: Morris Boiler Service (Awarded),

74,296.00

Cash on Deposit - LS Funding For The Purchase Of Water Heaters (B

74,296.00

DETAILS ON BACK
SECURITY FEATURES INCLUDED



RICARDO RODRIGUEZ, JR.
CRIMINAL DISTRICT ATTORNEY

August 23, 2017

Ray Eufrazio
Hidalgo County Auditor
2808 South Business Hwy 281
Edinburg, Texas 78539-6243

RE: Authorized Use of Hidalgo County Jail Commissary Fund

Mr. Eufrazio,

We are in receipt of your request for review submitted to TCJS and their response. Please be advised that the Hidalgo County Sheriff's Office (HCSO) has previously asked our office to review the use of commissary funds for the purchase of two boilers that provide hot water to the jail.

We have reviewed the information provided by the HCSO regarding said boilers.

Furthermore, as part of our research in to this issue, we have reviewed the following:

- Op. Tex. Att'y Gen. KP-0159 (2017)
- Op. Tex. Att'y Gen. GA-0791 (2010)
- Tex. Loc. Gov't Code
- Op. Tex. Att'y Gen. MW-143 (1980)
- Other relevant Attorney General Opinions and Case law

Under the Local Government Code, the sheriff or his designee has the "exclusive control of the commissary funds." *See* Tex. Loc. Gov't Code §351.0415. The sheriff's use of commissary funds is limited to the five designated purposes outlined in Section 351.0415:

- (1) Fund, staff and equip a program addressing the social needs of the inmates, including an educational or recreational program and religious or rehabilitative counseling;
- (2) Supply inmates with clothing, writing materials, and hygiene supplies;
- (3) Establish, staff, and equip the commissary operation and fund the salaries of staff responsible for managing the inmates' commissary accounts;
- (4) Fund, staff, and equip both an educational and a law library for the educational use of inmates; or

- (5) Fund physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety and security of the inmates and the facility. *See Id.* §351.0415.

“Pursuant to the express terms of section 351.0415(c), the expenditure of commissary funds must be used on items or services that benefit the inmates of the county jail. *See Op. Tex. Att’y Gen. KP-0189 (2017)*. Thus, the proceeds from operating the commissary are funds held by the sheriff for the benefit of a specific group of persons.” *See Op. Tex. Att’y Gen. GA-0791 (2010)* citing *Op. Tex. Att’y Gen. MW-143 (1980)* (stating that all profits from operating a jail commissary must be spent for the “benefit, education and welfare” of jail inmates). In previous opinions, the Attorney General determined that “where the profits [of a commissary] are spent for the benefit of the jail inmates, they help ‘supply the wants’ of persons confined in jail. Consequently, we believe the operation of a profit making commissary would be consistent with article 5116, V.T.C.S., where the profits are spent for the benefit, education and welfare of jail inmates.” *See Op. Tex. Att’y Gen. MW-143 (1980)*. However, the Attorney General did not go so far as to define what expenditures would qualify as a benefit or for the welfare of the inmates.

As such, we must consider the statutory authority as a whole and within the relevant context. The HCSO would like to purchase two boilers that provide hot water to the jail. The water is needed to maintain a sanitary environment for the inmates and meet standards, including but not limited to: inmate hygiene; laundry for inmates; and washing of plates, trays and drinking containers used by inmates.

There is no statutory or legal authority explicitly authorizing the purchase of boilers that provide hot water to the jail under the stated purposes in section 351.0415. However, the general uses described above provide for the well-being, health and safety of the inmates and the facility. Furthermore, the general understanding of “physical plant” is the necessary infrastructure used in operation and maintenance of a given facility. While there is no statutory or legal definition of physical plant, section 311.011 of the Texas Government Code states that “words and phrases shall be read in context and construed according to the rules of grammar and common usage.” *See Tex. Loc. Gov’t Code §311.1(a)*. Therefore, each of the stated uses would fall within the plain meaning of Section 351.0415. *See Tex. Loc. Gov’t Code § 351.0415(c)(5)*.

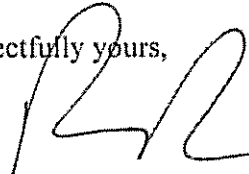
In addition, as the person statutorily designated with exclusive control over the commissary fund, the sheriff has wide discretion over the relevant use of commissary funds. *See Tex. Loc. Gov’t Code §351.0415*. The sheriff must determine the appropriateness of these expenditures in the first instance, which then the sheriff’s determination is subject to judicial review under an abuse of discretion standard, as well as administrative review by the Commission on Jail Standards. *Tex. Att’y Gen. Op. Nos. KP-0159 (2017)*; see also *Tex. Loc. Gov’t Code § 511.011* (“If the commission finds that a county jail does not comply with state law ... or the rules, standards, or procedures of the commission, it shall report the noncompliance to the county commissioners and sheriff of the county responsible for the county jail and shall send a copy ... to the governor.”).

In short, the purchase of two boilers with commissary funds appears to be permissible as a “physical plant improvement that provides for the well-being, health, safety and security of the

inmates and the facility" under §351.0415(5). *See* Op. Tex. Att'y Gen. MW-143 (1980). *See also* Tex. Loc. Gov't Code §351.0415. Regardless, the propriety of a particular expenditure from a commissary account is a question of fact and under the sole discretion of the Sheriff.

Please feel free to contact me at (956) 318-2300, should you have any questions or wish to discuss this matter further.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'RR', is written over the closing 'yours,'.

RICARDO RODRIGUEZ,
CRIMINAL DISTRICT ATTORNEY
HIDALGO COUNTY, TEXAS

cc: Hon. Eddie Guerra, Hidalgo County Sheriff

Linda Fong

From: Arcy Duran <Arcy.Duran@auditor.co.hidalgo.tx.us>
Sent: Friday, August 11, 2017 12:36 PM
To: josephine.ramirez@da.co.hidalgo.tx.us
Cc: 'Ray Eufrazio'; 'Linda Fong'; 'Letty Chavez'
Subject: RE: Hidalgo County Jail Commissary - 2nd Revised Request
Attachments: kp0159.pdf

Importance: High

Josie,

We received the response listed below from Brandon Wood, Executive Director at the Texas Commission on Jail Standards, regarding the purchase of the boilers from Jail Commissary funds. In light of the recent issuance of Attorney General Opinion Number KP-0159 (see attachment), does your opinion remain that the boilers may be purchased with Jail Commissary funds? Or, is the purchase of the boilers considered a budgetary operating expense of the jail that must be funded by Commissioners Court in order to comply with Local Government Code § 351.001(a)?

Arcy B. Duran, CPA, MBA
Director of Audit
Hidalgo County Auditor's Office

From: Brandon Wood [mailto:brandon.wood@tcjs.state.tx.us]
Sent: Friday, August 11, 2017 9:43 AM
To: Arcy Duran
Cc: Ray Eufrazio; Linda Fong; Letty Chavez; Phillip Bosquez; Jackie Benningfield
Subject: Re: Hidalgo County Jail Commissary - 2nd Revised Request

The recent ruling is still being digested and will be the subject of discussion for the next couple of months. We would recommend that your county attorney assist you in determining whether this proposed expenditure is allowable by statute and this recent opinion regardless of our interpretation. I will be back in the office on Monday and hope to be able to start determining our position with the advice of counsel

BW

On Aug 11, 2017, at 9:35 AM, Arcy Duran <Arcy.Duran@auditor.co.hidalgo.tx.us> wrote:

RAY EUFRACIO, CPA
HIDALGO COUNTY AUDITOR
Hidalgo County Administration Building
2808 South Business Highway 281
Edinburg, Texas 78539-6243
PHONE: (956) 318-2511
FAX: (956) 318-2577
E-MAIL: Ray.Eufrazio@auditor.co.hidalgo.tx.us
WEBSITE: www.co.hidalgo.tx.us/auditor

To: Brandon Wood, Executive Director

**From: Ray Eufrazio, CPA
County Auditor**

Re: Hidalgo County Jail Commissary

Local Government Code § 351.001(a) states “the commissioners court of a county shall provide safe and suitable jails for the county.” Local Government Code § 351.004 further states that a county jail must be: (1) structurally sound; (2) fire resistant; (3) properly ventilated, heated, and lighted; and (4) kept in good repair.” Furthermore, Local Government Code § 351.010 states “a county jail must be: (1) provided with safe water in ample quantity; (2) provided with sewage disposal facilities in accordance with good sanitation standards; (3) provided with food prepared and served in a palatable and sanitary manner according to good dietary practices and of sufficient quality to maintain good health; and (4) maintained in a clean and sanitary condition in accordance with standards of sanitation and health.”

Hidalgo County Commissioners Court funds the budgetary operating expenses of the jail. However, the Hidalgo County Sheriff's Office is planning on using Jail Commissary funds to replace two boilers that currently provide the jail with hot water. According to the Sheriff's Office staff, the water from the boilers is needed to maintain a sanitary environment for the inmates and meet standards, including:

- 1. Inmate Hygiene (wash and shower);**
- 2. Laundry for Inmates; and**
- 3. Washing of plates, trays and drinking containers used by inmates.**

According to Local Government Code § 351.0415 (c), the sheriff or the sheriff's designee may use commissary proceeds only to:

- 1. fund, staff, and equip a program addressing the social needs of the inmates, including an educational or recreational program and religious or rehabilitative counseling;**
- 2. supply inmates with clothing, writing materials, and hygiene supplies;**
- 3. establish, staff, and equip the commissary operation and fund the salaries of staff responsible for managing the inmates' commissary accounts;**
- 4. fund, staff, and equip both an educational and a law library for the educational use of inmates; or**
- 5. fund physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility.**

Due to the recent issuance of Attorney General Opinion Number KP-0159, we request your assistance regarding the following:

1. Is the purchase of the boilers considered a budgetary operating expense of the jail that must be funded by Commissioners Court in order to comply with Local Government Code § 351.001(a)?
2. Would the purchase of the boilers be an expense allowed by Local Government Code § 351.0415 (c) if the boilers only “directly benefit” the inmates?
3. Would the purchase of the boilers be an expense allowed by Local Government Code § 351.0415 (c) if the boilers “benefit” inmates, employees, and the public?

Your assistance is greatly appreciated.

If you have any questions, feel free to contact me at 318-2511 ext. 4604.

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KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 8, 2017

Mr. Brandon S. Wood
Executive Director
Texas Commission on Jail Standards
Post Office Box 12985
Austin, Texas 78711

Opinion No. KP-0159

Re: Whether certain expenditures of commissary proceeds violate section 351.0415 of the Local Government Code (RQ-0149-KP)

Dear Mr. Wood:

You ask whether specific expenditures of commissary proceeds by a county sheriff violate section 351.0415 of the Local Government Code.¹ Specifically, you ask whether a sheriff can use commissary proceeds to provide compensation and “purchase equipment for a deputy not assigned to the jail” or to “recruit and fund the salary of a jail employee not part of an inmate program.” Request Letter at 1. The propriety of a particular expenditure from a commissary account is a question of fact that we cannot answer in an attorney general opinion, but we can provide general advice on the sheriff’s authority. *See* Tex. Att’y Gen. Op. Nos. GA-1094 (2014) at 2 n.4, GA-0446 (2006) at 18 (“Questions of fact are not appropriate to the opinion process.”).

Section 351.0415 of the Local Government Code authorizes a county sheriff to operate “a commissary for the use of the inmates committed to the county jail.” TEX. LOC. GOV’T CODE § 351.0415(a) (requiring also that a commissary be operated under the rules of the Commission on Jail Standards), 37 TEX. ADMIN. CODE §§ 251.1–301.2 (Tex. Commission on Jail Standards, Part 9). Section 351.0415 gives the sheriff exclusive control over the commissary funds but limits the sheriff’s authority to spend commissary proceeds to five categories of expenditures. *See* TEX. LOC. GOV’T CODE § 351.0415(b)(1), (c)(1)–(5). Of those five categories, we understand your primary concern involves the scope of subsection 351.0415(c)(5). *See* Request Letter at 1–2. Subsection 351.0415(c)(5) authorizes an expenditure of commissary proceeds for “physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility.” TEX. LOC. GOV’T CODE § 351.0415(c)(5). You tell us that one county interprets this provision to allow for the compensation and purchase of equipment for a deputy not assigned to the jail. Request Letter at 2. You explain that the “sheriff’s reasoning [is] that the deputy could be called upon in an

¹*See* Letter from Brandon S. Wood, Exec. Dir., Tex. Comm’n on Jail Standards, to Honorable Ken Paxton, Tex. Att’y Gen. (Feb. 13, 2017), <https://www.texasattorneygeneral.gov/opinion/requests-for-opinion-rqs> (“Request Letter”).

emergency, such as a riot, to assist in securing the jail.” *Id.* You tell us further that some sheriffs use commissary proceeds “for staff recruitment or training development.” *Id.*

The types of expenditures about which you ask involve equipment and personnel that you suggest may not be directly associated with the jail. *See id.* at 2. As this office consistently recognizes, the sheriff’s “exclusive control of the commissary funds” authorizes the sheriff to determine whether an expenditure falls within subsection 351.0415(c). TEX. LOC. GOV’T CODE § 351.0415(b)(1); *see* Tex. Att’y Gen. Op. Nos. GA-1094 (2014) at 2, GA-0901 (2011) at 2. The sheriff’s discretion, however, is not without limitation. The Legislature expressly provided that a sheriff may not use commissary funds “to fund the budgetary operating expenses of a county jail.” TEX. LOC. GOV’T CODE § 351.0415(g). Moreover, the sheriff must generally spend commissary funds to “benefit inmates of the county jail.” Tex. Att’y Gen. Op. Nos. GA-0901 (2011) at 2, GA-0791 (2010) at 2. Thus, under subsection 351.0415(c)(5) the sheriff may use the commissary funds for “physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility,” provided that the expenditures do not fund the budgetary operating expenses of a county jail, and they generally benefit the inmates of the county jail. TEX. LOC. GOV’T CODE § 351.0415(c)(5). One Texas court of appeals, considering the nature of a sheriff’s control over commissary funds, noted the limited nature of section 351.0415: “[C]ommissary proceeds are subject to county oversight and may be spent only for limited purposes associated with the county jail operation.” *Mills v. State*, 941 S.W.2d 204, 208 (Tex. App.—Corpus Christi 1996, pet. ref’d).²

You do not provide many facts with respect to the job functions of the deputy not assigned to the jail or the nature of the equipment purchased for use by that deputy, but the fact that the deputy is not assigned to the jail suggests his or her function may not be associated with the county jail operation within the scope of section 351.0415. Further, we question whether the possibility of the deputy responding to an inmate riot is a circumstance too remote to be reasonably considered an expenditure for a program, service, or activity that “provide[s] for the well-being, health, safety and security of the inmates and the facility” in satisfaction of subsection 351.0415(c)(5). TEX. LOC. GOV’T CODE § 351.0415(c)(5). Likewise, with regard to using commissary proceeds for staff recruitment or training and development, more factual information is needed to reach a conclusion about the propriety of the expenditure. However, spending the funds on general recruitment, training, and development, and not specifically for the staffing of programs or services that provide for the “well-being, health, safety, and security of the inmates and the facility,” would fall outside the scope of subsection 351.0415(c)(5). While the sheriff must determine the appropriateness of these expenditures in the first instance, the sheriff’s determination is subject to judicial review under an abuse of discretion standard, as well as administrative review by the Commission on Jail Standards. *See* Tex. Att’y Gen. Op. Nos. GA-0901 (2011) at 3 (recognizing the actions of a sheriff are subject to judicial review under an abuse of discretion standard), JC-0214 (2000) at 6 (same), JM-1199 (1990) at 2–3 (same); *see also* TEX. GOV’T CODE § 511.011 (“If the commission finds that a county jail does not comply with state law . . . or the rules, standards, or procedures of the commission, it shall report the noncompliance to the county commissioners and sheriff of the

²Upon review of the *Mills v. State* decision, the Texas Supreme Court determined that the judgment and the legal principles announced in the opinion of the court of appeals were correct. Thus, “[t]he court of appeals’ opinion in the case has the same precedential value as an opinion of the Supreme Court.” TEX. R. APP. P. 56.1(c).

county responsible for the county jail and shall send a copy . . . to the governor.”), 511.012(a) (giving sheriff a reasonable period up to one year “to comply with commission rules and procedures and state law”), 37 TEX. ADMIN. CODE § 291.3(5) (requiring that commissary proceeds be spent “in accordance with the Local Government Code § 351.0415”).

S U M M A R Y

Local Government Code section 351.0415 limits an expenditure of commissary proceeds to items or services that benefit inmates. Because of the sheriff's exclusive authority over commissary proceeds under section 351.0415, the propriety of an expenditure from those funds is a question for the sheriff to determine in the first instance subject to administrative review by the Commission on Jail Standards or judicial review for abuse of discretion.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

VIRGINIA K. HOELSCHER
Chair, Opinion Committee

CHARLOTTE M. HARPER
Assistant Attorney General, Opinion Committee

Pedro Luis Ramirez

From: Josephine Ramirez <josephine.ramirez@da.co.hidalgo.tx.us>
Sent: Thursday, July 27, 2017 4:08 PM
To: Roy Quintanilha
Cc: Victor Garza; Chief Mario Lopez; Sheriff Guerra; Pedro Luis Ramirez; Joel Rivera; Emilia Uriegas; Belinda Madrigal; Jennifer Smith
Subject: Re: Use of Commissary Funds.

Chief,

As our office has previously advised, so long as the purchase of the physical plant improvements/equipment will provide for the well-being, health and safety of the inmates and/or the facility as required by law, it is a permissive purchase under 351.0415 of the Texas Local Government Code.

Should you need any additional information, please feel free to contact our office.

Josephine Ramirez Solis

Assistant Criminal District Attorney

Chief - Civil Division

Office of Criminal District Attorney

Hidalgo County, Texas

100 E. Cano

Edinburg, TX 78539

(956) 292-7609 ext. 8186

(956) 318-2079 FAX

josephine.ramirez@da.co.hidalgo.tx.us

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On Fri, Jul 21, 2017 at 4:41 PM, Roy Quintanilha <roy.quintanilha@hidalgo.org> wrote:
Good afternoon Ms. Ramirez,

The Hidalgo County Sheriff's Office Adult Detention Facility is needing to replace the two boilers that currently provide hot water to the jail. The water is used for:

- Inmate Hygiene to be able to wash and shower.
- Laundry for Inmates.
- Washing of plates, trays and drinking containers used by inmates.

Because boilers are antiquated, we cannot not replace them with two new ones of the same capacity. We will be replacing the two with three (3) new ones (smaller capacity units) that will provide the facility with the hot water needed to keep and maintain a sanitary environment for the inmates and meet standards.

Our budget does not have the funds to replace the boilers. We are confident that the purchase of the boilers meet the standard for use of Commissary funds:

Local Government Code 351.0415

Sec. 351.0415. COMMISSARY OPERATION BY SHERIFF OR PRIVATE VENDOR. (a) The sheriff of a county or the sheriff's designee, including a private vendor operating a detention facility under contract with the county, may operate, or contract with another person to operate, a commissary for the use of the inmates committed to the county jail or to a detention facility operated by the private vendor, as appropriate. The commissary must be operated in accordance with rules adopted by the Commission on Jail Standards.

(b) The sheriff or the sheriff's designee:

(c) The sheriff or the sheriff's designee may use commissary proceeds only to:

(5) fund physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility.

Attached for your review are quotes for the removal of the old boilers and installation of the new boilers.

As has been established prior to an expenditure of this type, we are requesting for you to review.

Thank you in advance for your attention to this matter.

Chief Roy Quintanilha
Hidalgo County Sheriff's Office
Adult Detention Division

