

Pedro Luis Ramirez

From: Josephine Ramirez <josephine.ramirez@da.co.hidalgo.tx.us>
Sent: Friday, March 01, 2019 10:08 AM
To: Pedro Luis Ramirez
Cc: Chief Roy Quintanilha; Steve Herrera; Belinda Madrigal; Joe Vasquez; David Friedlein; LT Esteban Caro 1375; Emilia Uriegas; Sabrina Rodriguez
Subject: Re: Use of Commissary Funds

Mr. Ramirez,

Thank you for your inquiry. As our office has previously advised, so long as the repairs proposed to be made/purchased will provide for the well-being, health and safety of the inmates and the facility as required by law, it is a permissive purchase under 351.0415 of the Texas Local Government Code. Here, it appears that the proposed purchase/repair, as you have described, would fall within the plain meaning of the statute that sets out how commissary proceeds may be used. The Local Government Code dictates that the sheriff or the sheriff's designee may use commissary proceeds for a limited number of purposes, one of which is:

"[to] 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."

Tex. Loc. Gov't Code §351.0415(c)(5).

As you have represented that the proposed purchase will be used for the well being, health, and safety of inmates, and without further guidance that such a purchase is not permitted by section 351.0415(c)(5), it is our belief that the Sheriff's Office may use these funds for this expense.

Further, as the Sheriff has wide discretion to determine how to use these funds to meet the needs of the inmates and the facility, these appear to be permissible purchases in accordance with the applicable code provisions.

Should you need any further clarification from our office, please feel free to contact me.

Thank you,

Josephine Ramirez Solis

Assistant Criminal District Attorney

Chief - Civil Division

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On Fri, Mar 1, 2019 at 7:59 AM Pedro Luis Ramirez <pedro.ramirez@hidalgoso.org> wrote:

Good Morning Ms. Ramirez,

Our office is contemplating using Commissary Funds to repair damages in the jail's kitchen floor drain areas. Texas Local Government Code Section 351.0415 states the following:

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:
 - (1) has exclusive control of the commissary funds;

- (2) shall maintain commissary accounts showing the amount of proceeds from the commissary operation and the amount and purpose of disbursements made from the proceeds; and
- (3) shall accept new bids to renew contracts of commissary suppliers every five years.
- (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.

We believe that the repair of these damages meets the test under 351.0415 (c) (5). These improvements will include an application to clean the floor drains by the cooking area and freezer/refrigerator areas, which will prevent flooded floors that may further cause shutdowns, slip hazards, foul odors, health code violations and the possible spread of illnesses from the accumulation of food scraps and solid waste. In essence, this project will prevent unsanitary conditions in the kitchen area, bearing in mind the well-being, health, safety, and security of the inmates and the facility.

Please review and provide your opinion regarding the use of commissary funds for this project.

Sincerely,

Pedro Luis Ramirez, MACC, MBA, MPP

Accountant IV

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