



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL  
ATTORNEY GENERAL**

**March 28, 1951**

**Hon. J. C. McEvoy  
County Attorney  
Waller County  
Hempstead, Texas**

**Opinion No. V-1159**

**Re: Necessity for a favor-  
able county-wide elec-  
tion and advertisement  
for competitive bids  
precedent to contract  
by commissioners' court  
for the use of a city's  
fire fighting equipment.**

**Dear Sir:**

Reference is made to your request in which  
you ask:

Does the Commissioners' Court of Waller  
County, Texas have the authority to enter  
into contracts with the governing body of  
any city, town or village within said county  
for the use of the fire trucks and other  
fire fighting equipment of such city, town  
or village to be used in said county outside  
the city limits of such city, town or vil-  
lage?

In the event that question 1 above  
should be answered in the affirmative, is  
a majority vote of property owning taxpayers  
and qualified voters of such county at a  
county-wide election a condition precedent  
to the right of such Commissioners' Court  
to exercise such authority?

Would any contract contemplated by  
question 1 above be required to be adver-  
tised under the provisions of Article  
2368a, V.C.S.?

Attorney General's Opinion O-6160 (1944)  
answers your first question, and the Commissioners'  
Court of Waller County may enter into contracts with  
the governing body of any city or town within the  
county for the use of the fire trucks and other fire

fighting equipment of such city or town in the county outside the city limits of such city or town. We are enclosing a copy of the opinion above mentioned.

Article 2351a-1, V.C.S., provides, in part:

"The Commissioners Court in all counties of this State shall be authorized to furnish fire protection and fire fighting equipment to the citizens of such county residing outside the city limits of any city, town, or village within the county and/or adjoining counties. The Commissioners Court shall have the authority to purchase fire trucks and other fire fighting equipment by first advertising and receiving bids thereon, as provided by law. The Commissioners Court of any county of this State shall also have the authority to enter into contracts with any city, town, or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of such city, town, or village, for the use of the fire trucks and other fire fighting equipment of the city, town, or village. . . . Provided, however, that any fire equipment purchased by any County shall be done only by a majority vote of property owning taxpayers and qualified voters of such county at a county-wide election called for such purpose."

It is observed that the above quoted statute requires a county-wide election to be held only when the county is purchasing fire fighting equipment. In the instant case, the county is not purchasing fire fighting equipment but is entering into a contract with incorporated cities in Waller County whereby the county will pay so much money to the cities, and the cities in turn will furnish fire protection to property lying outside the corporate limits of such cities. Since fire fighting equipment is not to be purchased by the county, it is our opinion that a county-wide election is not required to be held before the commissioners' court may enter into contracts inquired about in your first question.

Section 2 of Article 2368a, V.C.S., provides, in part:

"No county, acting through its Commissioners Court, and no city in this State shall hereafter make any contract calling for or requiring the expenditure or payment of Two Thousand (\$2,000.00) Dollars or more out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids. . . ."

The purpose of Article 2351a-1, V.C.S., is to give fire protection to property lying outside the corporate limits of cities and towns within the county. In order to accomplish this purpose, Article 2351a-1 authorizes the commissioners' court to enter into a contract with any particular city whereby the county will pay a certain sum of money and the city will furnish fire protection to the people living outside such city limits. Such a contract could not be required to be let under competitive bids as provided under Article 2368a, because such a requirement would destroy the right of the commissioners' court to contract with any particular city and would limit its power to contract to those cities which were the successful bidders. To hold that competitive bids are necessary would thwart the very purpose for which Article 2351a-1 was passed, because the successful bidder might be a city far removed from the area which is to receive the protection under the contract. It is our opinion, therefore, that such contracts made in pursuance to Article 2351a-1 are not within the contemplation of Article 2368a.

#### SUMMARY

A county-wide election is not required under the provisions of Article 2351a-1, V.C.S., before the commissioners' court is authorized to make a contract

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with cities whereby the county agrees to pay a sum of money to cities upon the condition that the cities will give fire protection to the adjacent territory outside the corporate limits of such cities. Such contracts are not required to be let under competitive bids.

APPROVED:

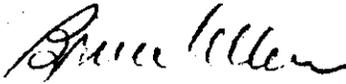
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Yours very truly,

PRICE DANIEL  
Attorney General

By   
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BA:mv

Enclosure