



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

December 7, 1988

Honorable James Warren Smith  
Frio County Attorney  
P. O. Box V  
Pearsall, Texas 78601-1138

LO-88-130

Dear Mr. Smith:

Because of the tremendous increase in the volume of requests for opinions and open records decisions, we are responding to your request with the enclosed Letter Opinion or Open Records Ruling. A Letter Opinion or Open Records Ruling has the same force and effect as a formal Attorney General Opinion or Open Records Decision, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent Letter Opinion or Open Records Ruling, a formal Attorney General Opinion or Open Records Decision, or a decision of a court of record.

Very truly yours,

A handwritten signature in cursive script that reads "Jim Mattox".

J I M M A T T O X  
Attorney General of Texas

JAM/bc  
Enclosure



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December 7, 1988

Honorable James Warren Smith  
Frio County Attorney  
P. O. Box V  
Pearsall, Texas 78601-1138

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Dear Mr. Smith:

You ask whether Frio County equipment, personnel, and materials may be used to perform work on private property. You describe the transaction which prompted your inquiry as follows:

In the recent past the . . . Court by resolution approved and adopted . . . several leases on behalf of the County as Lessee with a non-profit corporation as Lessor. The purpose of the leases was to use a county water truck and county employees to spray down a privately-owned (owned by the non-profit corporation) rodeo arena to control blowing dust/sand prior to a rodeo and now a calf-roping contest. They would lease the arena for a short period of time, i.e. for several days, and the County would pay \$1.00 for the lease.

The transaction you describe to us is beyond the powers of the county, because it is forbidden by the constitution.

Article III, section 52, of the Texas Constitution prohibits a county from donating funds to a private corporation. That provision does not prohibit a county from contracting with private corporations. Attorney General Opinion JM-65 (1983). Rather, it requires that a county contract with a private corporation serve a public purpose and that the county receive adequate consideration. Attorney General Opinions JM-716 (1987); MW-373 (1981). Further, a county contract with a private corporation must provide sufficient assurance that a public purpose will be served. Id.; Attorney General H-912 (1976). You do not

Honorable James Warren Smith, Jr.  
December 7, 1988  
Page 2

suggest and we cannot imagine any possible public purpose that would be served by the county's paying to provide a benefit to a private corporation.

Sincerely,

*D. R. Bustion, II*  
D. R. Bustion, II  
Assistant Attorney General  
Opinion Committee

APPROVED: Sarah Woelk, Chief  
Letter Opinion Section

DRB/SW/bc

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