



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 20, 1994

Honorable Mike Driscoll
Harris County Attorney
1001 Preston, Suite 634
Houston, Texas 77002-1891

Letter Opinion No. 94-050

Re: Whether a commissioners court is authorized to require a county purchasing agent to make purchases by and for a county-wide hospital district (RQ-506)

Dear Mr. Driscoll:

Your inquiry concerns the authority of the Harris County Commissioners Court ("the commissioners court"), over the purchasing agent of the county. You advise that in an effort to achieve greater efficiency, the commissioners court is contemplating the transfer and merger of the purchasing and materials management functions currently performed by employees of the Harris County Hospital District ("the hospital district"), to the Harris County purchasing agent. Although the opinion process is an inappropriate forum for factual determinations, a brief review of the relevant facts is necessary to our analysis. *See* Attorney General Opinion DM-212 (1993).

You state that the district was created by voter approval in November of 1965.¹ Later that month, the commissioners court appointed the Harris County Purchasing Agent to serve as purchasing agent for the newly created hospital district. In December of that year, the commissioners court rescinded its previous order and ordered that the hospital district board to "work out procedures for purchasing and submit same to the Commissioners' Court for approval." You further state that at least two sets of purchasing procedures were submitted to the commissioners court by the hospital board and, in each instance, they were approved. Pursuant to these procedures, the hospital district and its employees have made purchases for the district since 1965. Based upon these facts, you ask whether the commissioners court is authorized to transfer the purchasing and management functions of the hospital district to the county purchasing agent. We conclude that such authority exists.

¹The Harris County Hospital District was created pursuant to former article 4494n, V.T.C.S., *see* Acts 1953, 53d Leg., ch. 266, which provision is now codified in sections 281.001 through 281.003 of the Health and Safety Code, *see* Acts 1989, 71st Leg., ch. 678, § 13(1) at 3165.

The Health and Safety Code specifically recognizes the authority of the commissioners court in reference to the purchasing and accounting methods and procedures for hospital districts.

- (a) The commissioners court may prescribe:
 - (1) the method of making purchases and expenditures by and for the district; and
 - (2) accounting and control procedures for the district.
- (b) The commissioners court by resolution or order may delegate its powers under Subsection (a) to the board.
- (c) *A county officer, employee, or agent shall perform any function or service required by the commissioners court under this section.*
- (d) The district shall pay salaries and expenses necessarily incurred by the county or by a county officer or agent in performing a duty prescribed or required under this section.

Health & Safety Code § 281.049 (emphasis added). The legislature enacted section 281.049 (formerly article 4494n, V.T.C.S.) with the intent that the commissioners court would have the power to prescribe the accounting and control procedures for a hospital district, or that "any and all" of the powers granted may be delegated to another county officer, employee or agent. *See* Attorney General Opinion M-102 (1967). Thus we conclude that pursuant to the authority found in section 281.049, the commissioners court may require the purchasing agent of Harris County to make purchases by and for the county hospital district. We further opine that it is within the authority of the commissioners court to repeal or rescind the previous delegation of purchasing authority. *See generally City of Belton v. Head*, 137 S.W. 417, 418 (Tex. Civ. App.--Austin 1911, no writ) (discussing the ability of a legislative body to repeal or rescind previous actions taken by it). Such a repeal, however, may only be effective when implemented with the same formality as the delegation. *See City of Panhandle v. Bickle*, 31 S.W.2d 843 (Tex. Civ. App.--Amarillo 1930, writ dism'd) (ordinance cannot be repealed by resolution or order, or motion of city council not passed and published with same formality as ordinance).

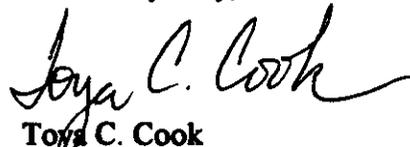
You also ask about the transfer of the materials management function from the hospital district to the purchasing agent. You state that such function includes inventory control and distribution. Because section 281.049(a)(2) specifically addresses itself to the "accounting and control procedures for the district," we conclude that the responsibility for such function may be transferred to the Harris County purchasing agent. *See generally*

Attorney General Opinion M-101 (1967) (county auditor given proper authority by commissioners court to keep in full force and effect accounting procedures for hospital district).

S U M M A R Y

The Commissioners Court of Harris County is authorized to require the purchasing agent of Harris County to make purchases by and for the Harris County Hospital District pursuant to section 281.049 of the Health and Safety Code. The court may also transfer the purchasing and management functions of the district to the purchasing agent.

Yours very truly,

A handwritten signature in black ink that reads "Toya C. Cook". The signature is written in a cursive style with a long, sweeping tail on the letter "h".

Toya C. Cook
Assistant Attorney General
Opinion Committee