



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 10, 1997

The Honorable Charles D. Penick
Criminal District Attorney
Bastrop County
804 Pecan Street
Bastrop, Texas 78602

Letter Opinion No. 97-109

Re: Whether a constable may purchase a police-equipped vehicle for both personal use and official duties from a dealer that has contracted with the state to sell vehicles under the State Purchasing and General Services Act (ID# 39547)

Dear Mr. Penick:

You ask whether an elected constable may purchase a police-equipped vehicle for both personal use and official duties from a dealer that has contracted with the state to sell vehicles under the State Purchasing and General Services Act.¹ A county constable has asked the commissioners court for a letter stating that he is a constable and that he is reimbursed for travel expenses, for the purpose of buying a police-equipped vehicle from a local automobile dealer. The dealer will not sell this kind of automobile for the state contract price to anyone other than police and police departments. The constable will own the vehicle personally and will pay sales taxes on it. It will be registered in the name of the constable, Bastrop County Precinct No. 3, his badge number and his name.

The state provides purchasing services for local governments pursuant to subchapter D, chapter 271 of the Local Government Code.² Section 271.082 of the Local Government Code requires the General Services Commission (the "commission") to establish a program to provide purchasing services for local governments, including counties. The commission must extend state contract prices to participating local governments, when it considers this feasible, and must solicit bids on items desired by local governments, when it considers this feasible and if the local government wishes it. A local government may participate in the purchasing program by filing with the commission a resolution adopted by its governing body requesting to be allowed to participate and stating that the local government will

(1) designate an official to act for the local government in all matters relating to the program, including the purchase of items from the vendor under any contract, and that the governing body will direct the decisions of the representative;

¹Gov't Code chs. 2151-76.

²*Id.* § 2155.204.

(2) be responsible for:

(A) submitting requisitions to the commission under any contract;
or

(B) electronically sending purchase orders directly to vendors and electronically sending to the commission reports on actual purchases made under this paragraph that provide the information and are sent at the times required by the commission;

(3) be responsible for making payment directly to the vendor; and

(4) be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.³

The purpose of the program is to provide "purchasing services for *local governments*,"⁴ not for the officers of a local government in their capacity as private persons. Authority to purchase from the vendor is vested in an official designated to act for the local government. The local government directs the decisions of its representative and is itself responsible for purchasing and paying for items made available to it under a state contract. None of these provisions authorize a county officer to purchase items available under a state contract for his personal use. Accordingly, the constable may not purchase for personal ownership a police-equipped car from a vendor who is selling them pursuant to the local purchasing program established by the commission under chapter 271, subchapter D of the Local Government Code. Purchases may be made only for the county and must be made by an official designated by the county to act for it in matters relating to the purchasing program.

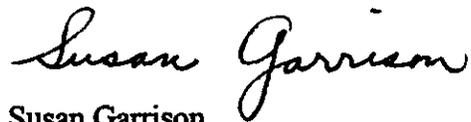
³Local Gov't Code § 271.083(a).

⁴*Id.* § 271.082 (emphasis added).

S U M M A R Y

Chapter 271, subchapter D of the Local Government Code requires the General Services Commission to establish a program to provide "purchasing services for *local governments*," not for the officers of a local government in their individual capacity. A constable may not purchase for personal ownership a police-equipped car from a vendor who is selling them pursuant to the local purchasing program established by the commission pursuant to subchapter D.

Yours very truly,

A handwritten signature in cursive script that reads "Susan Garrison".

Susan Garrison
Assistant Attorney General
Opinion Committee