



Office of the Attorney General  
State of Texas

February 13, 1998

DAN MORALES  
ATTORNEY GENERAL

The Honorable Joe F. Grubbs  
Ellis County and District Attorney  
Ellis County Courthouse  
Waxahachie, Texas 75165-3759

Letter Opinion No. 98-007

Re: Whether Local Government Code section 381.004 authorizes a commissioners court to provide funds to a small business development center (RQ-960)

Dear Mr. Grubbs:

You ask whether Local Government Code section 381.004 authorizes a commissioners court to provide funds to a small business development center. We conclude that section 381.004 does not authorize a commissioners court to appropriate funds to a program that was not developed by the county and is not administered either by the county or by another entity under contract with the county.

Chapter 381 of the Local Government Code sets forth various mechanisms by which a commissioners court may promote economic development in the county. You inform us that the commissioners court in your county has not appointed a county industrial commission pursuant to section 381.001 or created a board of development under section 381.002. You do not indicate that the small business development center is a community and economic development project authorized under federal law for purposes of section 381.003. Therefore, we do not address those provisions.

Your inquiry focuses on section 381.004, which provides in pertinent part as follows:

(b) To stimulate business and commercial activity in a county, the commissioners court of the county *may develop and administer a program:*

- (1) for state or local economic development;
- (2) for small or disadvantaged business development;
- (3) to stimulate, encourage, and develop business location and commercial activity in the county; or
- (4) to improve the extent to which women and minority businesses are awarded county contracts.

(c) The commissioners court may:

- (1) *contract with another entity for the administration of the program;*
- (2) authorize the program to be administered on the basis of county commissioner precincts;
- (3) use county employees or funds for the program; and
- (4) accept contributions, gifts, or other resources to develop and administer the program.

Local Gov't Code § 381.004 (emphasis added). For purposes of section 381.004, "another entity" includes "the federal government, the State of Texas, a municipality, school or other special district, finance corporation, institution of higher education, charitable or nonprofit organization, foundation, board, council, commission, or any other person." *Id.* § 381.004(a)(1).

Information included with your request states that "Small Business Development Centers are located throughout the United States, operated under a cooperative agreement among Universities, Community Colleges and the Small Business Administration. The Navarro Center is a unit of the North Texas Network, governed by the fiduciary agent, Dallas County Community College District. . . . The Navarro Center Personnel are employees of Navarro College. . . ."

Subsection (b) of section 381.004 authorizes a commissioners court to "develop and administer a program" to stimulate business and commercial activity in the county. Subsection (c) authorizes a county to contract with another entity to administer the program and to use county funds for the program. Based on the language of these provisions, we believe the purpose of section 381.004 is to authorize county-initiated, county-based programs. The language in subsection (c)(1) authorizing a county to contract with another entity to administer a program is clearly limited to a program authorized by subsection (b), that is a program that the county has developed. We do not believe that a county's authority to contract for the administration of a program permits a county to subsidize a program developed and administered by another entity. In sum, we conclude that section 381.004 authorizes a county to fund a program developed by the county and administered either by the county or by another entity under contract with the county; it does not authorize a county to provide funds to any other program.

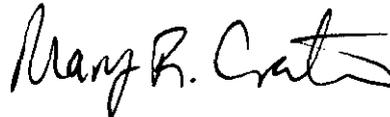
From the information you have provided, it appears that the small business development center at issue is not a program developed by the county and administered either by the county or another entity under contract with the county. For this reason, we do not believe that section

381.004 authorizes the commissioners court to appropriate funds to the center.<sup>1</sup> We do not address whether the expenditure you describe is authorized under any other law.

**S U M M A R Y**

Local Government Code section 381.004 does not authorize a commissioners court to appropriate funds to a small business development program that was not developed by the county and is not administered either by the county or by another entity under contract with the county.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

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<sup>1</sup>Because we conclude that section 381.004 is inapplicable to the situation you describe, we need not address your questions about its constitutionality. This office has not yet addressed whether section 381.004 was enacted to implement Texas Constitution article III, section 52-a. *See* Letter Opinion No. 96-035 (1996) at 2 n.2; *see also* Attorney General Opinion DM-185 (1992) (concluding that Local Government Code section 380.001, a similar statute applicable to cities, implements article III, section 52-a). We note, however, that this office has stated that article III, section 52-a does not alter certain constitutional limitations applicable to use of public funds. *See* Attorney General Opinion JM-1255 (1990) at 8-9 (“[T]here is no language in either section 52-a or in the relevant commentary to suggest that the amendment was intended to change the requirements that public resources and powers be used for ‘the direct accomplishment of a public purpose’ and that transactions using such resources and powers contain sufficient controls ‘to insure that the public purpose be carried out.’ . . . It merely adds to the purposes for which the legislature may authorize the loan or grant of public funds.”).