



COUNTY OF EL PASO
OFFICE OF THE COUNTY AUDITOR

S. E. SEELY
COUNTY AUDITOR

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June 2, 1993

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The Honorable Dan Morales
Attorney General of the State of Texas
P. O. Box 12548
Austin, Texas 78711-2548

I.D.# 20667

Attention: Opinion Committee

RQ-565

Registered Mail - Return Receipt Requested

Dear General Morales:

Pursuant to the *Texas Government Code*, § 402.042(b)(8), your written legal opinion about some of El Paso County's investment practices is respectfully requested. In particular, these questions are:

1. Under the *Texas Code of Criminal Procedure*, Art. 17.02, the County receives cash bail bond funds. Must the County maintain a special and separate checking account for these cash bail bond funds?
2. If your answer to the above question is negative, then can the cash bail bond funds be deposited directly into the County Treasury, escrowed in the general fund and invested from the general fund's escrow account? If so, can the resulting interest income be credited to the County's general fund? If not, then what would be the proper disposition of the interest income?
3. If your answer to question number 1 is affirmative, can the cash bail bond funds be invested from the special and separate checking account? If so, can the interest income generated by the investments be deposited into the County Treasury and credited to the County's general fund interest income account? If the interest income cannot be deposited into the County Treasury and credited to the general fund, then what would be the proper disposition of the interest income?

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4. The County deposits inmate monies in a trust fund in accordance with the *Texas Government Code*, § 500.014. Can the County invest these inmate trust fund monies under its control and use the resulting interest income in its general fund?

The County's investment policies, as required by the *Texas Civil Statutes*, Art. 842a-2, Sec. 5, are contained in the enclosed booklet. These policies were duly approved by commissioners court Wednesday, March 24, 1993. These investment policies, among many topics, refer to the *Texas Civil Statutes*, Art. 842a-2, Sec. 2. This statute provides, in part, that ". . . a county . . . may, in accordance with this Act, . . . invest its funds and funds under its control . . ." It is my belief that the language and intent of this statute are broad enough to allow the county, in its discretion, to invest all or any part of these funds from the general fund and use the interest income that is generated by such investments. If my belief is accurate, commissioners court may use this source of revenue to defray some of the expenses associated with the administration of the operations that are related to these funds.

Your response to these questions will be useful and appreciated.

Very truly yours,


S. E. Seely
County Auditor

SES:ya

Enclosure

cc: The Honorable Alicia R. Chacón, County Judge
The Honorable Charles C. Hooten, County Commissioner
The Honorable Orlando Fonseca, County Commissioner
The Honorable Jimmy Goldman, County Commissioner
The Honorable Rogelio Sanchez, County Commissioner
The Honorable Leo Samaniego, County Sheriff
Mr. Mike Navarro, Bail Bond Administrator