

TIM CURRY
CRIMINAL DISTRICT ATTORNEY
401 WEST BELKNAP STREET
FORT WORTH, TEXAS 76106-0201 (817) 864-1620

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GOVERNMENTAL INQUIRY
UNIT

RQ-1093

Attorney General Dan Morales
P. O. Box 12548
Austin, Texas 78711

C.M./R.R.R. # Z 308 648 159

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FEB 18 1998

Re: 98-OP-187;
Opinion: Sheriff's Commission
Opinion Committee

Dear General Morales:

We request your opinion regarding the following two questions:

1. When the Sheriff contracts with a single outside supplier who provides personnel and delivers all commissary items to the inmates as authorized by § 351.0415(a) of the Texas Local Government Code (hereafter "the Code"), does the bidding requirement of § 351.0415 (b)(3) of the Code apply to the selection of the supplier?
2. If the answer to 1. is no, then the second question is: Does the bidding requirement of § 351.0415 (b)(3) of the Code require the outside supplier who is operating the commissary to accept bids from his suppliers to purchase goods sold in the jail commissary?

In Tarrant County a private vendor operates the commissary by virtue of a contract with the Sheriff. Attached is a copy of the contract. The private vendor buys all the items, staffs personnel, and through his employees sells the items to the inmates. The inmate trust funds, held by the Sheriff, are debited electronically for the cost of items sold to the inmate.

Two subsections in § 351.0415 of the Texas Local Government Code control.

- (a) The sheriff of a county may operate, or contract with another person to operate, a commissary for the use of the prisoners committed to the county jail. . . .

TEX.LOC.GOV'T CODE ANN. § 351.0415(a) (Vernon Supp. 1998).

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As I described in Tarrant County, the Sheriff contracts with another person, a private company, to operate the commissary. Subsection 351.0415 (b)(3) of the Code provides:

(b) The sheriff:

...

(3) shall accept new bids to renew contracts of commissary suppliers every five years.

TEX.LOC.GOV'T CODE ANN. § 351.0415 (b)(3) (Vernon Supp. 1998).

It clearly appears that when the Sheriff operates the commissary, he must take new bids every five years for the various items which he in turn sells to the prisoners. However, in Tarrant County one vendor supplies all the items and runs the commissary within the Tarrant County Jail. That vendor takes the position that the phrase "commissary suppliers" in subsection (b)(3) does not refer to "another person" in subsection (a). His reasoning is that the phrase "suppliers" must be persons from whom the sheriff purchased those goods when the Sheriff operates the commissary himself. He concludes that the Sheriff is required to bid when he purchases the goods from various vendors, but is not required to seek bids when an outside vendor operates a turnkey commissary operation.

With regard to the second question, the clear language of the statute indicates that the Sheriff must accept new bids every five years, however, the same language does not include the suppliers. Our research has uncovered no relevant interpretation of the statutes involved and therefore, I would appreciate your opinion regarding the answers to these questions.

Sincerely,



TIM CURRY

TC/sdb
Attachment