

TEXAS COMMISSION ON JAIL STANDARDS

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TECHNICAL ASSISTANCE MEMORANDUM

#21-01

TO: All Sheriffs and Jail Administrators
FROM: Brandon Wood, Executive Director
REGARDING: Commissary
DATE: January 8, 2021

This memo is to inform and remind jails regarding commissary and food purchasing contracts, and other commissary-related information such as the disposition of surplus property purchased with commissary proceeds.

Commissary and Food Service Vendor Contract Guidelines

Government Code §511.009 (a) (16) mandates that the Texas Commission on Jail Standards provide guidelines regarding contracts between a sheriff and another entity for the provision of food services or the operation of a commissary. The guidelines will include provisions regarding conflicts of interests and avoiding the appearance of impropriety. Therefore, the Commission sets forth the following guidelines for conducting business with a food service or a commissary vendor.

1. Strive to conduct all business with honesty, fairness, and integrity.
2. A sheriff should not participate in contract negotiations with the knowledge that the sheriff or a member of his or her immediate family has an actual or potential financial interest in the contract. The financial interest also includes prospective employment of a contract participant or family member.
3. A sheriff should not solicit or receive personal gifts or gratuities from present or potential vendors and contractors since this can influence or appear to influence procurement decisions.
4. Not be employed by or agree to work for a vendor or potential vendor while still holding the office of sheriff.
5. Grant all competitive suppliers equal consideration insofar as state statute, county, and institutional policy permit.
6. Conduct business with potential and current suppliers in the atmosphere of good faith, devoid of intentional misrepresentation.
7. Know and obey the letter and spirit of laws governing commissary and food-purchasing contracts and remain alert to the legal ramifications of purchasing decisions.
8. Make every reasonable effort to negotiate equitable and mutually agreeable settlements of controversies with a vendor(s), including the use of an independent mediator.

Judge Bill Stoudt, Longview, Chair
Dr. Esmail Porsa, M.D., Houston, Vice-Chair
Melinda E. Taylor, Austin

Sheriff Bryan Weatherford, Woodville
Sheriff Kelly Rowe, Lubbock
Patricia M. Anthony, Garland

Commissioner Ben Perry, Waco
Duane Lock, Southlake
Monica McBride, Alpine

"The Commission on Jail Standards welcomes all suggestions and will promptly respond to all complaints directed against the agency or any facilities under its purview".

To empower local government to provide safe, secure and suitable local jail facilities through proper rules and procedures while promoting innovative programs and ideas

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9. Treat with discretion all information obtained in confidence.
10. To foster government transparency, a sheriff should present copies of all commissary-related contracts to the county commissioners' court, not for approval, but for the purpose of making the contract accessible to the public.
11. Schedule a yearly audit of the commissary fund by the county auditor or outside audit firm hired by the county commissioners' court.
12. Foster fair, ethical and legal trade practices.

Attorney General Opinion GA-1094

The attached Attorney General (OAG) opinion issued GA-1094 outlines the disposition of surplus property purchased with commissary funds. In short, commissary property or equipment, purchased with commissary funds or proceeds, should not be transferred to a division or department within the sheriff's office that does not use the equipment for the benefit of inmates. For example, a computer used to track commissary inventory may not be transferred to the traffic enforcement division but could be transferred to the jail law or recreational libraries.

In addition, GA- 1094 states that "property purchased with commissary funds that no longer has any use of benefit for county jail inmates may be sold pursuant to section 263.152 of the Local Government Code. The proceeds from the sale may only be used in accordance with section 351.0415, and should be deposited into the commissary account from which equipment was originally purchased."

Submission of Commissary Audits

As a reminder, counties are required to submit yearly audits of commissary accounts, 10 days after the audit is complete.

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