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OPINION COMMITTEE



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Office of the Attorney General
Attention Opinions Committee
P.O. Box 12548
Austin, Texas 78711-2548

RE: Request for OAG Opinion

I am writing to ask for an opinion regarding Andrews County's responsibilities after the Commissioners' Court disburses money received under Health and Safety Code Chapter 401.244 with respect given to Article 3, Sec. 51 and 52 of the Texas Constitution.

Facts:

1. Andrews County receives five percent of the gross receipts from a compact waste disposal facility located in the County pursuant to Health and Safety Code Chapter 401.244.
2. Andrews County and the other local taxing entities have formed a committee of civic-minded local citizens to receive proposed projects, vet the projects and recommend qualified projects on which to spend these funds, to the Commissioners' Court for approval.
3. Some potential projects are rather large and include building facilities and purchases of tangible property or services that would normally require compliance with state procurement laws and various other laws if the projects were considered under the direct jurisdiction of the Commissioners' Court.
4. The committee has recommended a large project to be funded from these funds proposed by a local nonprofit corporation which is in good standing with the state and the IRS. This large project includes construction and furnishing of a building.

Questions:

1. How does Sec 401.244 of the Health and Safety Code interact with Article 3, Sec. 51 and 52 of the Texas Constitution?
2. Are the funds received under Sec 401.244 of the HS Code considered public funds?
3. If these funds are considered public funds and since this is a specifically identified, approved use of public money pursuant to Sec. 401.244 of the Health and Safety Code, what role must the Commissioners' Court assume after the disbursement of the funds to the nonprofit organization with regard to public control?
4. Must the entity receiving the funds comply with the procurement laws relating to the use of public funds?
5. May the Commissioners' Court disburse the money to a nonprofit or other organization described in Health and Safety Code Sec 401.244 and relinquish oversight responsibilities for such funds to the awarded entity?

Respectfully submitted,



Timothy J. Mason

Andrews County/District Attorney