



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

September 17, 1971

Honorable James R. Kittles
County Attorney
Henderson County Courthouse
Athens, Texas 75751

Opinion No. M-955

Re: Authority of a County Auditor to require that Requisition or "Purchase Order" be approved by him prior to incurring the expense presented for payment.

Dear Mr. Kittles:

Your request for an opinion reads in part as follows:

"I have been requested by the Henderson County Commissioners' Court to seek an opinion from you on the following subject:

"Starting August 1, 1971, Henderson County Auditor Hubert Boyd has taken the position that no claim, bill or account against the County will be approved by him for payment unless, prior to ordering the item or incurring the expense presented for payment, the county officer seeking approval of the claim, bill or account secured a "purchase order" (sample enclosed) signed by the County Auditor.

"Question: Can he legally do this?"

Article 1645, et seq., Vernon's Civil Statutes, set out the specific duties and authority of the office of the County Auditor and the County Auditors possess only such powers as are expressly conferred upon them by law or are necessarily implied from the powers so conferred. Attorney General's Opinion M-756 (1970), and authorities cited therein.

With respect to purchases of supplies or materials for

use of a county or its officers the functions of the County Auditor are defined by Article 1660 and 1661, Vernon's Civil Statutes. Attorney General's Opinions 0-6506 (1945) and WW-1346 (1962).

In Attorney General's Opinion WW-1346 it was held:

"In view of the foregoing authorities, it is our opinion that the Commissioners Court of Brazoria County is the fact-finding body to determine whether equipment, material and services were delivered to the county, and the reasonable value of such equipment and services.

"It is our further opinion that the county auditor is required to pay bills if Articles 1660 and 1661, Vernon's Civil Statutes, are complied with."

Article 1660, Vernon's Civil Statutes, provides:

"All claims, bills and accounts against the county must be filed in ample time for the auditor to examine and approve same before the meetings of the commissioners court. No claim, bill or account shall be allowed or paid until it has been examined and approved by the county auditor. The auditor shall examine the same and stamp his approval thereon. If he deems it necessary, all such accounts, bill, or claims must be verified by affidavit touching the correctness of the same. The auditor is hereby authorized to administer oaths for the purposes of this law."

Article 1661, Vernon's Civil Statutes, provides:

"He shall not audit or approve any such claim unless it has been contracted as provided by law, nor any account for the purchase of supplies or materials for the use of said county or any of its officers, unless, in addition to other requirements of law, there is attached thereto a requisition

signed by the officer ordering same and approved by the county judge. Said requisition must be made out and signed and approved in triplicate by the said officers, the triplicate to remain with the officer desiring the purchase, the duplicate to be filed with the county auditor, and the original to be delivered to the party from whom said purchase is to be made before any purchase shall be made. All warrants on the county treasurer, except warrants for jury service, must be countersigned by the county auditor."

In construing the above quoted provisions, it was held in Attorney General's Opinion 0-6506, supra.:

"With reference to the matter of requisitions, Article 1661 clearly states that requisitions are to be signed by the officer making the purchase and approved by the county judge. We find no authority for the county auditor to require, as a prerequisite to approval of a claim based on such purchase, that the requisition shall be signed or approved by him when the purchase is made.

". . .

"Although the county auditor has general oversight over the finances of the county, the exercise of such oversight with reference to purchases made and expenses incurred for the use of the county or by certain officers in the conduct of their offices, is defined and controlled by the specific provisions of the statutes pertaining to such purchases and expenses. In view of the foregoing and in view of the facts given, it is the opinion of this department that the county auditor is not authorized to require, as a prerequisite to his approval of a claim or items of expense, that all requisitions for such purchases or expense items shall be signed or approved by him at the time the purchase is made or the expense incurred."

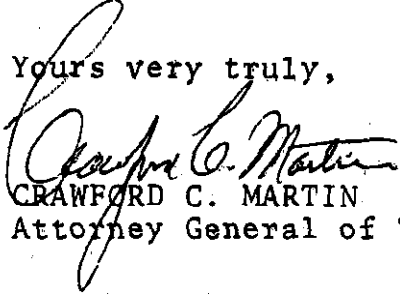
Hon. James R. Kittles, page 4 (M-955)

In view of the foregoing, our opinion is that the County Auditor may not require requisitions or "purchase orders" to be signed by him at the time the purchase is made or the expense incurred. On the contrary, it is the duty of the County Auditor to approve such purchases if Articles 1660 and 1661 are complied with.

SUMMARY

The County Auditor is not authorized to require as a prerequisite to his approval of a claim or items of expense that a requisition be signed and approved by him at the time the purchase is made or the expense incurred.

Yours very truly,


CRAWFORD C. MARTIN
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