

# AUDITING THE SHERIFF'S JAIL COMMISSARY

*Collin County*

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## Outline

- Overview
- Legal Requirements/Parameters
- Operations
- Audit

# Overview

## OVERVIEW

The commissary is operated for the use of the inmates committed to the county detention facility

The commissary sells food products, hygiene supplies, clothing and writing materials that are not provided to inmates by the County

## OVERVIEW

The commissary must be operated in accordance with rules adopted by the Commission on Jail Standards

*The sheriff or the sheriff's designee:*

- *Has exclusive control of the commissary funds*
- *Shall maintain commissary accounts showing the amount of proceeds from the commissary operation and the amount and purpose of disbursements made from the proceeds*
- *Shall accept new bids to renew contracts of commissary suppliers every five years*

## LEGAL REQUIREMENTS/PARAMETERS

Texas Local Government Code (LGC) 351.0415 grants the Sheriff the authority to operate, or contract with another person to operate, a commissary for the use of the inmates committed to the county jail

**When entering into a contract the sheriff or the sheriff's designee shall consider the following:**

- whether the contract should provide for a fixed rate of return combined with a sales growth incentive;
- the menu items offered by the provider and the price of those items;
- the value, as measured by a best value standard, and benefits to inmates and the commissary, as offered by the provider;
- safety and security procedures to be performed by the provider; and
- the performance record of the provider, including service availability, reliability, and efficiency.

## LEGAL REQUIREMENTS/PARAMETERS

In accordance with Local Government Code, Chapter 351, Section 0415  
The sheriff or the sheriff's designee may use commissary proceeds only to:

- fund, staff, and equip a program addressing the social needs of the inmates, including an educational or recreational program and religious or rehabilitative counseling;
- supply inmates with clothing, writing materials, and hygiene supplies;
- establish, staff, and equip the commissary operation and fund the salaries of staff responsible for managing the inmates' commissary accounts;
- fund, staff, and equip both an educational and a law library for the educational use of inmates; or
- fund physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility

## LEGAL REQUIREMENTS/PARAMETERS

Texas Local Government Code (LGC) 351.0415(d)

For a jail under the supervision of the sheriff, at least once each county fiscal year, or more often if the commissioners court desires, the auditor shall, without advance notice, fully examine the jail commissary accounts. The auditor shall verify the correctness of the accounts and report the findings of the examination to the commissioners court of the county at its next term beginning after the date the audit is completed.

## LEGAL REQUIREMENTS/PARAMETERS

### REFERENCES TO AG OPINIONS RELATED TO THE JAIL COMMISSARY

- GA – 1094 – The most recent opinion states that equipment purchased with commissary funds that no longer has any use or 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 the equipment was originally purchased.
- GA- 0791 – Interest on the commissary fund account – Texas courts follow the common-law rule that interest follows principle unless lawfully separated from the principle. Section 113.021 separates interest from funds “belonging to the county” and allocates it to the county general fund. Because the commissary fund is not a fund “belonging to the county”, interest remains with the commissary fund.
- GA -0901 – A county sheriff controls the county jail commissary fund, and as a result, the sheriff must make the initial determination, subject to judicial review, as to whether proceeds from the fund may be used for particular purposes. The proceeds may be used only to fulfill one of the five purposes described in section 351.0415(c) of the Local Government Code.

## LEGAL REQUIREMENTS/PARAMETERS

### REFERENCES TO AG OPINIONS RELATED TO THE JAIL COMMISSARY

- JC-0122 – A sheriff may expend commissary proceeds under section 351.0415 of the Local Government Code without complying with the County Purchasing Act, chapter 262, subchapter C of the Local Government Code. To the extent Attorney General Opinion MW-439 (1982) concludes that an expenditure from commissary proceeds must be competitively bid by the county commissioners court, it has been superseded by the enactment of section 351.0415.
- DM-67 – The county commissioners court may not interfere with the sheriff's exercise of discretion in contracting for the operation of a jail commissary under section 351.0415 of the Local Government Code. Any funds the sheriff receives that are attributable to the operation of the commissary are to be used for the benefit of inmates in accordance with section 351.0415. The county auditor is authorized to review commissary accounts, even if the accounts are maintained by the operator of the commissary.

## OPERATIONS

- Collin County currently uses Aramark Services as the vendor for the Commissary operations
- The County receives a percentage (based upon terms of the contract) of the net sales excluding items such as Texas State Sales Tax postage stamps, pre-stamped envelopes and tobacco product
- CORE is the name of the software provided by Aramark that is used to operate the daily functions of the commissary

## OPERATIONS

- Inmate Trust Fund accounts are established with funds that belong to the inmates. These are funds that were in the possession of the inmate upon incarceration or with funds deposited into the inmates' account after incarceration
- Inmates are allowed to purchase items based upon pre-determined times and dollar limits established by the Sheriff personnel
- Balances in the Trust accounts are reduced by the amount charged for items ordered by the inmates and increased by deposits

## OPERATIONS

Deposits can be made in person, by mail, telephone or electronically

TouchPay system is used in our County, which allows for several payment options for the customers, such as:

- Kiosk – Placed at the facility – Customers can either insert cash or input their credit card or debit card information into the Kiosk
- IVR (Interactive Voice Response System) - Customers can call a 1-800 number and make a payment using a credit card, debit card or check
- Web – Customers can access the web portal for TouchPay and make a payment using a credit card, debit card or check

## OPERATIONS

UPON RELEASE OF INMATE from the facility, the inmates are issued a disbursement of any remaining funds on their respective account in the form of a debit card or check

- Release of the inmate to society – Debit Card is issued
- Release of the inmate to another entity – Check is issued

# AUDIT

## OBJECTIVES - To evaluate:

- Disbursements are properly authorized, supported and approved for valid expenditures, and expenditures are accurately recorded in the County's financial records
- Expenditures for fixed assets are authorized and that assets are properly accounted for and secured
- Bank reconciliations and related cash balances are accurately and timely recorded in the County's financial records
- Commissary sales calculations are reviewed for accuracy and completion

# AUDIT

- The sales tax amount is applied where applicable and calculated accurately
- The appropriate amount and applicable inmate trust accounts are deducted from the sale of commissary items
- Abandoned inmate trust funds are escheated to the County and State in accordance with State statutes and County guidelines



## AUDIT

### TEST PROCEDURES PERFORMED-

- The commissary contract between the vendor and the county is reviewed to ensure that procedures are followed according to the approved contract and according to statutory requirements
- Disbursements are audited for proper authorization and existence of supporting documentation to ensure validity of expenditures
- Bank reconciliations are tested for accuracy and completeness
- Commissary sales calculations are reviewed to evaluate the accuracy of the calculations including the commissions received

## AUDIT

- Tests are conducted to ensure that sales tax is applied where applicable and accurately
- Items sold are reviewed to ensure that the items are on the approved list of menu items to be sold
- Tests are conducted to ensure the appropriate items, amounts (cost of items) and applicable inmate trust accounts are deducted upon the sell of commissary items
- Abandoned Funds – Outstanding checks on the bank reconciliations are reviewed to ensure that stale-dated checks are followed up on in a timely manner and escheatment procedures are adhered to per statutory requirements and County guidelines

# AUDIT

## ASSESSMENT OF INTERNAL CONTROLS OVER THE JAIL COMMISSARY

- Access to the vendor system established for the commissary
- Separation of duties
- Physical security over the inventory

The End of Presentation

Thank You