

LEO FLORES
Webb County Auditor

1110 Washington St. – Suite 201
Laredo, TX 78040

956-523-4016
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June 9, 2014

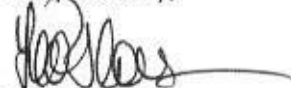
Webb County Judge & Commissioners
Webb County Courthouse
Laredo, Texas 78040

Hon. County Judge & Commissioners:

I enclose herewith the following for your information and for county records:

- A letter dated May 14, 2014, from County Attorney Marco Montemayor to County Auditor Leo Flores reference CAA WEATHERIZATION SERVICES PAYMENT
- A response letter dated June 3, 2014 from County Auditor Leo Flores to County Attorney Marco Montemayor reference LAREDO ACCURATE INSPECTIONS, INC.
- Email correspondence from Ramon Villafranca to Leo Flores in response to two questions.
- Email correspondence from Leo Flores to Ramon Villafranca with regard to the response of the two questions
- Copy of a General Purpose Request for Payment to Laredo Accurate Inspections, Inc. signed by county attorney Marco Montemayor
- Copy of a FINAL SETTLEMENT AGREEMENT AND ORDER CAUSE NO. 2013CVFOO1224D1 LAREDO ACCURATE INSPECTIONS, INC. VS. WEBB COUNTY, TEXAS.
- Email correspondence from attorney Jim Allison to Commissioner Galo in response to information for payment of the lawsuit settlement claim and copy of AG Opinion LO No.98-103 referenced by Mr. Allison.
- Copy of a letter dated June 9, 2014 from County Auditor Leo Flores to Hon. Webb County Judge & Commissioners referenced SETTLEMENT AMOUNT TO LAREDO ACCURATE INSPECTIONS, INC.

Respectfully,



Leo Flores

Webb County Auditor

WEBB COUNTY ATTORNEY'S OFFICE
1110 WASHINGTON ST., SUITE 301
LAREDO, TEXAS 78040



MARCO A. MONTEMAYOR
Webb County Attorney

Telephone (956) 523-4044
Telecopier (956) 523-5005

May 14, 2014

Mr. Leo Flores
Webb County Auditor
1110 Washington, Suite 201
Laredo, Texas 78040

RE: CAA WEATHERIZATION SERVICES PAYMENT

Dear Mr. Flores:

I am aware of your concerns regarding the lawsuit settlement payment to Laredo Accurate Inspection, Inc. As you know, this lawsuit stems from the lack of payment to contractors who provided services to Webb County's CAA weatherization program. The above-mentioned company filed a claim for payment for the services provided under said program and said claim has been neglected to be paid by the county. Subsequently, in late 2013, the contractor filed a lawsuit against the county for outstanding monies owed on said claim. During this time, the parties entered into a negotiated settlement agreement that was approved and signed by the 49th District Court. Therefore, I am including with this letter, a copy of the signed Judgment, for your review and file.

As you are aware, under Texas Local Government Code Section 113.065, the "county auditor may not audit or approve a claim unless it has been incurred as provided by law." Although, I believe that this claim, as presented, is a valid claim and was "incurred as provided for by law," you have expressed certain concerns regarding this matter. In that respect, the signed judgment in said civil case is a valid court order that provides the legal basis for the county to pay for the services and in addition, satisfies the condition as set out under 113.065, as "incurred by law." *See Tex. Att'y*

Gen. Op. No. GA-0383(2005); and Tex. Att'y Gen. Op. No. GA-0247(2004); and Santoya v. Pereda, 75 S.W.3d 487(Tx Ct of Appeals-S.A.).

In addition, you have expressed similar concerns regarding the use of county funds. To be clear, the weatherization assistance program is administered by the Webb County Community Action Agency (C.A.A.), which is a department of Webb County. The Webb County C.A.A. department operates the weatherization program with funds from different federal agencies. Said program is monitored by and through the relevant and responsible state and federal agency(s). The program is federally funded and is designed to help low income Webb County residents control their energy costs through installation of energy weatherization materials in their homes. The program allows qualifying individuals to receive the benefits of the weatherization program as allowed by the terms of the grant. The "Recitals" of the program and the contracts specifically state the county has a "desire to provide services with a goal towards correcting energy waste and stabilizing communities through housing repairs, and the value of coordinating services to families, and the importance of services that provide installation of functional energy efficient appliances weatherization, and a goal towards facilitating the provision of services such as housing repairs;" Likewise, the "Recitals" continued to state that the county agreed and recognized "that the cooperation established by way of this agreement is based on assisting qualifying families in need, and Webb County's recognition of the necessity of cooperation and collaboration in making the...services available, and its desire to enter into an agreement to continue to efficiently and effectively provide such services to the community." These recitals were included to establish, effectuate and validate the benefits to Webb County and the communities where the programs were implemented. The Commissioner's court specifically identified and stated that the program and its services serve a "public benefit." In effect, the court action characterized the expenditures as serving a "public benefit."

There are several cases and Texas Attorney General Opinions dealing with this type of issue. In *Texas Mun. League Intergovernmental Risk Pool v. Texas Worker's Comp Comm'n*, 74 S.W.3d 377, 383 (Texas 2002), "the court held that spending public funds for a legitimate public purpose to obtain a clear public benefit is not an unconstitutional grant of public funds." In addition, the Texas Attorney General has stated in various opinions that "in making an expenditure of county funds that benefits a private person or entity,..... a commissioner's court will avoid violating article III section 52, if it i.) determines in good faith that the expenditure serves a public purpose and ii.) places sufficient controls on the transaction, contractual or otherwise, to ensure the public purpose is carried out." See, *Tex. Att'y Gen. Op. No. JC-0582(2002)(citing Tex. Atty Gen. Op. No. JC-O439(2001)*. Also, the Texas Attorney General has opined that "if an object is beneficial to the inhabitant(s) and directly connected with the local government it will be considered a public purpose." See, *Tex. Att'y Gen. ORD-660(1999), Tex. Att'y Gen. Op. No. JC-212(2000)*.

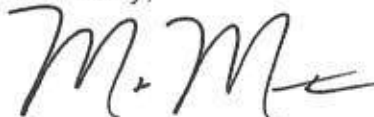
Furthermore, although the county was administering the program on a reimbursement basis, the county is still obligated to pay for the services rendered by the contractors. The county is contractually obligated under the terms of the contract(s) for the services provided and may not be unjustly enriched by accepting the services provided by the contractors without rendering payment for such services. The county

could face liability under several legal theories including but not limited to breach of contract, and other judicially recognized equitable legal doctrines, such as Unjust Enrichment, Promissory Estoppel and Quantum Meruit.

Therefore, it is my legal opinion that the county will not violate the law by paying for valid claims incurred under the Weatherization program.

If you have any questions or concerns, please don't hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, consisting of stylized initials 'M. M.' followed by a horizontal flourish.

Marco A. Montemayor
Webb County Attorney



LEO FLORES

Webb County Auditor

1110 Washington St.
Suite # 201
Laredo, Tx. 78040

956-523-4016
(fax) 956-523-5001

June 3, 2014

Mr. Marco Montemayor
Webb County Attorney
1110 Washington, Suite 301
Laredo, Texas 78040

REF: LAREDO ACCURATE INSPECTIONS, INC.

Dear Mr. Montemayor:

With regard to the lawsuit settlement payment to Laredo Accurate Inspections, Inc. (LAI), let me begin by saying that when initial discussions about the settlement of claims by weatherization contractors first surfaced in late 2011, I requested three opinions. From county attorney Ann Laura Cavazos Ramirez, I requested her opinion on whether the claims were legally incurred and as to whether public funds could be used for private purposes. From then acting CAA director Juan Vargas, I requested an opinion as to whether the contractors complied with the contract condition that work was done "in compliance with the Texas Department of Housing and Community Affairs (TDHCA) guidelines". I never received a response from Ms. Cavazos. When you began to look at the same matter, I copied you with the same request I had made to Ms. Cavazos. I received a response from you on May 14, 2014.

The point being that my request for these opinions is not new although that has been implied by a commissioner. And neither have I refused to pay a contractor's claim as is being said by the same commissioner. Puzzling is the fact that this commissioner went as far as to instruct you to get a Writ of Mandamus to force the Auditor to approve payment of the subject claim, something that should be considered by the opposing attorney and not our county attorney. The commissioner has gone even further by requesting an opinion from attorney Jim Allison on the matter. I can safely assume that he acted on his own rather than with the court's consent. Sad to mention but from the very beginning of this ordeal, the commissioner's actions have shown more favor and support for the claimant than they have for the county.

But nevertheless, as you mention, the Auditor is prohibited by law from approving a claim that was not incurred as provided by law. I asked for your opinion because it was never the intent of the county to pay for the cost of weatherizing private homes as an expense to the county. When the county accepted weatherization grants, the agreement was to use county funds but with a clear understanding that the costs would be reimbursed by TDHCA. Although it has been suggested that the Auditor abused his discretion by asking for this opinion, it has been determined by a court case that the Auditor does not abuse his discretion by asking for an opinion on a "difficult legal question". All the same, I agree with you that a valid court order provides a basis for me to determine that the claim "was incurred as provide by law".

I also expressed a concern about whether using public funds for private purposes would be in violation of Article III, Section 52 of the Texas Constitution or with any other State and/or Federal laws. You respond by saying that "a commissioners court will avoid violating Article III, Section 52 (of the Texas Constitution) if it determines in good faith that the expenditure serves a public purpose AND places sufficient controls on the transaction, contractual or otherwise, to ensure the public purpose is carried out". Undoubtedly, the problems we are facing today with payment issues speak to the fact that the county failed to put "sufficient controls" in place. However, the county's failure does not delete its good faith efforts to provide a public purpose nor should it put a contractor's valid claims at risk. Therefore, I agree with your assessment that no laws will be violated.

I will not pursue the certification from Mr. Juan Vargas with regard to "certifying that the contractor followed TDHCA guidelines as is required by contract" because it is impossible for Mr. Vargas to certify to something that TDHCA has already reported did not occur.

With regard to the settlement, your staff and my staff met several times to discuss the LAI claim. We shared opinions as to what was legitimately owed but on January 27, 2014, you recommended a settlement amount that was well above the amount we recommended to you. I was not part of your discussions with the Court because they were held in closed session. On April 25, 2014, a status report on the LAI lawsuit was requested by the Court and I was asked whether my approval on the settlement could be expected. I reminded the court of the opinions that I had requested but not yet received. I also mentioned that I wanted to disclose other information that was relevant to the settlement but perhaps unknown to them.

The information that I feel compelled to disclose to you and to the Court is as follows:

Between April and October 2010, the county paid LAI \$160,507.83 for several invoices. The county then requested and received reimbursement from TDHCA. Thereafter, TDHCA conducted a review of thirteen (13) homes weatherized by LAI. The invoices from those 13 homes totaled \$90,589.80. TDHCA disallowed the cost of \$70,020.33 of those invoices for the following reasons and the money was returned to TDHCA by the county:

- \$57,398.08 was disallowed due to CAA Program mismanagement and not due to the contractor's fault.
- \$12,622.25 was disallowed because the invoice was for work that the contractor did not do and/or for materials that the contractor did not use or install in residences. This amount has already been paid to the contractor but it is clearly not a valid claim and should be deducted from the settlement amount.

LAI is claiming payment for several other invoices and have agreed to accept \$80,153.87 as settlement of the claims. This is what we found with regard to these invoices:

- TDHCA discovered that the contractor invoiced the county \$1,926.39 for work that was not done and/or for materials that were not used or installed in residences.
- Third party inspection reports tell us that invoices totaling \$6,778.83 are directly associated to substandard work.
- We found a charge of \$6,642.00 that cannot be considered unless an invoice, work order, or purchase order is produced to connect the charge to LAI.

The total of these claims add to \$27,969.47 but are clearly not valid claims and should therefore be reduced from the settlement amount. However, if you and the Court want the settlement amount to remain intact regardless of what you now know, please let me know.

Two questions I feel obligated to ask you:

- Does the county have a legal obligation to pay a contractor for work that the contractor did not do or for materials that the contractor did not provide or install in a residence?
- Is it legal for the county to do so even as a result of a settlement agreement?

Respectfully,

A handwritten signature in black ink, appearing to read 'Leo Flores', with a long horizontal flourish extending to the right.

Leo Flores
Webb County Auditor

Leo Flores

From: Ramon Villafranca
Sent: Wednesday, June 04, 2014 3:04 PM
To: Leo Flores
Subject: Laredo Accurate Inspections, Inc.

Mr. Flores,

In regards to your reply to the County Attorney's opinion on this matter, you posed two questions that you felt obligated to ask.

1. Does the County have a legal obligation to pay a contractor for work that the contractor did not do or for materials that the contractor did not provide or install in a residence?

The answer to question number one is simply no.

2. Is it legal for the county to do so even as a result of a settlement agreement?
- During settlement negotiations, anything and everything is considered by both parties in order to have a reasonable settlement that both parties can agree upon.
However, during this specific settlement agreement, work that was not done by the contractor was not considered and not paid.

Therefore, the County Attorney's Office believes that the settlement agreement amount should remain intact regardless of the issues you have raised.

Respectfully,

Ramon A. Villafranca, Jr.
Assistant Webb County Attorney
Civil Division

Leo Flores

To: Ramon Villafranca
Cc: Marco Montemayor
Subject: RE: Laredo Accurate Inspections, Inc.

Ramon,

Thank you for responding to my questions and let me restate that the \$12,622.25 payment mentioned in my reply is a payment the county has already made to Laredo Accurate Inspections. This amount was reimbursed to the county by TDHCA but TDHCA asked for their money back when they connected the amount to billings for work that the contractor had not done and/or for materials that the contractor had not used or installed in residences. The fact is that the county reimbursed TDHCA but Laredo Accurate Inspections did not reimburse the county.

Understandably, the claim made by the contractor did not include the cost of homes that had already been paid to him. Had you known about this undeserving payment, I know you would have deducted it from the final settlement amount. Nevertheless, the fact remains that the county paid Laredo Accurate Inspections \$12,622.25 for work that they did not do and/or for materials that they did not use or install in residences. We agree that it is not legally permitted for a county to pay for work that is not done and/or for materials that are not used but payment was made nonetheless.

I will report these facts to Commissioners Court and let them determine if they have a legal obligation to demand reimbursement of the \$12,622.25 from Laredo Accurate Inspections.

Leo

CAUSE NO. 2013CVF001224 D1

LAREDO ACCURATE
INSPECTIONS, INC.

VS.

WEBB COUNTY, TEXAS

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§

IN THE DISTRICT COURT

49TH JUDICIAL DISTRICT

WEBB COUNTY, TEXAS

2014 APR - 1 PM 2:55

ESTHER DESOLA

FINAL SETTLEMENT AGREEMENT AND ORDER

On April 1, 2014, the above styled and numbered cause came to be considered by the Court, and after considering all the evidence, the arguments of counsel, as well as the agreement of the parties as evidenced by the signature hereto of their respective attorneys, the Court renders having heard the agreement of the parties between Webb County and Laredo Accurate Inspections, Inc. The Court finds that there are sufficient equitable grounds for the court to order the settlement agreement as written.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Plaintiff, LAREDO ACCURATE INSPECTIONS, INC. recover in equity from Defendant, WEBB COUNTY, TEXAS in the agreed sum of Eighty Thousand One Hundred Fifty Three Dollars and Eighty Seven Cents (\$80,153.87).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, based on the agreement of the parties hereto, that all costs of the court and attorney's fees expended by the parties are the sole responsibility of the party incurring same.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that all relief prayed for by any party but not herein expressed given is denied.

Signed on April 1, 2014.



Hon. Jose "Joe" Lopez,

49th JUDICIAL DISTRICT JUDGE

AGREED AS TO FORM AND SUBSTANCE:




EUSTORGIO PEREZ
Attorney For Plaintiff



RAMONA VILAFRANCA, JR
Attorney for Defendant
Assistant County Attorney



A True copy of the original, I certify
the 3 day of April 2014
ESTHER DEGOLLADO
Clerk of the District Courts and
County Court at Law, Webb County, Texas
By  Deputy

Leo Flores

From: John Galo [johncgalo@gmail.com]
Sent: Friday, May 30, 2014 4:56 PM
To: Leo Flores; Marco Montemayor
Subject: Fwd: Lawsuit Settlement Claim

Sent from my iPhone

Begin forwarded message:

From: Jim Allison <j.allison@allison-bass.com>
Date: May 30, 2014 at 3:39:25 PM CDT
To: johncgalo@gmail.com
Cc: lrmedford@webbcountytx.gov
Subject: Lawsuit Settlement Claim

Commissioner Galo: You have requested information on the procedures for payment of a lawsuit settlement claim. You indicated that the county have settled a matter in litigation, but the County Auditor refuses to approve the claim for payment by the Commissioners Court. While the County Auditor has the responsibility to review all claims before payment under Section 112.006, Local Government Code, such approval should not be withheld on litigated settlement claims. In Attorney General Opinion LO No. 98-103, the Attorney General held that the Commissioners Court has the authority to retain counsel and approve settlement of legal claims against the county. The determination of the legitimate interest of the county and the settlement of such claims is a matter "to be resolved by the commissioners court in the exercise of good faith judgment." "The decision of the commissioners court to make the payment in settlement of the case is a discretionary matter for the court, subject to judicial review for abuse of discretion." Unless the settlement has been enjoined by the district court as an abuse of discretion, the County Auditor should process the settlement claim and forward it for approval and payment. Jim Allison ?

James P. Allison
Allison, Bass & Magee, LLP
A.O. Watson House
402 W. 12th Street
Austin, Texas 78701
(512) 482-0701
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Office of the Attorney General State of Texas

November 9, 1998

<p>The Honorable Tod Mixson Orange County Auditor P.O. Box 399 Orange, Texas 77631-0399</p>	<p>Letter Opinion No. 98-103</p> <p>Re: Whether county may settle lawsuit relating to alleged wrongful acts of former sheriff and two deputies, where county is not named as defendant (RQ-1045)</p>
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Dear Mr. Mixson:

As County Auditor of Orange County, you ask whether the Orange County Commissioners Court may pay \$10,000 to settle a lawsuit against a former sheriff and two former deputies of Orange County.⁽¹⁾ As county auditor, you are required by section 113.064 of the Local Government Code to examine and approve "each claim, bill, and account" against the county before the meeting of the commissioners and a claim, bill, or account may not be allowed or paid until it has been so examined and approved.⁽²⁾ The county auditor shall moreover "see to the strict enforcement of the law governing county finances."⁽³⁾ Accordingly, you inquire about this proposed expenditure.

The plaintiff brought this suit under 42 U.S.C. § 1983 for damages caused to herself and her children when her ex-husband, who was a deputy sheriff for Orange County, came into her house and shot and killed her boyfriend. The former sheriff and two other former deputies are defendants, but Orange County is not named as a defendant. Damages of \$75,000 each are sought against the defendants.

The Orange County Commissioners Court initially authorized the county attorney's office to provide a defense for the defendants in this action. However, the county attorney had to recuse himself from this suit, and the commissioners court engaged the services of two private attorneys to represent the defendants. Although the county attorney's recusal extended to his representation of the county, the commissioners court did not engage counsel to represent the county.

Counsel for the defense has informed the commissioners court that the matter could be settled for \$10,000. The commissioners court, judging that this amount would probably be less than the ongoing cost of defense, authorized the attorney to proceed with the offer of settlement. The private attorney wrote to the county judge, indicating that the settlement had been arranged and asking for the county's check in the amount of \$10,000, payable to the plaintiff and her attorneys. The county judge has requested that you process the proposed settlement for payment.

You state that the commissioners court has not acted to approve the settlement that has been arranged, and you are concerned about substantiating the validity of the proposed payment. Since the county attorney could not advise you, you sought advice from a private attorney on whether you should issue the check for payment. He advised you that the settlement was in the county's economic interest, since the costs for two attorneys to defend a jury trial to verdict would far exceed \$10,000. However, he also noted that the case might never go to a jury. Characterizing the settlement as an indemnification of the defendants, he found no legal authority for the county to indemnify these officials under the facts of the case and recommended that you seek an attorney general opinion. Accordingly, you ask whether there is legal authority for the county to make this payment.⁽⁴⁾

The authority of a county commissioners court to employ counsel to represent county interests in suits, even when nominally against individuals, has been recognized in judicial decisions and the opinions of this office.⁽⁵⁾ The opinions of this office have stated this rule as follows:

Where a Texas governing body believes in good faith that the public interest is at stake, even though an officer is sued individually, it is permissible for the body to employ attorneys to defend the action. . . . The propriety of such a step is not made dependent upon the outcome of the litigation, but upon the bona fides of the governing body's motive.⁽⁶⁾

This common-law rule is partially codified in section 157.901 of the Local Government Code, which provides that a county official or employee sued by a third party for an action arising from that person's performance of public duty may be represented by the district attorney, the county attorney, or both. If additional counsel is necessary or proper, or if it reasonably appears that the act complained of may form the basis for filing a criminal charge against the official or employee, the official or employee is entitled to have the commissioners court of the county employ and pay private counsel.⁽⁷⁾

Thus, under the common-law rule or under section 157.901 of the Local Government Code the county may employ attorneys to defend county officers and employees where the commissioners court determines that the legitimate interest of the county, and not just the personal interest of the officer or employee, is at stake.⁽⁸⁾ This is a question of fact, to be resolved by the commissioners court in the exercise of good faith judgment. As this office stated in Attorney General Opinion JM-824, "[s]uch a decision does not have to

conclude that the county officer must have been right, or that the suit ultimately must be defeated. The county need only determine that the public servant of the county acted in good faith within the scope of an official duty."

The commissioners court, in deciding to employ private attorneys to represent the former sheriff and his deputies, presumably determined that the county's interest was at stake in the litigation. If the commissioners court determines that it is in the county's interest to settle the litigation for less than the ongoing cost of defending it, we believe it has authority to order the payment in question. The decision of the commissioners court to make the payment in settlement of this case is a discretionary matter for the court, subject to judicial review for abuse of discretion.⁽⁹⁾

We do not believe, despite the advice of the private attorney whom you retained, that the settlement would necessarily be indemnification of the officers. While the complaint in this civil action, which you have attached, is not a model of clarity, it appears that the defendants are being sued in either or both their official and individual capacities. Since any judgment against them in their official capacities would be paid by the county, such a payment would not indemnify the officers but discharge a county obligation.⁽¹⁰⁾ Accordingly, we conclude that the commissioners court has authority to settle the case by making the proposed payment.

S U M M A R Y

The Orange County Commissioners Court employed private attorneys to represent the former sheriff and his deputies in a lawsuit relating to their performance of official duties, presumably determining that the county's interest was at stake in the litigation. Under these circumstances, the commissioners court would also have authority to determine that it is in the county's interest to settle the litigation for less than the ongoing cost of defending it and to order the payment of such cost of settlement. The amount paid in settlement of the case is not indemnification of the officers, who have been sued in their official and individual capacities, since a judgment against them in their official capacities would be paid by the county as a county obligation.

Yours very truly,

Susan L. Garrison
Assistant Attorney General
Opinion Committee

Footnotes

1. You sought advice from the county and district attorney pursuant to section 41.007 of the Government Code, but he declined to advise because of his recusal in the relevant litigation. Therefore, we have accepted this opinion request.

2. Local Gov't Code § 113.064(a).
3. *Id.* § 112.006(b).
4. You also ask whether the prospective payment to settle the lawsuit is a "claim, bill, or account," subject to the county auditor's approval under section 113.064 of the Local Government Code. We are unable to find any direct authority on this question. However, in view of the county auditor's role in the "delicate system of checks and balances [that] exists to protect" county funds, *Smith v. McCoy*, 533 S.W.2d 457, 459 (Tex. Civ. App.--Dallas 1976, writ dismissed), we will assume that the proposed payment is subject to the auditor's approval.
5. Attorney General Opinion H-544 (1975) at 8; see *Guerra v. Weatherly*, 291 S.W.2d 493 (Tex. Civ. App.--Waco 1956, no writ); *City Nat'l Bank v. Presidio County*, 26 S.W. 775 (Tex. Civ. App. 1894, no writ); Attorney General Opinions JM-824 (1987) at 2, JM-755 (1987) at 1-2, MW-252 (1980) at 1, H-887 (1976) at 2, H-70 (1973) at 5; Letter Opinion No. 97-065 (1997); see also *City of Corsicana v. Babb*, 290 S.W. 736 (Tex. Comm'n App. 1927, judgment adopted); Attorney General Opinion M-726 (1970).
6. Attorney General Opinions JM-824 (1987) at 2, JM-755 (1987) at 1-2, MW-252 (1980) at 1, H-887 (1976) at 2, H-70 (1973) at 5; Letter Opinion No. 97-065 (1997); see also Attorney General Opinion M-726 (1970).
7. Local Gov't Code § 157.901(b).
8. Attorney General Opinion JM-824 (1987) at 2.
9. See generally *Douthit v. Ector County*, 740 S.W.2d 16 (Tex. App.--El Paso 1987, writ denied); *Hooten v. Enriquez*, 863 S.W.2d 522 (Tex. App.--El Paso 1993, no writ).
10. On the basis of this conclusion, we need not consider whether the settlement amount is the equivalent of attorney's fees rather than damages.

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LEO FLORES
Webb County Auditor

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June 9, 2014

Webb County Judge & Commissioners
100 Houston Street
Webb County Courthouse
Laredo, Texas 78040

REF: SETTLEMENT AMOUNT TO LAREDO ACCURATE INSPECTIONS

Hon. County Judge & Commissioners:

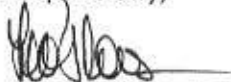
I think you know that my opinion of the settlement payment the Court approved for Laredo Accurate Inspections was that it was excessive. I say that because a much lower amount can be supported with file evidence. But regardless, the position of the County Attorney is that Auditor approval is mandated by Order from the State District Court.

There is one very important fact that was not considered by the County Attorney when he made his settlement recommendation because it was not part of the claim which only considered unpaid invoices. That fact is that Laredo Accurate Inspections has already been paid \$12,622.25 by the County for what the Texas Department of Housing and Community Affairs (TDHCA) later disallowed because they found the billings from the contractor were for work he did not do and/or for materials that he did not use or install in the residences. The County reimbursed TDHCA as a result but the contractor never reimbursed the County.

The County Attorney will tell you that it is not legally permitted for the County to pay for work that is not done or for materials that are not used or installed in residences. There should be no doubt that the payment was illegally made. It would be therefore, an obligation of the Court to demand reimbursement of the \$12,622.25 from Laredo Accurate Inspections as a responsibility to its taxpayers.

I am certain that the County Attorney would be willing to make that demand once he gets instructions from the Court to do so.

Respectfully,



Leo Flores
Webb County Auditor