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November 12, 2020

VIA MATRIX CIVIL PORTAL

Sugar Creek Township

RE: 2020-2592 Supplemental Legal Opinion to Legal Opinion Issued on 11/4/2020 Regarding CARES Act Expenditures

Dear Trustee Hofstetter,

I have reviewed the additionally requested items by East Wayne Joint Fire District (“EWJFD”) and Attorney Comstock’s legal opinion dated November 4, 2020 for eligibility under the CARES Act.

Pursuant to the laws set forth in my prior legal opinion dated October 28, 2020 regarding the items requested by EWJFD, the following should be considered when the Township enters into a subgrant agreement with EWJFD.

1. Refurbished Squad/New Squad/First Response Vehicle

Based on the additional information found in Attorney Comstock’s afore-referenced legal opinion, a first response vehicle for medical emergencies could be warranted and eligible under the CARES Act if EWJFD has no other available vehicles which could be utilized as being able to securely and legally carry medical drugs and other equipment. If a currently available vehicle could be “transformed” to carry locked bins or similar to provide the required security under the law, which solution would also carry a more cost-effective result, no necessity exists under the CARES Act to support the purchase of an entirely new vehicle.

2. Load system for squads

Please see my prior opinion on this item’s eligibility.

3. Portable UV Lighting

Please see my prior opinion on this item’s eligibility.

4. Hazard Pay

Please see my prior opinion on this item's eligibility.

5. Hard case for Lucas Machine

Please see my prior opinion on this item's eligibility. However, if literature could be obtained and attached to this request from EWJFD to support Attorney Comstock's statement that "hard cover reduces the risk of COVID-19 spread," additionally to further information on why it is necessary to clean easier/faster, this item becomes eligible under the CARES Act as a necessity expenditure to prevent the spread of COVID-9.

6. McGrath Laryngoscope

Please see my prior opinion on this item's eligibility. However, if literature could be obtained and attached to this request from EWJFD to support Attorney Comstock's statement that "literature [***] has suggested that the Laryngoscopes with remote viewing does reduce the risk of Covid-19 to EMS personnel," this item could become eligible under the CARES Act as a necessity expenditure to prevent the spread of COVID-9.

7. Software (Reimbursement for \$675 to Cleveland State University for one-year access)

Please see my prior legal opinion issued on November 2, 2020 regarding this item's eligibility:

"The requested reimbursement to Cleveland State University would only qualify if this expenditure is necessary due to its direct relation to COVID-19. It is not a qualifying expenditure if the training itself is a general requirement; thus, not due to COVID-19, however, if the additional \$675 occurred due to the pandemic it is an eligible expenditure but only for the permitted time period ending December 30, 2020."

8. Software

Please see my prior opinion on this item's eligibility.

9. Lifepack Monitor

Based on the reasoning provided, this is an eligible item as an expense for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency, provided by the U.S. Department of Treasury's guidance.¹

10. Fire Gear

Based on the reasoning, as the fire district members currently have no second gear, and the desired goal provided in regard to this item's necessity, the cost thereof is an eligible expenditure as an expense for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for

¹ <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.

11. EMS Jump Suits

Based on the reasoning provided regarding this item, it is an eligible expenditure because these suits will be worn by, and therefore provide a higher protection for the EMS crews when transporting patients with COVID-19 symptoms to the hospital or on any other calls involving suspected COVID-19 patients.

12. Window overhang

Please see my prior opinion on this item's eligibility.

13. Touchless thermometer

Based on the justification provided in the spreadsheet, this is an eligible expenditure under the CARES Act as a public safety measure and protective supply for public employees in connection with the COVID-19 public health emergency.

Please keep in mind that I did not find any requests for other touchless systems which might have been considered by Attorney Comstock, thus, I cannot provide legal opinion on those items' eligibility.

14. Air Filtration

This item was also not among the requested items by EWJFD. However, if a request has been submitted to the Township, it would be an eligible expenditure as it is a sanitizing product and such, it is expressly listed among the eligible expenditures in the U.S. Department of Treasury above-referenced guidance. According to that guidance, a local government is permitted to acquire and distribute sanitizing products for the following entities: for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.

I hope this answers your inquiry. Should you have any further questions regarding this opinion, please do not hesitate to contact our office.

Respectfully,

/s/ Barbara Biro

Barbara Biro
Wayne County Assistant Prosecuting Attorney

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