

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 02-14

March 22, 2002

RE: May a Division of Waste Management employee solicit funds from cities of the Commonwealth, federal programs, and non-profit associations in support of the agency's recycling program?

DECISION: No, if the city, or membership of the associations, is regulated by the Natural Resources and Environmental Protection Cabinet, but the employee may solicit federal programs.

This opinion is in response to your February 25, 2002, request for an opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 22, 2002, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Natural Resources and Environmental Protection Cabinet (the "Cabinet"), Division of Waste Management, Kentucky Recycling and Marketing Assistance (the "KRMA"). KRMA's mission is to develop recycling infrastructure in the Commonwealth.

Region 4 of the United States Environmental Protection Agency ("Region 4"), of which Kentucky is a part, began an initiative over a year ago to increase participation in recycling in all Region 4 states. Region 4 has partnered with the Southern States Energy Board to purchase three public service announcements promoting recycling in the Region 4 states. The cost for Kentucky to place the spots on various targeted cable television programs for a month using a sample schedule is \$10,644. You ask whether you may solicit money, on behalf of KRMA, from cities such as Lexington and Louisville, from non-profit entities such as the Kentucky League of Cities and the Kentucky Association of Counties, and from the federal PRIDE program, in order for KRMA to cover the costs of airtime for the public service announcements. The aim of airing these announcements is to boost citizen participation in recycling which would in turn benefit public recycling centers in the target areas.

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In Advisory Opinions 93-45 and 93-56, the Commission held that a state agency may not solicit, or accept donations from, persons or entities doing business with or regulated by the state agency. Similarly, the Commission does believe that an employee of a state agency should not solicit donations from persons or entities doing business with or regulated by the employee's state agency. In this case, the Cabinet does regulate cities such as Louisville and Lexington in matters relative to air quality, water quality, etc., even though KRMA may not. Thus, soliciting donations from those cities could constitute an appearance of a conflict of interest, if not an actual conflict.

Seeking solicitations from the Kentucky League of Cities or the Kentucky Association of Counties, though these associations are not directly regulated by the Cabinet, also may give rise to an appearance of a conflict because these associations are comprised of members which are regulated by the Cabinet, namely, cities and counties.

It does not appear that KRMA's soliciting funds from PRIDE would be a conflict of interest. PRIDE does not appear to be an entity doing business with, regulated by, or seeking to influence the Cabinet.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY VICE CHAIR: Joseph B. Helm, Jr.

Enclosure: Advisory Opinions 93-45
 Advisory Opinion 93-56