

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 94 - 13

March 22, 1994

RE: Is a state employee with procurement authority, but without policy making authority, considered to be management personnel under KRS 11A.010(7)?

DECISION: No, unless employee is in a "manager level" position.

This opinion is in response to your January 31, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 22, 1994, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Department of Parks (the "Department") has personnel with purchasing responsibility at various facilities throughout the state. The Department has issued internal purchasing policy memoranda for these personnel. These memoranda authorize park managers and division directors to delegate procurement authority to park staff, such as business managers, gift shop supervisors, and park chefs.

You ask: *Is a state employee/public servant with procurement authority considered to be "management personnel" under KRS 11A.010(7), if the employee is without policy making authority and below director level and supervisors one or more persons?*

KRS 11A.010(7) defines:

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, board of Claims, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the State Board for Elementary and Secondary Education, the State Board for Adult and Technical Education, and any other management personnel with procurement authority;

The Commission believes that "management personnel with procurement authority" includes employees below director level who have procurement authority and who are in personnel management positions such as park manager or business manager. Other employees, such as gift shop supervisors or park chefs, who may supervise one or more employees and also have procurement authority, are not considered management personnel under KRS 11A.010(7).

Of those employees who have procurement authority, only those who also are managers are considered officers as defined in KRS 11A.010(7).