

## ADVISORY OPINION 98-45

December 17, 1998

RE: May employee rent room to employee of company with which agency holds a contract?

DECISION: Yes.

This opinion is in response to your October 20, 1998, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 17, 1998, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. Kentucky Correctional Industries ("KCI"), within the Department of Corrections, holds a contract with Image Entry of London, Kentucky, which provides for KCI to perform imaging and data conversion for Image Entry for a fee of 29 cents per 1,000 keystrokes. Image Entry furnishes all the equipment and a supervisor as part of the agreement. The Image Entry supervisor working at Luther Lockett Correctional Complex in LaGrange is paid by Image Entry, but is supervised by the data entry plant operations supervisor employed at Luther Lockett by the Department of Corrections. The plant operations manager was involved in encouraging Image Entry to consider Correctional Industries in the making of the contract with Image Entry.

Because the Image Entry supervisor's permanent residence is in London, he must find lodging during the week close to LaGrange. The plant operations supervisor at Luther Lockett has discussed renting a spare bedroom to the Image Entry supervisor. The Image Entry supervisor would personally pay rent for this room. You ask whether it would be an ethics violation for the plant operations supervisor to rent the Image Entry supervisor a room.

KRS 11A.020(1) provides:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

The Commission believes that the plant operations supervisor may rent a room to the Image Entry supervisor provided he does not use his official position to obtain the

arrangement. Because the contract provides for the state to be paid by Image Entry, and not the alternate, it does not appear that a conflict will exist if the plant operations supervisor accepts rental payments from the Image Entry supervisor. However, because Image Entry is most likely seeking to obtain a low fee arrangement with KCI, the Commission believes that the plant operations supervisor should not accept a rental payment for more than the market value of same or similar rooms.