

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 99-4**

February 18, 1999

RE: May Treasury employees and/or other state employees participate in a public auction held by the Department of Treasury?

DECISION: Yes.

This opinion is in response to your February 3, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 18, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department of Treasury intends to conduct a public auction this spring of unclaimed property that it holds. This auction was authorized by the 1998 General Assembly and, most likely, will be conducted annually. You ask whether Department of Treasury employees and/or other state employees may participate in the auction by placing bids.

KRS 11A.040(4) provides:

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction.

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Although employees are generally prohibited from contracting with the state agency for which they work, the exception listed in 11A.040(4)(d) allows state employees to purchase items at a public auction even if the state agency holding the auction is the agency by which they are employed. Therefore, the Commission believes that Treasury employees, as well as other state employees, may purchase items at the public auction held by the Department of Treasury, provided they do not use their official positions to give themselves an advantage.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Don A. Wimberly



April 10, 2008

Fred R. Hynson, Director  
Administration and Support  
Office of the Kentucky State Treasurer  
Capitol Annex  
Frankfort, Kentucky 40601

*Reference:* 021899.10

Dear Mr. Hynson:

At its February 18, 1999, meeting, the Executive Branch Ethics Commission took up your request, dated February 3, 1999, in which you ask whether Treasury employees and/or other state employees may participate in a public auction held by the Department of Treasury.

The enclosed Advisory Opinion 99-4 is issued in response to your inquiry.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: Advisory Opinion 99-4