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Executive Branch Ethics Commission
ADVISORY OPINION 08-17
November 14, 2008

RE: Does KRS Chapter 11A prohibit a state agency from offering a discount on lodging in state parks to businesses meeting certain criteria if vendors doing business with the Kentucky Department of Parks are eligible as well?

DECISION: No, so long as the businesses are evaluated according to standard criteria and treated equally.

This opinion is issued in response to your August 12, 2008, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"), as revised on October 30, 2008. This matter was reviewed at the September, 26, 2008, and the November 14, 2008 meetings of the Commission. The following opinion is issued.

You provide the relevant facts as follows. The Department of Parks has had requests from a number of for-profit businesses about the possibility of offering a small lodging discount (10%) at state park lodges to their employees as a benefit. Currently, such discounts are offered to various groups such as KET, members of the Touchstone Energy Group (private homeowners), members of the Kentucky Tourism Council, and Toyota employees. You plan on formulating standard criteria for offering the lodging discounts to commercial businesses including a requirement that such requests come from companies with a "Kentucky presence," defined in part as having a large number of Kentucky-based employees.

While it is conceivable that vendors doing business with the Kentucky Department of Parks would qualify under the criteria, the Department plans on formulating standard criteria to ensure that all businesses who desire such a discount for their employees are treated equally. Such standard criteria would eliminate any appearance that some companies were favored over others while, at the same time, expanding the available pool of prospective park guests.

KRS Chapter 11A does not specifically prohibit a state agency from offering such a discount to employees of a vendor that does business with the state agency. While selectively designating only those businesses who are vendors of the Department of Parks would give the appearance of favoring or endorsing those businesses over others, the Department's decision to establish standard criteria to use in deciding which businesses may offer such a discount to their employees eliminates that concern. However, management should closely review each request from a vendor to ensure the criteria are met in each case and should seek further guidance from the Commission in close cases to avoid any appearance of impropriety.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

Gwen R. Pinson

By Chair: Gwen R. Pinson