

ADVISORY OPINION 00-55
September 22, 2000

RE: May sponsors be solicited for Governor's Conference on Latin America?

DECISION: Yes, within limitations.

This opinion is in response to your September 6, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 22, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. On January 8–10, 2001, the Office of the Governor plans to help conduct the Governor's Conference on Latin America, an informational conference to be held at the International Convention Center in Louisville. This event will be coordinated principally by the Cabinet for Economic Development (the "Cabinet") and the Kentucky Chamber of Commerce with assistance from the Governor's Office. You estimate nearly 1000 persons will attend, including the ambassadors of several Latin American countries and other high-ranking government and corporate leaders from the United States and South America.

The purpose of the conference will be to inform Kentucky government, business and economic development leaders, and their counterparts in Latin America, of opportunities in education, business, agriculture, and government as a gateway to improve Kentucky's economy and the economies of the nations represented at the event. The Director of the International Trade Division of the Cabinet will manage the day-to-day preparations for the event and the Deputy Secretary of the Governor's Executive Cabinet will coordinate the participation of the Governor at the conference.

The conference organizers are considering soliciting sponsorship for some of the direct costs of the event, such as rental of the convention facility and receptions and related costs. The organizers anticipate that these corporate sponsors will be a diverse group, and will include banking, transportation, distilling and other industries. It is your understanding that the Kentucky Chamber of Commerce will serve as the principal point of contact to solicit sponsorships for the event. You ask whether these proposed sponsorships would violate the Executive Branch Code of Ethics. You believe that exceptions provided in KRS 11A.045(3) would allow such solicitation by employees.

KRS 11A.045(1) and (3) provide:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation

against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

...

(3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:

(a) Was not solicited by the public servant;

(b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars (\$25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and

(c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

The Commission has issued several advisory opinions (copies of which are enclosed) related to state agencies hosting conferences and solicitation by employees for such conferences. In those opinions, the Commission concluded that an employee involved in the planning and conducting of the event should not solicit or accept donations from persons or businesses regulated by or doing business with the agency for which the employee works. Because this conference will be hosted, in part, by the Office of the Governor, the Commission wishes to address this matter in a separate advisory opinion in order to provide guidance to both the Governor and members of his staff.

Although the Commission believes that the Governor has ultimate authority over all executive branch agencies (other than the offices of the elected officials listed in KRS 11A.010(9)(b)-(h)), the Commission believes that unless an entity is doing business with or

regulated by the Office of the Governor, or is seeking to influence the actions of the Governor, no apparent conflict will exist for members of the Governor's staff to accept a donation from such an entity. The Commission advises the employees of the Governor's office not to solicit sponsorships from an entity that is doing business with or is directly regulated by the Office of the Governor, or is seeking to influence some future action of the Governor.

Additionally, the Commission believes that the Governor should not solicit any entities doing business with or regulated by any agency over which he has ultimate authority, and he should not solicit entities seeking to influence his actions (see Advisory Opinion 98-13). You are advised to contact the staff of the Commission to determine those entities that are registered to influence executive agency decisions of the Governor's Office.

The Commission believes that individuals involved in the conference who are not employees of the Governor's Office, such as staff of the Kentucky Chamber of Commerce, may solicit funds from persons or businesses regulated by, doing business with or seeking to influence the actions of the Governor's Office. However, if such entities donate funds for the conference, the solicitation and record-keeping of individual donations should not be maintained or reviewed by the Governor or members of his staff.

The Commission does not believe that KRS 11A.045(3) above provides an exception from employees to solicit sponsorships for the conference. Furthermore, in addition to the guidance stated above, the Commission cautions you to avoid any solicitations that may present an appearance of impropriety for the Governor.

Enclosures: Advisory Opinion 94-1
 Advisory Opinion 96-12
 Advisory Opinion 98-13
 Advisory Opinion 00-15