

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 03-25

June 18, 2003

- RE:
- (1) May Department accept conference tables donated by quasi-governmental agency?
 - (2) May Department accept tickets for admission to convention from organization which may be a vendor to the Department?
- DECISION:
- (1) Yes.
 - (2) Yes, if a benefit of membership.

This opinion is in response to your May 27, 2003, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 18, 2003 meeting of the Commission and the following opinion is issued.

The relevant facts are as follows. The Department of Housing, Buildings, and Construction (the "Department") has been offered a gift of three conference tables to be provided by the Kentucky Propane Education and Research Council (PERC). You state that PERC is a quasi-governmental agency, with its members being nominated by industry groups and being appointed by the Department's Commissioner. KRS 234.270 *et seq.* does establish PERC and allows it to make an assessment against propane sold in Kentucky. PERC proposes to purchase three new conference tables for the Department's offices. PERC currently uses the Department's conference room on a regular basis to provide training to industry members, and you state that the Department's furniture is not sufficient for PERC's purposes. You further state that it is the Department's position that this is essentially an intra-governmental transfer of property, and presents no ethical issues. You ask if the Department may accept the gift from PERC of these three conference tables and not violate the KRS 11A, the Executive Branch Code of Ethics (the "Code").

Your second question concerns an offer made to the Department by the International Code Council (the "ICC"). The ICC creates model building codes that it then sells to various jurisdictions. The Kentucky Residential Code and Kentucky Building Code are based upon ICC models. The ICC is a membership organization formed of building regulatory agencies and individuals; the Department is an ICC member. The ICC is holding its national convention in

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Nashville in July, this meeting will include training sessions, organizational sessions and hearings on changes proposed to the model codes.

The ICC has offered the Department four free tickets to this convention; travel expenses, lodging and meals are not included. You ask if the Department may accept these free admission tickets to the ICC convention in July without violating the Code.

KRS 11A.045(1) states:

(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.

PERC is in fact an executive branch agency within the Commonwealth of Kentucky composed of members appointed by the Department's Commissioner. The legislature has declared it to be in the public interest that those engaged in the sale of propane and related equipment act jointly to enhance, among other things, safety issues for the public relative to the use of propane. See KRS 234.270. Thus, as part of its mission, PERC is providing training on a regular basis to propane industry members. Such training, in keeping with PERC's statutory mission, also supports the Department's mission of public safety. Because PERC is an executive branch agency, KRS 11A.045(1) does not apply in this situation, and the Department may accept the conference tables from PERC.

Regarding your second question, in Advisory Opinion 00-63, the Commission held that if the attendance fee at a seminar was waived for all participants, then in substance there was no fee and the public servant could attend. In this case, if as a benefit of membership, all ICC members

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are given four tickets to the conference, then the Commission does not view this as a gift, but a benefit of membership in the ICC, and thus substantially similar to the situation in AO 00-63. That is, there does not appear to be an attempt by the entity (ICC) to give the Department or its employees a gift in violation of KRS 11A.045(1).

Thus, the Commission believes that the Department may accept four tickets for admission to attend the ICC's convention in July 2003, so long as all ICC members receive the same benefit.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Joseph B. Helm, Jr.