

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 04-31
September 30, 2004

RE: May Kentucky Housing Corporation solicit financial sponsorship for a statewide affordable housing conference?

DECISION: Yes, provided the entities solicited do not do business with or seek to influence Kentucky Housing Corporation.

This opinion is issued in response to your August 11, 2004 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 30, 2004 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Kentucky Housing Corporation ("KHC") is a political subdivision of the Commonwealth of Kentucky, created by statute. KHC's mission is to provide safe, decent, affordable housing opportunities for low and moderate income Kentuckians and to pursue all partnerships and resources necessary to promote affordable housing. In keeping with this mission, KHC annually conducts the Governor's Housing Conference that promotes KHC's programs to industry groups.

You are interested in expanding the scope of the Governor's Housing Conference to include participation from industry groups such as lenders, real estate agents, builders and nonprofit organizations. In doing so, you believe that KHC will be able to reach more key players in the industry and create an environment of information sharing by all the participants. You ask the following three questions:

- 1) *Whether or not KHC is prohibited from soliciting financial sponsorship for a 'statewide affordable housing conference' from any interested entity. It is anticipated that some of the entities that may wish to contribute may have a prior business relationship with KHC. The affordable housing conference would be open to the public and would be for the purpose of promotion for and education about affordable housing issues in Kentucky.*

2) *Whether or not KHC is prohibited from soliciting financial sponsorship for a 'statewide affordable housing conference' if it partners with a nonprofit organization that has a Section 501(c)(3) designation from the Internal Revenue Service. Under this scenario, KHC would participate as a sponsor, providing education on the affordable housing programs it offers, as well as assistance with marketing, planning, promotion and overall coordination of the event. All money collected from the event would be directed to the nonprofit organization and deposited in a non-state account for payment of the conference expenses.*

3) *Whether or not KHC can create or participate in the creation of a nonprofit organization that would act as the facilitator of a 'statewide affordable housing conference'.*

KRS 11A.005 (1)(a) and (d) provide:

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

(a) A public servant be independent and impartial;

...

(d) The public has confidence in the integrity of its government and public servants.

In previously issued advisory opinions (copies of which are enclosed), the Commission has had occasion to review and provide guidance for state agencies hosting conferences and for solicitation of sponsors for the conferences. Based on the guidance in the previously issued opinions, the Commission believes that KHC may solicit financial sponsorship from interested entities provided the entities are not doing business with or seeking to influence some future action of KHC. KHC should not solicit financial sponsorship from businesses that have a prior business relationship with KHC or from associations that represent the interests of entities that have a business relationship with KHC. Such entities may feel pressure to donate due to the business relationship. Also, future business decisions made by KHC may be impacted by an entity's willingness or not to donate as a sponsor.

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The Commission believes, however, based on Advisory Opinions 02-21 and 02-33, (enclosed) that KHC may partner with any nonprofit organization (or company) to promote a state program that has an overriding benefit to the Commonwealth provided such partnering is open to any similar nonprofit organization (or company) interested in such partnering. If KHC partners with a nonprofit organization to host the conference, KHC's employees still are advised not to solicit any entities that do business with or are seeking to influence decisions of KHC. Individuals who are not employees of KHC, such as staff of the nonprofit organization, may solicit sponsorship for the conference from entities that may do business with or seek to influence KHC. Solicitation and record keeping of donations should not be maintained or reviewed by KHC or its employees.

The Commission believes that KHC may create a nonprofit organization to act as the facilitator of the conference, but believes that if the nonprofit is administered by KHC, neither the nonprofit, nor its employees, should solicit entities doing business with or seeking to influence KHC.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR:

Enclosures: Advisory Opinion 94-1
 Advisory Opinion 00-15
 Advisory Opinion 00-55
 Advisory Opinion 02-21
 Advisory Opinion 02-33