

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 05-32
September 2, 2005

RE: May agency solicit advertisements for news magazine published by the agency?

DECISION: Yes, provided the agency does not solicit persons or businesses doing business with or regulated by the agency.

This opinion is issued in response to your June 21, 2005 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 2, 2005 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department of Criminal Justice training (the "Department") provides training for various state and local law enforcement officials throughout the Commonwealth. This training is funded from the Kentucky Law Enforcement Foundation Program Fund, a restricted fund.

As a service to the law enforcement community, the Department publishes a news magazine, the *Kentucky Law Enforcement News*, which is sent free of charge to every law enforcement and telecommunications agency in the Commonwealth. The *Kentucky Law Enforcement News* is an award winning publication that includes news, features, legal updates, and other articles of interest to the Kentucky law enforcement community that the Department serves. Since its inception in 2001, the cost of producing the *Kentucky Law Enforcement News* has been fully paid by the Department through its funding from the Kentucky Law Enforcement Foundation Program Fund.

Due to the popularity of the magazine, the desire to increase the number of issues per year, and the significant cost of publication, the Department would like to explore the opportunity of turning the *Kentucky Law Enforcement News* into a financially self-sustaining publication through the sale of advertisements. Vendors that provide products and services for law enforcement personnel and agencies previously have contacted you expressing a desire to

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advertise in the magazine. You believe that permitting these companies to purchase advertisements in the *Kentucky Law Enforcement News* would not only be a significant cost-savings for the Commonwealth, but also be of great benefit to the advertising entity and the Kentucky law enforcement community.

You ask whether it is permissible for the Department to solicit advertising from persons or businesses whose services might be of interest to the Kentucky law enforcement community. You state the advertising solicitations would be very carefully directed only toward persons or businesses that are not regulated by the Department and with which the Department has not engaged in business in the past, is not currently engaged in business, and would not be engaged in business in the foreseeable future.

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 Advisory Opinion 00-15, the Commission stated the employees of the Kentucky Commission on Human Rights ("KCHR") should not solicit vendors of the agency nor those entities regulated by the KCHR for the sale of advertisements in an information program/booklet to be printed by the KCHR. Although the entities were to receive a benefit for the purchase of advertisements, because the event was sponsored by the state agency, rather than a non-state organization, the Commission concluded such sale of advertisements could create of conflict of interest for the KCHR.

Similarly, if the Department were to solicit vendors of the Department or anyone regulated by the Department, a similar conflict would exist for employees of the Department. However, as

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long as the Department does not solicit persons or businesses that are doing business with, regulated by, or are seeking to do business with the Department, as you have stated is the Department's intention, then the Department is not prohibited from soliciting advertisements for the *Kentucky Law Enforcement News* from other vendors.

Such solicitation of vendors that have no business or regulatory relationship with the Department does not appear to present a conflict of interest for the Department.

Sincerely

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: John A. Webb