

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93-56

October 18, 1993

RE: State agency asks if private sector may help sponsor state anti-litter program and other events

This opinion is in response to your September 21 and October 1, 1993, requests for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 18, 1993, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Transportation Cabinet (the "Cabinet") promotes an anti-litter program to educate the public to clean-up the roadsides. The Cabinet is considering including private sector entities and trade associations or organizations to help underwrite the cost of billboards, litter bags and T-shirts to promote the program. You ask if the Cabinet is allowed to request monetary help from such businesses and trade associations for the program.

Additionally, you ask for clarification of the ethics law with regard to sponsorship of Cabinet activities by professional engineering groups, trade organizations, firms which do business directly with the Cabinet, and firms which do business with firms holding contracts with the Cabinet.

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

(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 determining whether the Cabinet may solicit funds from private sector entities and trade associations to help sponsor its anti-litter campaign, the Cabinet must consider the relationship between the entity or association and the Cabinet. If the entity or trade association member is a potential vendor to the cabinet or is regulated in a non-ministerial function by the Cabinet, then the solicitation of funds from these entities creates a conflict of interest in appearance, if not, in fact. Advisory Opinion 93-45 (a copy of which is enclosed) states that the

appearance of a conflict of interest prohibits the solicitation of funds from entities an agency regulates.

The Commission understands the Cabinet's desire to continue and expand the commendable anti-litter and safety programs which the private sector has helped finance. We encourage the Cabinet to turn over to the private sector the solicitation and record-keeping of funds for such programs.

In response to your second request, the Commission takes note that the groups and associations which would sponsor such events represent professions within the Transportation Cabinet as well as vendors of the cabinet. The Commission is not able to give an opinion on this particular issue without knowing the specific organization or firm which would be sponsoring such events and its relationship to the Cabinet.