

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 94 - 17

April 19, 1994

- RE:
- 1) May employee in Division of Waste Management serve as state coordinator for Keep America Beautiful?
 - 2) May Division of Waste Management conduct certification schools in cooperation with private sector?

- DECISION:
- 1) Yes, with certain restrictions.
 - 2) Yes, with certain restrictions.

This opinion is in response to your February 1, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 22 and April 19, 1994 meetings of the Commission, and the following opinion is issued.

You state the relevant facts for the first issue as follows. Keep America Beautiful, Inc., a national, non-profit organization dedicated to improving waste handling methods, is supported by over 300 major corporations. Kentucky is a state affiliate of Keep America Beautiful, Inc. and the state coordinator is an employee in the Division of Waste Management (the "Division") of the Natural Resources and Environmental Protection Cabinet.

The Division regulates facilities that have solid waste, hazardous waste, underground storage tanks, and cleanup of superfund sites. Some of the facilities regulated by the division are the same corporations that fund Keep America Beautiful, Inc.

Occasionally, Keep America Beautiful, Inc., offers training to state coordinators which is funded by the corporations which support the organization. Additionally, promotional materials, such as pocket ashtrays, litter bags, and educational materials are also funded by the corporations. Keep America Beautiful, Inc., provides many services to Kentucky through corporate funding. You ask if *it is a conflict for the state coordinator to be an employee of the Division of Waste Management and to avail the Kentucky program of Keep America Beautiful, Inc., services.*

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

(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.

The Commission believes it is not a conflict of interest for an employee in the Division of Waste Management to serve as the state coordinator of Keep America Beautiful, Inc. if the employee avoids certain direct dealings with persons or businesses that are regulated by or do business with the employee's agency. The employee should not solicit money for or keep records of contributions to Keep America Beautiful. The employee should not receive registration, lodging, meals, or promotional materials directly from persons or businesses that are regulated

by or do business with the employee's agency. Any such items should be routed through and provided in the name of the national Keep America Beautiful organization. Any training received should be approved by the employee's supervisor as in the public interest and not readily available elsewhere.

You provide the facts of your second request as follows. The Division of Waste Management conducts certification schools with the assistance of instructors from the private sector. The Division pays expenses of the outside instructors but does not pay a stipend for the services of the instructors. Some of the instructors are regulated by your agency. You ask *if it is a conflict for the Division to conduct the certification schools in cooperation with the private sector.*

To avoid the perception of a conflict of interest, the Commission believes the Division should give wide notice of its intention to hire instructors who meet pre-determined standards of training and experience. If no other qualified persons are available, the Division may hire the best-qualified instructors from among persons or businesses that are regulated by or do business with the Division. The Division should pay instructors a pre-determined fee.

It is not necessary for the Division to pay a facility which merely opens its premises to trainees. If practical, the sites of such training visits should be rotated.

Within these restrictions, the Division may conduct certification schools in cooperation with the private sector.