EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-24

May 14, 1996

RE: May agency accept donations for local business for foster care program?

DECISION: No, if Department does business with local merchant.

This opinion is in response to your February 28, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the May 14, 1996, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department for Social Services (the "Department") within the Cabinet for Families and Children (the "Cabinet") is responsible for the placement of neglected or abused children in foster care homes. In placing a child in a foster care home, the Department tries to keep the child within his same local community. Removal of a child from his community, as well as his home, lessens the contact between the parent and child, thus leading to a diminution of the relationship between parent and child. Thus, the Department believes that local community support is vital to the foster care program.

The Cabinet believes that Advisory Opinion 94-50 issued by the Commission does not preclude the Department from soliciting such gratuities from local merchants and businesses. You state that the Department's acceptance of donations for foster care activities from local merchants that do business with the Department would in no way act in derogation of the independence and impartiality of the employees of the Department. You believe that any
improper influence or pressure that could possibly be applied to either the agency or the local businesses as a result of the above activities is minimized by the provisions of Kentucky’s Model Procurement Code. You ask for an opinion from the Commission as to whether the Department may continue to accept donations for the foster care program from businesses with which it may do business.

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.

Although the Commission commends the Department for its efforts to involve the Community in foster care efforts, the Commission believes such involvement should be accomplished without the solicitation or acceptance of donations from local merchants or businesses which do business with the Department. Advisory Opinion 94-50, to which you refer, states that, despite the existence of a worthy cause for which the solicitation is made, an executive branch employee should not solicit or accept donations from those who do business with or are regulated by the employee’s agency.

The foster care program is not prohibited from accepting donations from churches and social organizations which are not regulated by or doing business with the Department. In addition, the Commission believes that Department employees may work with local merchants, who may do business with the Department, in an effort to involve the community in foster care events as long as donations are not accepted.

EXECUTIVE BRANCH ETHICS COMMISSION

BY: Ruth H. Baxter, Chair