

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 96-31

July 2, 1996

- RE: 1) May employees recommend consultants to provide training?
 2) May employees of agency conducting program receive financial incentives of the program?
- DECISION: 1) No, if employed by or receiving compensation from the consultant.
 2) No.

This opinion is in response to your May 13, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission") concerning two matters. These matters were reviewed at the July 2, 1996, meeting of the Commission, and the following opinion is issued.

You provide the relevant facts regarding the first issue as follows. Governmental Services Center ("GSC") provides training for state and local government employees. Occasionally, a private business will contact GSC to provide training. GSC does not provide such training to private employees, but, on occasion, you have overheard employees recommending to a private company a consultant outside of state government who could provide the service. In some instances, the recommended consultant may be a former GSC employee or an employer for whom the employee may work on his own time. GSC employees understand that they are not to use state materials for personal gain; however, you question whether the employee's recommendation of a consultant could be perceived as a conflict of interest.

KRS 11A.020(1)(a) and (c) provide:

- (1) No public servant, by himself or through others, shall knowingly:
- (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
- ...
- (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family.

GSC employees should not recommend a consultant to provide training to an outside company if the employee has received compensation from or is employed by the consultant or a competitor of the consultant. Such recommendations, which may be perceived by the public as part of the employee's official duty, would present a conflict of interest for the

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employee. If the employee does not receive compensation or any other benefit from the consultant or a competitor consultant, he is not prohibited from recommending consultants to provide such service.

Regarding the second situation, you state that the Personnel Cabinet is promulgating a regulation to provide a bonus of up to \$2,500 for employees who have completed the Certified Public Manager ("CPM") program as provided by GSC. The CPM program consists of 300 classroom hours - primarily GSC workshops - 13 tests, and 4 applied projects which are approved by GSC advisors. One GSC trainer has completed the CPM program and others are considering participating in the program now that funding is attached. You are concerned that the awarding of the monetary incentives to a GSC trainer could be perceived as a conflict of interest. You ask for some guidance in the matter.

The Commission advises GSC to implement an in-house policy to prohibit employees of GSC who are involved as part of their official duty in the Certified Public Manager program from receiving a monetary incentive for participation in the program. If such employees did receive the monetary incentive, the public may perceive the action as a substantial conflict between the employees' private interests and their duties in the public interest. In addition, the Commission believes employees who are responsible for reviewing tests or projects of coworkers may have difficulty being objective in their review.

In a similar situation, the Department of Fish and Wildlife Resources prohibits employees of the Department from participating in a Department program which provides monetary reimbursement to individuals who restore their land as a natural habitat.

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BY: Ruth H. Baxter, Chair