

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 96-42**  
September 5, 1996

RE: May agency accept gratuities from entities which do business with or are regulated by the agency?

DECISION:

This opinion is in response to your August 8, 1996, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 5, 1996, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Commonwealth of Kentucky has received a One-Stop Implementation Grant from the U.S. Department of Labor to develop a "one-stop" employment and training system within the state's 22 labor market areas. Each local labor market is required to open a comprehensive career center and establish a governance council. Each council must be certified by Kentucky's Workforce Development Council and be comprised of private sector representation, employment and training representatives and local community leaders.

Some councils have applied for or are considering applying for incorporation as public or private-nonprofit entities. Also, councils are considering ways to solicit funds and/or resources from the private sector to assist in the development of the training system or the career center in their area. As a partner in the system, as well as each career center, the Department of Employment Services within the Workforce Development Cabinet has several issues which it would like addressed by the Commission.

- May the Department receive funds, gifts or donations from a business that does business with or is regulated by the Workforce Development Cabinet?
- May the Department receive funds, gifts or donations from a local labor market council (or private non-profit agency), incorporated or not?
- May the Department receive funds, gifts or donations from a local labor market council (or private non-profit agency) if the council received those funds, gifts or donations from a business that does business with or is regulated by the Cabinet?
- May a local labor market council, non-profit agency (incorporated or unincorporated) delivering services in a collaborative or integrated fashion receive funds, gifts or donations from a business that does business with or is regulated by the Cabinet?

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KRS 11A.005 states 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 Opinions 93-23 and 93-35 (copies of which are enclosed), the Commission stated that an agency's acceptance of gratuities from an entity which seeks to do business with or is regulated by the agency would create a conflict of interest for the agency and would tend to damage public confidence in the integrity of government. Accordingly, the Commission believes that the Department should not accept gratuities from a business that does business with or is regulated by the Workforce Development Cabinet.

Similarly, if a local labor market council has as its primary purpose the representation of persons or businesses which the Cabinet does business with or regulates, then the Department should not accept gratuities from the local labor market council. If the Council is comprised primarily of persons or entities which do not do business with and are not regulated by the Cabinet, the Department may accept gratuities from the council. However, gratuities given to the council by an entity from which the acceptance of gifts by the Department would be prohibited may not be accepted by the Department if the gift is routed through the council in order to circumvent the law.

It appears from the information presented that local labor market councils are not a part of a state agency, and thus are not subject to the Executive Branch Code of Ethics. Thus, the provisions governing the acceptance of gifts do not apply to the councils. However, state employees who serve on the councils must comply with the Code of Ethics as it applies to the acceptance of gifts.

EXECUTIVE BRANCH ETHICS COMMISSION

BY: Ruth H. Baxter, Chair

Enclosures: AO 93-23

AO 93-35