

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 99-21

June 8, 1999

RE: Must an individual register as a lobbyist when lobbying for himself or his business?

DECISION: Yes.

This opinion is issued upon the Executive Branch Ethics Commission's (the "Commission") own motion. The Commission is aware that clarification is needed regarding whether an individual is required to register as an executive agency lobbyist (EAL) when the employer for which he is lobbying is himself. This matter was reviewed at the June 8, 1999 meeting of the Commission and the following opinion is issued.

KRS 11A.201 defines the following:

(3) "Employer" means any person who engages an executive agency lobbyist;

(4) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity;

...

(7) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated;

(8) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one of his main purposes on a substantial basis.

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An individual may be an employer and may engage himself to attempt to influence executive agency decisions. If such an individual is self-employed or owns part of a business and is attempting to influence decisions involving funds of at least \$5000 regarding his self-employment or his business, the Commission believes that he should be registered as an EAL. Specifically if an individual is lobbying for a contract or agreement with a state agency that will benefit him or his company, he must register as an executive agency lobbyist.

The Commission believes that that an individual does not have to register as an EAL if he is involved in lobbying issues that do not pertain to his business or self-employment, provided he is not engaged by another employer.

Additionally, the Commission believes that a contract with a state agency that allows payment to the contractor based on a percentage of funds recovered for the state, or allows the contractor to retain a percentage of the funds recovered for the state, is considered to be an "other financial arrangement" whereby funds are distributed or allocated. Thus, attempts made to influence the awarding of a contract including such an arrangement would be considered lobbying and would require registration as an EAL.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Don A. Wimberly

April 10, 2008

Dear

At its June 8, 1999, meeting, the Executive Branch Ethics Commission took up, upon its own motion, the question of whether an individual must register as a lobbyist when lobbying for himself or his business.

The enclosed Advisory Opinion 99-21 is issued.

Sincerely,

Jill LeMaster, Executive Director

Enclosure: AO 99-21