



COMMONWEALTH OF KENTUCKY  
**EXECUTIVE BRANCH ETHICS COMMISSION**

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Executive Branch Ethics Commission  
**ADVISORY OPINION 21-01**  
January 27, 2021

**EXCEPTION NO. 2021-1**

**RE:** The Commonwealth Office of Technology requests an exemption to KRS 11A.040(5) so that it may offer a program in which public servants are enrolled into a drawing to win a prize of monetary value greater than \$25 when they enroll into the Self Service for Password reset.

**DECISION:** The Executive Branch Ethics Commission grants the exemption pursuant to KRS 11A.040(5).

This opinion is issued in response to your November 25, 2020 request for an exemption to KRS 11A.040(5) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the January 27, 2021 meeting of the Commission and the following opinion/exemption is issued.

On behalf of the Commonwealth Office of Technology ("COT"), the Finance and Administration Cabinet is requesting that the Commission grant a request for exemption from KRS 11A.040(5) for all public servants. COT would like to sponsor a contest in which every user of the Commonwealth email system, which includes employees and contractors, who enroll in the Self-Service for Password reset during a specified timeframe (which will be publicized through promotional emails and other materials), will be given one entry for a drawing to win a prize, such as a new iPad or other similar prize. The Commonwealth email system currently has approximately 34,000 users, but only about 13,000 users have enrolled. The prize will be purchased by executive non-merit staff in lieu of the use of state funds.

The Commission has reviewed such rewards programs in the past. When doing so, the Commission has considered both KRS 11A.040(5) and KRS 11A.045(1) collectively when considering awards programs. KRS 11A.040(5) specifically states that:

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A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

“Compensation” is defined in KRS 11A.010(3) as “any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another[.]” Thus, any prize that will be given to the winner of COT’s Program falls within the definition of “compensation” as used in the Executive Branch Code of Ethics. Furthermore, KRS 11A.045(1) states as follows:

No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety. This subsection shall not apply to:

- (a) Activities involving sponsorships, naming rights, or similar honoraria granted under KRS 45A.097; or
- (b) Individuals traveling on their own while involved in activities related to KRS 45A.097.

However, KRS 11A.045(1) is not applicable because you have indicated that the funds for the program would come from COT’s own executive staff. As such, these individuals are not considered a prohibited source as determined by KRS 11A.045(1). As long as the funds used to support the program do not come from entities from which a public servant would be prohibited from accepting a gift pursuant to KRS 11A.045(1), then COT may supply the prize.

As for the application of KRS 11A.040(5), the Commission has previously approved for state agency management to provide prizes to public servants as long as no conflict of interest would be created by the agency’s awarding of cash prizes. See Advisory Opinions 01-18 and 00-5. Therefore, the Commission hereby grants an exemption to the restrictions found in KRS 11A.040(5) to allow the winning public servant to accept the prize proposed for the program without violating KRS 11A.040(5).

Executive Branch Ethics Commission

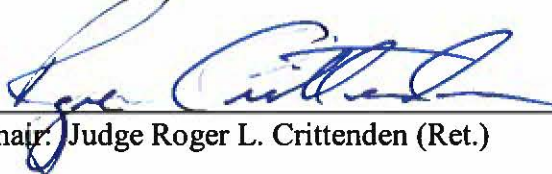
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In issuing this exception, the only determination being made by the Commission is whether COT's Program is acceptable under the Executive Branch Code of Ethics. It is making no determination regarding other programs, which must be addressed on a case-by-case basis.

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A handwritten signature in blue ink, appearing to read "Roger L. Crittenden", is written over a horizontal line.

By Chair: Judge Roger L. Crittenden (Ret.)