

SUBJECT: VENDOR SUPPORT OF EVENTS AND CONFERENCES

SUMMARY: Vendors are not prohibited from providing a public agency with products for use in agency fundraising activities. The State Ethics Commission has advised that vendor support of conference activities be in accordance with conference solicitation guidelines.

QUESTION: Staff Counsel for the Department of Health and Environmental Control (DHEC) raises two questions identified in the discussion.

DISCUSSION:

This opinion is rendered in response to a letter dated April 15, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

1. DHEC as an agency sponsors an annual holiday party in December. In order to generate funds for this event, the agency holds several fund raisers during the year. Pepsi Cola has, in the past, donated drinks, ice, and cups for these functions. Can this practice be continued?

Corporate support of public agency activities has been reviewed in Advisory Opinions SEC AO92-002, SEC AO92-041, SEC AO92-052, and SEC AO92-147. In those opinions, the Commission advised that private business could support agency activities in carrying out agency mandated responsibilities through provision of equipment and services without charge. From the facts as submitted, it does not appear that the holiday party is a mandated agency responsibility. Things of value are prohibited to be either offered or received if given to influence an official action. The Commission, however, does not believe that the provision of drinks, ice, and cups to agency employees is given to influence. Accordingly, the in-kind contribution of the drinks, ice, and cups for the fundraiser would not violate the Ethics Reform Act.

2. The Public Health Association sponsors a convention at which several pharmaceutical companies have provided "suites" which provide free of charge, various drinks and hors d'oeuvres. These companies are usually ones which sell various drugs to the state. The majority of Association members are DHEC employees. Is this an acceptable practice? Would the answer change if these companies were not our "vendors"?

Section 8-13-705 prohibits the solicitation or receipt of anything of value by a public official, public member or public employee in return for being influenced. The Commission does not believe that the provision of hospitality suites as described above are ipso facto violations of Section 8-13-705.

The Commission notes that state employees often attend conferences which may have corporate sponsors for meals and/or other functions. Such sponsors may or may not already do business in this state and may or may not be awarded state contracts in the future. The Commission advises that attendance at those functions sponsored by vendors or other businesses which are provided to all participants would not be prohibited.

The Commission further advises that the Secretary of State's Office be contacted since this matter involves a lobbyist principal.