

ADVISORY OPINION NO. 2001-14

COPY

Issued On May 3, 2001 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **State Licensing Agency** asks whether its personnel may solicit private financial support for a proposed agency project.

FACTS RELIED UPON BY THE COMMISSION

The Agency plans to implement an innovative project which will give its field personnel hand held electronic scanners to assist them in conducting inspections and allow them to more effectively and efficiently monitor the activities of its licensees and their customers. The devices will produce an electronic inspection report which can be down loaded to the agency's computer.

The Agency asks whether it may solicit financial support for the project from vendors or other interested persons, or may apply for grants from established grant programs underwritten by interested persons.

CODE PROVISIONS RELIED UPON BY COMMISSION

WV Code 6B-2-5(c) *Gifts*. -- (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family ...

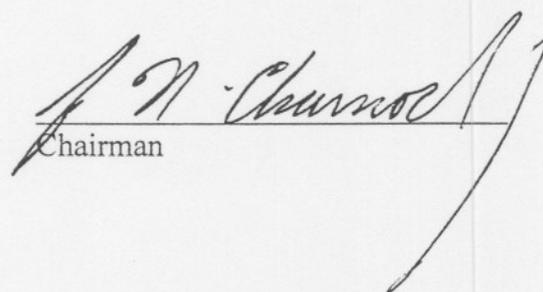
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The Ethics Act prohibits public servants from soliciting a gift, unless it is for a charitable purpose. The Agency's project is not a charitable purpose and agency personnel may not solicit financial support for the project from vendors, regulated persons, licensees or the general public.

Agency personnel may, however, apply to existing grant programs for a grant to fund, or help fund, the project. The existence of a grant program is an offer of financial assistance for those purposes for which the grant program was established. The Commission finds that making an application for a grant from such a program is in effect an effort to accept an existing offer of financial aid and is not covered by the Act's gift solicitation provisions.

Therefore, it would not be a violation of the Ethics Act for agency personnel to seek a grant from an established grant program with eligibility criteria or parameters matching the agency's project. Note: the ruling is subject to the considerations discussed in the following paragraph.

The Commission's ruling is expressly limited to situations where, as here, the primary benefit from the grant will flow to the public and agency personnel will derive no greater personal benefit than the public at large. This opinion does not deal with the propriety of seeking or accepting grants intended to shift the normal cost of conducting an agency's routine activities from budgeted tax revenues to vendors, regulated persons or licensees.


Chairman