

**OPEN MEETINGS ADVISORY OPINION NO. 2001-21**

**Issued On August 9, 2001 By The**

**WEST VIRGINIA ETHICS COMMISSION  
COMMITTEE ON OPEN GOVERNMENTAL MEETINGS**

**OPINION SOUGHT**

The West Virginia Public Port Authority (Authority) asks if a committee it has appointed to evaluate prospective contractors is subject to the requirements of the Open Meetings Act.

**FACTS RELIED UPON BY THE COMMITTEE**

The Authority is in the process of hiring a consultant to study the proposed development of a regional airport. The Authority appointed a committee to interview prospective consultants and evaluate the proposals they have submitted.

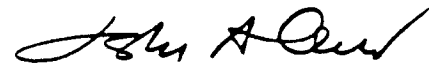
The five member committee consists of two of the Authority's eleven members, the Authority's Executive Director, and two employees of the West Virginia Department of Transportation. The committee's authority is limited to making a non-binding recommendation to the Authority regarding which consultant should be awarded the contract.

**CODE PROVISIONS RELIED UPON BY THE COMMITTEE**

W. Va. Code § 6-9A-2(6) defines "public agencies" as "... any administrative or legislative unit of state, county or municipal government, including any department, division, bureau, office, commission, authority, board, public corporation, section, committee, subcommittee or any other agency or subunit of the foregoing authorized by law to exercise some portion of executive or legislative power."

**ADVISORY OPINION**

In Open Meetings Advisory Opinion 99-01, this Committee noted that a public entity is subject to the Act, only if it is authorized to "exercise some portion of executive or legislative power." The Authority's consultant evaluation committee's authority is limited to making non-binding recommendations. It has not been authorized to exercise any of the Authority's executive powers. In the absence of such authority, or the participation of a quorum of the Authority during its meetings, the evaluation committee need not comply with the Act's provisions.



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Chairman