

OPEN MEETINGS ADVISORY OPINION NO. 2001-24

Issued On August 9, 2001 By The

WEST VIRGINIA ETHICS COMMISSION COMMITTEE ON OPEN GOVERNMENTAL MEETINGS

OPINION SOUGHT

The Central West Virginia Regional Airport Authority (Authority) asks if a committee which is evaluating proposals for providing architectural and engineering services pursuant to W. Va. Code § 5G-1-3 may interview the responding firms in executive session.

FACTS RELIED UPON BY THE COMMITTEE

The Authority is in the process of selecting a firm to provide architectural and design services for the construction of an additional parking facility. W. Va. Code § 5G-1-1, *et. seq.*, establishes a procedure for state agencies and political subdivisions to follow when procuring architectural and engineering services. The prescribed procedure includes evaluating, interviewing and ranking prospective contractors.

CODE PROVISIONS RELIED UPON BY THE COMMITTEE

W. Va. Code § 6-9A-4 provides in pertinent part:

(b) . . . A public agency may hold an executive session and exclude the public only when a closed session is required for one of the following actions:

(9) To consider matters involving or affecting . . . the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision.

ADVISORY OPINION

The Open Meetings Act permits governing bodies of public agencies to hold an executive session and exclude the public only when a closed session is required for one of the reasons specified in W. Va. Code § 6-9A-4. The selection of a contractor to provide architectural and design services for the Authority involves a form of commercial competition contemplated by the exemption. Therefore, the Authority may elect to go into executive session to interview firms that have responded to an advertised solicitation for expressions of interest in performing the work.



Chairman