

ADVISORY OPINION NO. 99-25

Issued On September 2, 1999 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **State Administrator** asks whether the Agency may solicit sponsors to help underwrite the cost of an agency sponsored seminar.

FACTS RELIED UPON BY THE COMMISSION

The Agency has been asked by a Federal agency to sponsor a business seminar which will further the missions of both agencies. The Federal agency will pay 80% of the cost of the seminar and the Agency will be responsible for the remaining 20%. The seminar will be presented by a national organization to which the Agency belongs.

The Agency asks if it may solicit local sponsors to pay for its share of the cost of the seminar. In exchange for their financial support, sponsors would be permitted to invite ten guests to the seminar, be given an opportunity to speak to the group and have their individual or firm names published in the seminar brochures, communications, or other related papers.

The agency expects to solicit sponsorships from law firms, CPA firms and banks which can be expected to offer their services to the businesses and individuals who are the seminar's target audience. The sponsors' own personnel could be interested, individually, in attending the seminar.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) provides in pertinent part that...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...

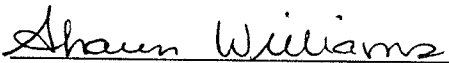
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The Ethics Act prohibits public servants from soliciting gifts, unless the gift is for a charitable purpose. Although the seminar is a legitimate part of the Agency's mission, the Commission does not believe it is a charitable purpose. Therefore, Agency personnel may not solicit gifts to underwrite the cost of the seminar.

The Agency could sell tickets for the seminar and use the proceeds to cover its portion of the seminar's cost. The sale of tickets, offering something of value in return for the sale price, is not a solicitation of a gift. However, the opportunity to invite guests to an activity for which there is no charge does not constitute the sale of something of value.

The Agency could also sell the opportunity to make business presentations during the seminar. The solicitation of such sales, to the extent that they are commercially defensible, would not be prohibited, but the sale must offer fair value for the sales price and must not be merely a gift solicitation in disguise. Similarly, the publication of sponsors' names in seminar related materials may have some advertising value, but it has very limited financial value.

Agency personnel may solicit sales, but may not solicit financial support in excess of the value of the benefits offered for sale. It would be a violation for agency personnel to solicit financial support from individual or business sponsors, if the cost of sponsorship exceeds the commercial value of the benefits offered to the sponsors.


Chairman