

SUBJECT: ETV EMPLOYEES RECEIVING PASSES TO TRADE SHOW

SUMMARY: ETV employees would not be prohibited from accepting passes to the National Association of Broadcasters trade show since the passes allow attendance at the entire show with the employees receiving no specific advantage than any other attendee.

QUESTION: The Personnel Director for ETV advises that the National Association of Broadcasters sponsors a trade show every year in which manufacturers of broadcast equipment exhibit their products. Certain employees of ETV receive free passes to these exhibits from several companies from which the agency purchases equipment. There are no restrictions on the passes. Employees using the passes are free to look at all exhibits. She questions whether the employees may accept these free passes without violating the Ethics Reform Act.

DISCUSSION:

This opinion is rendered in response to a letter dated March 24, 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.

Section 8-13-710(B) provides:

- (B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:
  - (1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's, or public employee's office or position;
  - (2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:
    - (a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.

(b) conducts operations or activities which are regulated by the public official's, public member's or public employee's governmental entity.

Anything of value or thing of value is defined in Section 8-13-100(1) as:

- (1) (a) "Anything of value" or "thing of value" means:
  - (i) a pecuniary item, including money, a bank bill, or a bank note;
  - (ii) a promissory note, bill or exchange, an order, a draft, warrant, check, or bond given for the payment of money;
  - (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
  - (iv) a stock, bond, note, or other investment interest in an entity;
  - (v) a receipt given for the payment of money or other property;
  - (vi) a chose-in-action;
  - (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
  - (viii) a loan or forgiveness of indebtedness;
  - (ix) a work of art, an antique, or a collectible
  - (x) an automobile or other means of personal transportation;
  - (xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;
  - (xii) an honorarium or compensation for services;
  - (xiii) a promise or offer of employment;
  - (xiv) any other item that is of pecuniary or compensatory worth to a person.
- (b) "Anything of value" or "thing of value" does not mean:
  - (i) printed informational or promotional material, not to exceed ten dollars in monetary value;
  - (ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
  - (iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;
  - (iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;
  - (v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;
  - (vi) promotional or marketing items offered to the general public on the

- same terms and conditions without regard to status as a public official or public employee; or
- (vii) a campaign contribution properly received and reported under the provisions of his chapter.

From the facts as submitted, the passes are given to employees because of their positions with the agency. The vendors are exhibiting equipment which is subject to purchase by the agency. Since those vendors are seeking a contractual or business or other relationship with the agency, those employees who are required to file a Statement of Economic Interests must disclose anything of value received which is worth \$25 or more in a day or \$200 in the aggregate in a calendar year from the person providing the passes.

The State Ethics Commission also calls attention to the provisions of Section 8-13-705(B):

- (B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:
  - (1) influenced in the discharge of his official responsibilities;
  - (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
  - (3) induced to perform or fail to perform an act in violation of his official responsibilities.

While the passes are being given to the agency for use by certain employees, it does not appear that the receipt is intended to influence any specific action by the employees. The Commission, therefore, sees no prohibition against the acceptance of such passes by the agency for use by certain employees. The passes allow the employees to attend all the exhibits at the trade show. They receive no other benefit than that received by all other trade show attendees.