

SUBJECT: REIMBURSEMENT OF TRAVEL EXPENSES FOR PROVIDING SERVICES

SUMMARY:

The Commission advises that employees may be reimbursed by another agency in accordance with authorized procedures if approved in advance by both agencies.

QUESTION:

The Assistant Director of the Division of Human Resource Management requests that the State Ethics Commission reconsider its advice from Advisory Opinion SEC AO92-061. In that opinion, the Commission advised that state employees who are engaged in conducting audits or providing consulting services to other state agencies should seek reimbursement for expenses from their employing agency. The employing agency could seek reimbursement from the agency requesting the service.

The Assistant Director states that when employees work out of town, the employing agency informs the requesting agency that they do not intend to reimburse the employee for travel expenses. The employee is then authorized to file directly with the requesting agency and receive payment directly from them. This procedure is authorized in law and supported by the Comptroller General.

DISCUSSION:

This opinion is rendered in response to a letter dated June 9, 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.

In Advisory Opinion SEC AO92-061, the State Ethics Commission advised that reimbursement of expenses could be obtained from the agency or group to whom services were provided. The Commission suggested that agencies reimburse Human Resource Management for costs associated with provided agency services. The Commission also advised that a contract could be entered into with the out-of-town agencies to arrange travel, meals, and lodging for the affected employee.

The State Ethics Commission also advised that a contractual arrangement to provide travel and/or lodging in conjunction with services provided by the agency would not be prohibited. The Commission's response suggested that no payment should be paid directly to the employee for travel and/or lodging, but instead that such reimbursement be paid to the agency and then reimbursed to the employee according to agency travel policies and procedures.

The Commission advised in Advisory Opinion SEC AO92-023 that, rather than the employee making a determination as to the appropriateness of accepting an honorarium, any requests for expense reimbursement to the agency be channeled through the agency in advance.

Based upon the facts as submitted, it appears that the procedure for expense reimbursement to be made by the requesting agency is legally provided and approved by the Comptroller General. The State Ethics Commission, however, continues to advise that such travel reimbursement be documented in advance and that the employee only receive such travel expense reimbursement as provided by the agency travel policies and procedures.