

SUBJECT: VENDOR SUPPORT OF CONFERENCES

SUMMARY:

Vendors may assist with sponsorship of a conference by contributing to a general conference support fund without supporting any particular event. Vendors may pay fees for booth space with such fees being utilized for general conference support.

QUESTION:

The Chairman of the Association of SC Energy Managers requests an opinion on behalf of that association which is composed of over 80 energy managers from state agencies and school systems. In the past, the Association has accepted contributions from vendors in support of conferences to include coffee breaks, sponsored luncheons, and vendor fair participation. She requests a review of the following situations:

- (1) Use of company-sponsored breaks, luncheons, or dinners at conferences.
- (2) Acceptance of monetary contributions from vendors to be used for conference expenses, thereby reducing registration fees to all members.
- (3) Use of a vendor fair where a vendor pays the Association for booth space to display products and/or services at a conference. This money would be used to offset conference expenses and reduce the registration fees to all members.

DISCUSSION:

This opinion is rendered in response to a letter dated March 17, 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 Commission noted that Section 8-13-705 prohibits the giving of anything of value to a public official, public member or public employee with the intent to influence official action. Section 8-13-705 provides in part as follows:

- (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
 - (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(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.

This section prohibits the solicitation or receipt of anything of value by a public official, public member or public employee in return for being influenced. The Commission does not believe that solicitations such as described above are ipso facto violations of Section 8-13-705. The Commission does feel the need for the establishment of guidelines for solicitation and donation so as to minimize the possibility of undue influence.

In light of the fact that those firms who are asked to help defray the costs of an event may be doing business or be seeking to do business with the agency or organization involved, the Commission suggests the following guidelines for any such solicitation:

(1) Solicitation be done either by a separate foundation and/or by employees who are not directly involved in agency activities regarding such businesses which are being solicited.

(2) All interested potential sponsors be given the opportunity to contribute.

(3) The contribution be made to a separate fund or account, with no industry source supporting any particular activity or event

(4) Such industry source may be identified as a conference supporter or sponsor on conference programs, billboards, etc. with no amounts being shown to participants.

The Commission, therefore, advises in accordance with the above guidelines that vendors not sponsor any particular event but contribute to a separate conference account. The payment by vendors for booth space would be deposited into this same conference support account for general conference support.