

SUBJECT: FILING OF STATEMENT OF ECONOMIC INTERESTS BY CONSULTANT

SUMMARY:

A consultant engineering firm is required to file a Statement of Economic Interests form within twenty-one days of entering into a contractual relationship with a political subdivision and within ten days after any interest in the entity awarded such contract. Only information on the first page and in Item 22 must be disclosed.

QUESTION:

The Assistant General Counsel of Black & Veatch requests an opinion concerning the filing of the Statement of Economic Interests form. Black & Veatch is a consulting engineering firm which frequently contracts with governmental entities to provide professional engineering services. Services performed under engineering services agreements include evaluating and awarding construction bids for the owner. Generally, those bids are awarded on the basis of "lowest bid". The Counsel advises that it appears that Black & Veatch satisfies the definition of "consultant", however, she questions the applicability of the Statement of Economic Interests form.

DISCUSSION:

This opinion is rendered in response to a letter dated June 12, 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 8-13-100(8) defines consultant as:

'Consultant' means a person, other than a public official, public member, or public employee who contracts with the State, county, municipality, or a political subdivision thereof to:

- (a) evaluate bids for public contracts, or
- (b) award public contracts.

Section 8-13-1150 provides:

A consultant must file a statement of economic interests for the previous calendar year with the appropriate supervisory office no later than twenty-one days after entering into a contractual relationship with the State or a political subdivision of the State and must file an update within ten days from the date the consultant knows or should have known that new economic interests in an entity have arisen in which the

consultant or a member of the consultant's immediate family has economic interests:

- (1) where the entity's bid was evaluated by the consultant and who was subsequently awarded the contract by the State, county, municipality, or a political subdivision of any of these entities that contracted with the consultant; or
- (2) where the entity was awarded a contract by the consultant.

It appears from the facts as submitted that Black & Veatch is a consultant as defined in Section 8-13-100(8). The Statement of Economic Interests is to be filed by the consultant, i.e., Black & Veatch, within twenty one days after entering into a consulting agreement with a political subdivision in South Carolina. An update must be filed within ten days after award of a contract to a business in which the consultant has an economic interest.

The Statement of Economic Interests requires disclosure of a number of items, however, the State Ethics Commission believes that only the information required by Section 8-13-1150 applies to a consultant. Therefore, the Commission advises that only the first page and Item 22 need to have an applicable response. The remaining questions should be checked as 'not applicable'.