

**ARKANSAS ETHICS COMMISSION
ADVISORY OPINION 97-EC-016**

ISSUED: October 17, 1997

ISSUE PRESENTED

Whether it is necessary for employees of a certain company to register as lobbyists if their primary lobbying function is to sell services to governmental bodies on a contract basis?

BRIEF RESPONSE

No. Pursuant to Ark. Code Ann. § 21-8-601(a)(2)(H), if an employee's only act of "lobbying" concerns selling services to governmental bodies and servicing such contracts after the sale, the employees need not register as lobbyists provided they do not spend more than \$250 for food, lodging, travel or gifts to benefit the public servants who purchase or use the services.

SUMMARY OF FACTS

A lobbyist's representative has inquired whether, for purposes of lobbyist registration, an employee involved in the sale of services to various governmental bodies is required to register as a lobbyist. The employee's only act of "lobbying" is to negotiate contracts for the sale of services. The employee will then service the contract. In negotiating the sales, the employee must make regular contact with various public officials and public servants. However, the employee usually spends nothing and never spends more than \$250 a quarter for food, lodging, travel or gifts to benefit the public officials and servants who purchase the commodities sold or for the benefit of any public official involved with the contract.

DISCUSSION and DECISION

Ark. Code Ann. § 21-8-601(a)(2)(H) and § 504(a)(8) of the Arkansas Ethics Commission Rules for Lobbyists provides an exception to the registration requirement for certain persons engaged in no lobbying other than:

[A]ctions by contractors or employees of contractors while engaged in selling to a governmental body by demonstrating or describing commodities or services or inquiring as to specifications or terms and conditions of a particular purchase unless such contractor or its employees expend in excess of two hundred fifty dollars (\$250) in a calendar quarter for food, lodging, travel, or gifts to benefit public servants who purchase commodities or services on behalf of a governmental body.

As employees of a contractor, they may "lobby" governmental bodies provided their lobbying consists of the actions described in Ark. Code Ann. § 21-8-601(a)(2)(H) and they will not be required to register as lobbyists unless or until such time as they or their contractor employer expends in excess of \$250 in a calendar quarter for the benefit of public servants. This opinion assumes that the employees' lobbying activities are as described herein, i.e. demonstrating or describing commodities or services. Employees of a contractor whose lobbying activities are different or outside those activities described in § 21-8-601(a)(2)(H) will need to register as lobbyists unless another specifically enumerated exemption is applicable to that employee.

SUMMARY

Employees who sell services to governmental bodies on a contract basis, demonstrating and describing the services to be provided and the terms and conditions of the purchase, and who do not expend in excess of \$250 in a calendar quarter are not required to registered as lobbyists pursuant to Ark. Code Ann. § 21-8-601(a)(2)(H).

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