

**INFORMAL OPINION IO-2000-001
ISSUED MARCH 31, 2000**

You have requested an informal staff opinion on the following:

Do the Constitutional Ethics Rules [“the Rules”], Section 1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1999, Ch. 62, App., prohibit a legislator from entering into agreements with separate citizen groups for Capitol Building art work when payment of fees, in both instances, will not be made from state appropriations but, instead, come strictly from private funding? Do the Rules impose any reporting obligation with respect to either project?

FACTS

You have advised:

- You are an artist and sculptor by profession.
- Two citizen groups have asked you to accept separate commissions for art work with respect to independent Capitol Building projects. The first entails design and construction of bronze bas relief sculptures for either side of the entrances to the House and Senate chambers. There are to be a total of four of these [two for each entrance]. The second pertains to the planned Capitol dome. You have been requested to provide a large bronze statue for it.
- The agreements to provide this artwork will be between you and private groups, who plan to donate your work to the State of Oklahoma.
- Neither project will be paid for from state appropriated money. Instead, both will be financed entirely from privately raised funds.
- None of the funds for either project is being solicited from the public in the name, or for the benefit of, an elective officer or candidate.

ANALYSIS

It is clear that the Rules prohibit legislators from contracting with the state for goods and services.

State officers' and state employees' private interests in public contracts

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(b) **Contracting with current or former legislators and statewide elective officers.** No legislator or statewide elective officer shall sell or cause to be sold, rent or lease either as an individual or through any business enterprise in which he holds a substantial financial interest, good, services, buildings or property to any governmental entity ...

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Section 257:20-1-10

However, under these facts, neither commission involves a governmental entity. With respect to both projects, the agreement will be between you and a private citizen group. No state appropriated funds are involved. Your fees will be paid for strictly by private donations. The Rules do not reach such contracts.

It is therefore the opinion of staff that nothing in the Rules restricts a legislator from contracting with a private group or groups for payment of artwork designed to either hang in the Capitol or adorn the dome. Nor, do the Rules prohibit the funding of materials and construction costs of these projects from such privately funded sources. The question of whether the Rules impose a reporting requirement turns on the manner in which private funds are raised. Those solicited from the public in the name, or for the benefit, of an elective officer or candidate and which are accepted by an elective officer or candidate, are subject to a reporting requirement.

Contributions

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(m) **Use of other funds.**

(1) Anything of value which is solicited from the public in the name of or for the benefit of an elective officer or candidate, and which is accepted by an elective officer or candidate, shall be subject to the reporting requirements of this chapter. This would include, but not be limited to, things of value given for an inauguration or renovation of public property. Anything of value accepted by an agent or representative of an elective officer or candidate or by a committee established by, in the name of, or for the benefit of, an elective officer or candidate shall be deemed to be accepted by such elective officer or candidate for purposes of this section.

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Section 257:10-1-2

Since neither fund is being solicited in the name, or for the benefit, of any elective officer or candidate, the Rules impose no reporting obligation.

CONCLUSION

It is therefore the informal opinion of the Ethics Commission staff that nothing in the Rules restricts a legislator from contracting with private citizen groups for payment of artwork designed to either hang in the Capitol Building or adorn the projected dome. Nor, do they prohibit funding project materials and construction costs from such privately funded sources.

Since, in neither instance, are funds being solicited from the public in the name, or for the benefit, of an elective officer or candidate, the Rules impose no reporting requirement under these facts.

Like ethics interpretations, informal staff opinions are fact specific. They answer only the question or questions put forth in the request according to information described in the “Facts” section [*supra*]. While they may shed light on other situations, this opinion does not necessarily control them.

The Rules permit the Commission staff to issue informal opinions, upon the approval of the Chair or Vice Chair, provided the matter is reasonably susceptible to a single analysis and is not the subject of litigation, investigation or legislation. We hope these informal letters shed light on the issues and provide guidance. They are not, however, official pronouncements.

This opinion letter has been approved by the Commission Chairman. According to policy, this opinion will be submitted to the members, any of whom can request that the matter be converted to an ethics interpretation and considered by the full Commission.

Informal opinions are published with sufficient deletions to prevent identification of the persons or entities involved. The name of the requestor is considered confidential. This letter has been labeled accordingly.