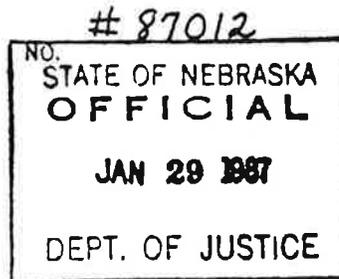


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: January 28, 1987

SUBJECT: Conflict of Interest and Reporting Requirements of Members of the Economic Development Commission and Advisory Committees

REQUESTED BY: Rodney L. Bates, Director, and Larry Williams, Community Development Program Representative, Department of Economic Development

WRITTEN BY: Robert M. Spire, Attorney General; Fredrick F. Neid, Assistant Attorney General

You have requested an opinion of this office concerning the eligibility of members of the Commission and Advisory Committees for grants administered by the Department of Economic Development. You have further inquired as to the filing and reporting requirements of Commission and Advisory Committee members under the provisions of the Nebraska Political Accountability and Disclosure Act.

It is our opinion that members of the Economic Development Commission and Advisory Committees are not eligible for grants administered by the Department of Economic Development. This conclusion is based on Neb.Rev.Stat. §49-14,101 (Supp. 1986) which prohibits public officials from using their public offices or any confidential information received through the holding of a public office for financial gain.

The establishment and composition of the Economic Development Commission are provided by Neb.Rev.Stat. §§81-1201.04 and 81-1201.05 (Supp. 1986). These members serve six year terms and are appointed by the Governor on the basis of special knowledge or expertise in fields listed in the statutes. The selection of members and the attributes of the Advisory Committees for the six divisions of the Department of Economic Development are also provided for by statutes. The responsibilities of the Advisory Committees are similar in that they consult, advise, and make recommendations in the awarding of grants, contracts, and administration of programs for their

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respective divisions within the Department of Economic Development.

By these responsibilities, members of the Commission and Advisory Committees have the attributes of public officials and certainly are in a position to influence the decision-making processes of the Department of Economic Development. Accordingly, it is our conclusion that the members are within the prohibition of Neb.Rev.Stat. §49-14,101 (Supp. 1986) and may not directly receive grants administered by the Department of Economic Development. Please be referred to advisory opinions of this office under dates of June 12, 1986, September 18, 1984, and August 24, 1984, which are consistent with this opinion.

A related part of your inquiry is whether the organizations the members are associated with may be eligible grantees. This question is highly factual in nature and the conclusion depends on the type of organization and relationship of the member to that organization. Obviously, if the organization is a private company, Neb.Rev.Stat. §49-14,101 (Supp. 1986) would preclude any grant to the organization if the member would derive any financial benefit or gain. If the organization is a governmental or public entity, the awarding of a grant to the organization would be permissible if the member would derive no financial gain.

There may be other restrictions concerning eligible grantees for specific grant programs not addressed in this opinion. If the grants are federal source funds, the federal government may have established prerequisites for grant eligibility which must be complied with. Certain federal restraints have been discussed in other opinions issued to you from this office as referenced above.

The second part of your inquiry concerns the filing requirements of members with the Accountability and Disclosure Commission. This question has been addressed by the Accountability and Disclosure Commission by letter dated January 23, 1987. This office concurs with the conclusions set out in that letter.

We also advise you that the Accountability and Disclosure Commission may render advisory opinions as to the propriety of actions to be taken by public officials. Neb.Rev.Stat. §49-100 (Reissue 1984) provides that upon a complete and accurate request, ". . . such opinion shall be a complete defense to any charge of violation. . . ." In a particular situation, a member has a way to resolve any question or doubt as to the propriety of actions by applying for an advisory opinion from the Accountability and Disclosure Commission.

In summary, we are of the opinion that members of Economic Development Commission and Division Advisory Comm

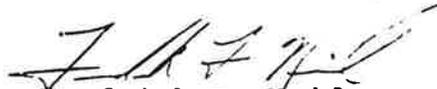
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are not eligible grantees of programs administered by the Department of Economic Development. The organizations represented by the members may be eligible for grants depending on the type of organization, the nature of the association between the member and the organization, and the eligibility criteria for the grant under consideration. Reporting requirements of a member for compliance with the Nebraska Political Accountability and Disclosure Act are as stated in the letter of the Nebraska Accountability and Disclosure Commission dated January 23, 1987.

Sincerely,

ROBERT M. SPIRE
Attorney General



Fredrick F. Neid
Assistant Attorney General

FFN:bmh

APPROVED BY:



Attorney General