

January 25, 2002

Dan R. Olsen
Washington County Counsel
Public Services Building
155 North First Street, Suite 340, MS#24
Hillsboro, Oregon 97124

Dear Mr. Olsen:

This letter is in response to your correspondence dated January 14, 2002 concerning a Washington County official participating in a trade/economic development mission to China.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 02S-001**

STATED FACTS: A Washington County official has been asked by the State of Oregon to participate in a trade/economic development mission to China. The official would accompany legislative, state and local business leaders, including some with operations in Washington County. A Washington County official was selected due to the county's role as one of the economic and international trade centers of the state.

The cost of the trip is \$3,500. The state officials will have their expenses paid for by the state. Washington County, however, has no funds budgeted for this matter. Accordingly, soliciting and receiving private donations to pay the Washington County official's expenses is being considered. It should be assumed that most of the contributors have, or at some point will have, some legislative or administrative interest in Washington County decisions.

The Washington County official would not bring a spouse or other relative.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(8) " Gift means something of economic value given to a public official or the public official's relative without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives of public officials on the same terms and conditions; and something of economic value given to a public official or the public official's relative for valuable consideration less than that required from others who are not public officials. However, gift does not mean:

244.020(8)(c) The giving or receiving of food, lodging and travel when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, subject to the reporting requirement of ORS 244.060(6).

244.020(11) Legislative or administrative interest means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official.

244.020(15) Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

244.040 Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

244.040(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

244.040(2) No public official or candidate for office or a relative of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

244.060(6)(a) Notwithstanding ORS 244.020(8)(c), if a public official has received food, lodging and payment of travel expenses exceeding \$100 when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, the name, nature and business address of the organization paying the expenses and the date and amount of that expenditure.

244.100(3) In addition to any disclosures or reports required under subsections (1) and (2) of this section, any person or organization that provides a public official with food, lodging or travel expenses exceeding \$50, as described in ORS 244.060(6), shall notify the public official in writing of the amount of the expense. The notice shall be sent to the public official within 10 days from the date such expenses are incurred.

QUESTION: Would it be a violation of Oregon Government Standards and Practices law for either the county or a county official to solicit and receive private donations to finance participation by a county official in a trade/economic development mission to China?

OPINION: The stated facts indicate that Oregon Government Standards and Practices law would not prohibit the county or a county official to solicit and receive donations to pay for airfare, lodging, meals and expenses directly related to the participation in the described event.

The county official participating in the trade/economic development mission is a public official as defined by ORS 244.020(15). As a public official the provisions of Oregon Government Standards and Practices law would apply to the official's anticipated travel.

ORS 244.040(2) prohibits public officials from receiving gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has any official position or authority. This prohibition does not apply to the receiving of food, lodging and travel when the public official is participating in an event that bears a relationship to the official's office and when appearing in an official capacity.

The official would be required to report the receipt of such paid expenses on the official's Annual Verified Statement of Economic Interest the following year as required by ORS 244.060(6)(a). In addition, ORS 244.100(3) requires any person or organization that provides a public official with food, lodging or travel expenses, that exceed a value of \$50, to notify the public official in writing within 10 days of the amount of the expense.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Please don't hesitate to call or write again if you have questions or desire additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director