



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 100

*December 10, 1992*

*Acceptance of prizes by state employees and related questions. (AOR-87)*

The Texas Ethics Commission has been asked to consider the application of the ethics laws to the following situation:

A trade association hosts a golf tournament to which certain individuals employed by a state agency are invited to participate. All participants would pay the same registration fee out of their own pockets. Prizes are given at the conclusion of the golf tournament and all participants are eligible to win a prize. Door prizes are also awarded during the tournament.

The request letter indicates that the expenditures in connection with the tournament are lobby expenditures--that is, expenditures to influence the action of the state agency whose employees are invited to the tournament. *See* Gov't Code §§ 305.002(1) (defining "administrative action" to include action by a state agency), 305.003, 305.006 (certain expenditures to influence administrative action require lobby registration). A prize<sup>1</sup> at the event would be a lobby expenditure even if the state employee paid a registration fee.<sup>2</sup> *See id.* § 305.002(5) ("expenditure" for purposes of lobby statute includes a gift or "distribution"). The lobby statute prohibits lobbyists from making certain types of expenditures and prohibits state employees from accepting certain things from lobbyists. *Id.* §§ 305.024, 305.025. The nature and value of the prize determine whether the prize is permissible.

In addition to the prohibitions in the lobby statute, certain state employees are prohibited from accepting a "benefit" from certain persons. Penal Code § 36.08. A prize may be a prohibited benefit. *See generally* [Ethics Advisory Opinions Nos. 75, 69, 67, 66, 64, 63, 62, 61, 60, 36](#) (1992). There is, however, an exception for a gift, award, or memento required to be reported under the lobby statute. Penal Code § 36.10(a)(5)<sup>3</sup>; *see* [Ethics Advisory Opinions Nos. 91, 89](#) (1992) (regarding attribution of expenditures to individuals or entities).

The requestor asks whether the same legal requirements would apply "if a state employee participating in the tournament had taken the day off from work." The same requirements would apply. The provisions in the lobby statute and the Penal Code apply to gifts and expenditures made both during working hours and outside of working hours.

### SUMMARY

Whether a state employee may accept a prize depends on the nature, value, and context of the prize. The provisions in the lobby statute and the Penal Code apply to gifts and expenditures made both during working hours and outside of working hours.

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<sup>1</sup> The request letter refers to both "prizes" and "door prizes." We assume the "prizes" are for performance. The same analysis of the lobby statute and the Penal Code would apply to either kind of prize. A prize would be reported as a "gift" under section 305.006(b) unless it fit into one of the more specific categories in section 305.006(b).

<sup>2</sup> This opinion assumes that the registration fees do not cover all of the costs of the event. Even if that is the case, there would be a lobby expenditure in the circumstances described since "expenditure" for purposes of the lobby statute includes a "distribution." Gov't Code § 305.002(5).

<sup>3</sup> In order for a prize to be permissible in the circumstances described, it must be permissible both under the lobby statute and under chapter 36 of the Penal Code.