



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 341

September 13, 1996

Whether Ethics Advisory Opinion No. 185 (1994) stands for the proposition that the contingent fee prohibition in section 305.022 of the Government Code does not apply to fees for communications to influence purchasing decisions, regardless of whether the fee is paid to a regular employee of a vendor or to an independent contractor. (AOR-379)

The Texas Ethics Commission has been asked to clarify [Ethics Advisory Opinion No. 185](#) (1994). That opinion concluded that the prohibition against certain contingent fees for lobby activity in section 305.022 of the Government Code does not prohibit contingent fees for efforts to influence state agency purchasing decisions. The request letter asks whether that rule applies both to a regular employee of a vendor as well as to an independent contractor. The focus of the opinion was the nature of the agency decision that a person is attempting to influence, not the employment relationship between the person attempting to influence a decision and the person he or she represents. The opinion applies to all fees for efforts to influence agency purchasing decisions, regardless of whether the person attempting to influence an agency purchasing decision is working as an employee of a vendor or as an independent contractor.

SUMMARY

[Ethics Advisory Opinion No. 185](#) (1994), which concluded that the prohibition against certain contingent fees in section 305.022 of the Government Code does not prohibit contingent fees for efforts to influence state agency purchasing decisions, applies to all fees for efforts to influence agency purchasing decisions, regardless of whether the person attempting to influence an agency purchasing decision is working as an employee of a vendor or as an independent contractor.