Copy/mc

Election Systems & Software
MAINTAINING VOTER CONFIDENCE
ENHANCING THE VOTING EXPERIENCE

EXPERIENCE
RELIABILITY
SECURITY
INNOVATION

11208 John Galt Boulevard · Omaha, NE 68137 USA
Phone: 402.593.0101 · Toll-Free: 1.800.247.8683 · Fax: 402.593.8107
www.essvote.com

RECEIVED
JUN 06 2005
SC ELECTION COMM.

June 3, 2005

Ms. Marci Andino
Executive Director
PO Box 5987
Columbia, SC 29250

Dear Marci;

ES&S is establishing a "National Advisory Board" and we would like to invite you to become a charter member of this Board. The objective of this Board will be to advise ES&S on significant product and service decisions that are focused on maintaining our leadership position in the industry. We recognize the importance of listening to the needs of the industry and our customers as a strong voice in the management of ES&S. This is especially true with the many changes coming from HAVA and new Voting System Standards Guidelines.

The "National Advisory Board" will be made up of a select few recognized leaders in the election industry. The "Board" will meet three times a year at various locations throughout the United States. The time commitment required on your part would be minimal. The agenda would be a dinner the night before the business meeting. The following day a 6 hour business meeting would take place to allow return travel the same day. ES&S will reimburse you for any travel, lodging, and meal costs incurred. A meeting agenda and reading materials will be sent to you in advance of all meetings.

ES&S is committed to our customers success and to the election industry that we support. We value your input and hope you will participate in our "National Advisory Board". Please RSVP, by June 17, 2005, on the enclosed reply card, by email at ggcrump@essvote.com or contact me at 402-970-1122 if you have any questions or needs. Thank you for considering our invitation.

Sincerely,

Gary G. Crump

Gary G. Crump
Election Systems & Software, COO

From: Herbert Hayden
To: Andino, Marci
Date: 6/9/2005 2:42:42 PM
Subject: Re: ES&S

Marci, Yes. That would be an acceptable method of payment as long as everyone attending is treated equally.

Herb

>>> Marci Andino 6/8/2005 3:49:49 PM >>>
Herb,

Thanks for your quick reply to my inquiry about the advisory board. I wanted to confirm that it is ok for ES&S to pay a hotel directly for rooms for participants if, for example, they secure a block of rooms for board members.

I understand all reimbursements from ES&S should be paid directly to the agency and NEVER directly to me.

Thanks for your help.

Marci

>>> Herbert Hayden 6/7/2005 12:57:18 PM >>>
Marci,

As requested, Cathy Hazelwood, our General Counsel, and I have reviewed the copy of the June 3, 2005 letter to you from Election Systems & Software (ES&S) regarding their request for you to serve on a "National Advisory Board". The letter indicates that ES&S would reimburse you for any "travel, lodging, and meal costs incurred".

In our review, we have consulted the statute as well as prior advisory opinions issued by the Commission.

Section 8-13-100(30) defines "Official Responsibility" as activities "which:
(a) arise because of the position held by the public official, public member, or public employee;
(b) involve matters which fall within the official responsibility of the agency, the public official, the public member, or the public employee; and
(c) are services the agency would normally provide and for which the public official, public member, or public employee would be subject to expense reimbursement by the agency with which the public official, public member, or public employee is associated."

From our discussion it is evident that your service on the advisory board would fall into the official responsibility of your position.

In Advisory Opinion AO92-088 the Commission opined that "Employees engaged in covering an event as part of their position responsibilities may accept a meal incidental to their coverage provided all other participants receive the meal. Other reimbursements must be made to the employee by the employing agency in accordance with agency travel procedures."

In Advisory Opinion SEC AO92-052. the Commission advised that "private industry may provide support to assist an agency in carrying out its mandated responsibilities." This is acceptable as long as your service on the advisory board is not being offered to influence an official action, such as renewal of a contract, but is offered as a cooperative effort to improve the election process.

As we discussed, other than meals received as provided in AO92-088, you should pay your expenses and submit a travel reimbursement voucher to the Comptroller General. Any reimbursement from ES&S should be made to the State to reimburse your budget item. This process will ensure that you do not receive anything of value directly from ES&S which will avoid even the appearance of impropriety.

Let me know if you have any other questions or concerns.

Herb

Herbert R. Hayden, Executive Director
State Ethics Commission
5000 Thurmond Mall, Ste 250
Columbia, SC 29201
803/253-4192