



**Ohio Elections Commission**

30 East Broad Street, 14th Floor

Columbus, Ohio 43266-0418

(614) 436-2585

October 19, 1992

**ADVISORY OPINION NO. 92-4**

**SYLLABUS:** There is no violation of Ohio Revised Code, Section 3517.13 if a contract is awarded to a Minority Business Enterprise (MBE) prime contractor whose sub-contractor was previously rejected for the same contract because a principal of the sub-contractor contributed in excess of \$1,000 per individual to the Governor's campaign committee during the previous two calendar years, as long as the contract does not give the Governor control over the sub-contractor.

**TO:** Jerry Wray, Director  
Ohio Department of Transportation

You have requested an opinion on the following question:

Would the Ohio Department of Transportation be violating Ohio Revised Code, Section 3517.13 if a contract is awarded to an MBE prime contractor whose sub-contractor was previously rejected for the same contract because a principal of the sub-contractor contributed in excess of \$1,000 per individual to the Governor's campaign committee during the previous two calendar years?

Ohio Revised Code, Section 3517.13(I) and (J) provide specific instances in which contracts must be awarded by competitive bidding based on the relationship between the bidder to the contract and any contributions made to the holder of the public office having ultimate responsibility for the award of the contract or his campaign committee. No mention is made of sub-contractors in this section or of any relationship between sub-contractors and any contributions made to the holder of the public office having ultimate responsibility for the award of the contract or his campaign committee. However, if the contract gives the holder of the public office control over the sub-contractor who may have contributed to his candidacy or his campaign committee, the contract must be competitively bid. This is the type of activity the statute was intended to prevent.

For the reasons stated herein, it is the opinion of the Ohio

Elections Commission that:

There is no violation of Ohio Revised Code, Section 3517.13 if a contract is awarded to a Minority Business Enterprise (MBE) prime contractor whose sub-contractor was previously rejected for the same contract because a principal of the sub-contractor contributed in excess of \$1,000 per individual to the Governor's campaign committee during the previous two calendar years, as long as the contract does not give the Governor control over the sub-contractor.

  
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Michael H. Igoe,  
Acting Chairman

SMR027