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OPINION COMMITTEE

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VIA FACSIMILE TRANSMISSION TO
TO 512-472-6538

March 5, 2007

Opinion Committee
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0576-GA

RE: REQUEST FOR ATTORNEY GENERAL OPINION

To Whom It May Concern:

Texas Southern University ("University") requests your formal legal opinion as to whether Texas law prohibits a State Representative, who is also in the business of providing insurance services, from providing insurance services to existing clients who are either State agencies or local governments during his tenure as a State Representative.

Prior to his tenure in the Texas Legislature, the State Representative was awarded the contracts as a result of arms-length competitive bidding. At issue is whether the University can continue business with the State Representative with regard to existing contracts and also whether the University may enter new contracts for insurance services with said State Representative.

Texas Southern University ("University") is a public institution of higher learning created pursuant to Section 106 of the Texas Education Code. Previously, the University has conducted business with said State Representative. More specifically, the State Representative has provided insurance services such as flood policies, property insurance policies, general liability policies, crime policies, intercollegiate sports policies and boiler & machinery policies.

We are aware that the Texas Constitution mandates that legislators shall not be interested, either directly or indirectly, in any contract with the State authorized by any law passed during the term for which he was elected. Tex. Const. art. III, §18. The purpose of that section is to "prevent improper financial gain by members of the legislature." Damon v. Corbett, 781 S.W.2d 597, 600 (Tex. 1989). Such conflict of interest rules are designed to prevent public officials from using their position for personal benefit, as opposed to benefiting the public. See International Bank of Commerce of Laredo v. Union Nat'l Bank of Laredo, 653 S.W.2d 539, 548 (Tex. App. - San Antonio, 1983, writ ref'd n.r.e.)

Chapter 572, Subchapter C of the Government Code outlines standards of conduct and conflict of interest provisions for state officers and employees. This section also applies to legislators. These provisions provide guidance, as well as mandate discipline for failure to abide by said rules.

Request for Attorney General Opinion
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We are aware that with regard to contracting with a State agency, the contract cannot be funded with funds appropriated by the General Appropriations Act. *See* Attorney General Opinion H-696 (1975). Additionally, Section 572.051(3) of the Government Code prohibits a state officer from accepting employment or compensation that could reasonably be expected to impair the officer's independence of judgment in the performance of the officer's official duties. Section 572.053(a) further prohibits a legislator from voting on a measure or a bill that directly benefits a specific business transaction of a business entity in which the legislator has a controlling interest, unless the bill or measure will affect an entire class of business entities.

The University requests a formal opinion from your office regarding this matter. I appreciate your assistance in this matter. Please contact me if you have questions or comments.

Sincerely,



Tammye Curtis Jones
Associate General Counsel