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DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

BRUCE E. BABBITT
ATTORNEY GENERAL

April 28, 1977

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ARIZONA ATTORNEY GENERAL

Ms. Mona Smith
Office of Tourism
State Capitol
Phoenix, Arizona 85007

Re: 77-92 (R76-307)

Dear Ms. Smith:

Your letter of June 24, 1976, requested the opinion of this office with respect to the question of whether the Arizona Office of Tourism must obtain a solicitation permit from the City of Phoenix because members of your staff, in the course of their official duties, "call upon the 'tourism industry' (of the State of Arizona) to assist (your office) in the promotion of tourism."

The City of Phoenix adopted Ordinance No. G-710 on March 19, 1973. It purportedly regulates the charitable and religious solicitation of money. The ordinance in pertinent part provides that "[n]o person shall solicit within the City contributions for any religious or charitable purpose without a permit from the [Solicitation] Board". Phoenix, Arizona Municipal Code, § 34-3 (1969). Permits issued may be valid for a period not to exceed one year. Id., § 34-9.

In this regard, the terms "solicit" or "solicitation" themselves are defined in the Ordinance as:

A request directly or indirectly of money, credit, property, financial assistance, or other things of value on the plea or representation that such would be used for a charitable or religious purpose. . . ."
(Emphasis added.)

The ordinance, however, apparently does not relate to governmental agencies engaged in their official activities, notwithstanding the fact that those activities contemplate the solicitation of financial assistance from the private business community.

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Consequently, it would appear that although your office "solicits" the financial support of the tourism industry, it is not "soliciting" within the meaning of the Ordinance inasmuch as the money is not raised for a "charitable or religious" purpose. Rather, any financial support which is being sought is done in the context of an official, governmental purpose.

Finally, it should be noted that even if the Ordinance had been intended by the City to have been applicable to the governmental activities of the State of Arizona, there is a grave question with respect to whether or not the City possesses the power to have done so. The State has conferred upon municipal corporations all the authority which they may exercise; it is doubtful that the State would have conferred power upon the cities to regulate agencies of state government under the rationale of Board of Regents v. City of Tempe, 88 Ariz. 299, 356 P.2d 399 (1960).

Consequently, it is the opinion of this office that your office need not obtain the Phoenix solicitation permit.

Sincerely,

BRUCE E. BABBITT
Attorney General



IAN A. MACPHERSON
Assistant Attorney General

IAM:jrs