



COMMONWEALTH of VIRGINIA

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The Honorable William M. Stanley
Member, Senate of Virginia
Post Office Box 96
Glade Hill, Virginia 24092

Dear Senator Stanley:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the Code of Virginia.

Issues Presented

You ask, in light of a prohibition set forth in Virginia Code § 24.2-124.1, whether election officials in Virginia may solicit, accept, use, or dispose of any money, grants, property, or services provided by or through the Center for Technology and Civic Life or the U.S. Alliance for Election Excellence for the purpose of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of elections. You further inquire whether the prohibition encompasses new equipment, training, coaching, or website modernization services offered by or through these organizations for purposes of voter education and outreach programs, voter registration programs, or other aspects of the conduct of elections.

Background

You relate that in April of this year, a nonprofit organization known as the Center for Technology and Civic Life (“CTCL”) announced the creation of a consortium called the U.S. Alliance for Election Excellence (the “Alliance”).¹ The Alliance was formed to carry out a five-year project to distribute \$80 million in funding to local election departments throughout the United States.² As part of this project, the Alliance has offered to provide new equipment, training, coaching, and website modernization services to

¹ The Alliance comprises the CTCL, the Center for Civic Design, the Center for Secure and Modern Elections, the Elections Group, the Hasso Plattner Institute of Design at Stanford, the Prototyping Systems Lab at UC Davis, and the U.S. Digital Response. U.S. ALLIANCE FOR ELECTION EXCELLENCE, *Partners*, <https://www.electionexcellence.org/partners> (last visited September 22, 2022).

² See U.S. ALLIANCE FOR ELECTION EXCELLENCE, *FAQS*, <https://www.electionexcellence.org/faq>.

local election departments that are selected to participate in the project.³ These resources ostensibly would be offered for the purpose of assisting the departments with voter education and outreach programs, voter registration programs, or other operational costs related to the conduct of elections. Neither the CTCL nor the Alliance are governmental entities.

Applicable Law and Discussion

Section 24.2-124.1 establishes a general prohibition against the funding of election procedures by private parties. It specifically provides, in relevant part, as follows:

The State Board, the Department, each local electoral board, and all offices of the general registrar shall not solicit, accept, use, or dispose of any money, grants, property, or services given by a private individual or nongovernmental entity for the purpose of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of elections.^[4]

“When the language of a statute is unambiguous, we are bound by the plain meaning of that language.”⁵ As noted above, neither the CTCL nor the Alliance are governmental entities. Application of the plain language of § 24.2-124.1 to your first inquiry makes clear that election officials in Virginia⁶ are prohibited from soliciting, accepting, using, or disposing of any money, grants, property, or services provided by or through the CTCL or the Alliance for the purpose of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of elections.

With regard to your second question, the items you specify – i.e., new equipment, training, coaching, and website modernization services – fall within the scope of the statutory prohibition. The terms “property” and “services” are expressly included in the statute. Affording them their plain meaning, new equipment is “property” and training, coaching, and website modernization services constitute “services.” Thus, based on the plain language of § 24.2-124.1, I conclude that election officials in Virginia are prohibited from soliciting, accepting, using, or disposing of any new equipment, training, coaching, or website modernization services provided by or through the CTCL or the Alliance for purposes related to voter education and outreach programs, voter registration programs, or other aspects of the conduct of elections.

³ The Alliance has indicated that a local election department must pass a “verification and review” process to be selected to participate in the project. U.S. ALLIANCE FOR ELECTION EXCELLENCE, *FAQS*, <https://www.electionexcellence.org/faq>. According to the Alliance’s website, a local election department that participates in the project and receives assistance under it will be deemed a “U.S. Center for Election Excellence” by the Alliance. U.S. ALLIANCE FOR ELECTION EXCELLENCE, <https://www.electionexcellence.org/> (homepage).

⁴ VA. CODE ANN. § 24.2-124.1 (Supp. 2022). The statute further provides that it “shall not be construed to prohibit (i) the operation of a polling place or voter satellite office in a facility furnished by a private individual or nongovernmental entity that otherwise meets the requirements for polling places provided in §§ 24.2-310 and 24.2-310.1 or voter satellite offices provided in § 24.2-701.2 or (ii) acceptance of a federal government grant funded in whole or part by donations from private individuals or nongovernmental entities.”

⁵ *Conyers v. Martial Arts World of Richmond, Inc.*, 273 Va. 96, 104 (2007).

⁶ The prohibition expressly applies to the “State Board, the Department [of Elections], each local electoral board, and all offices of the general registrar.”

Conclusion

Accordingly, it is my opinion that election officials in Virginia may not solicit, accept, use, or dispose of any money, grants, property, or services – including new equipment, training, coaching, or website modernization services – provided by or through the Center for Technology and Civic Life or the U.S. Alliance for Election Excellence for the purpose of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of elections.⁷

With kindest regards, I am,

Very truly yours,



Jason S. Miyares
Attorney General

⁷ Although your inquiry pertains to the CTCL and the Alliance, the same prohibition would apply to any such nongovernmental entity offering similar assistance related to voter education, outreach or registration programs, or expenses associated with the conduct of elections.