

OPINION NO. 37

A state employee for the Department of Transportation asks whether he will violate the state ethics code, chapter 84, HRS, if he participates in bidding for the lease of a dry dock in a new marina area when the Department of Transportation puts it out for bid.

The dry dock was built by the employee in 1955 on private land. He paid the owners a berthing or dock fee for the use of the land. He and his friends used the dock for their boats.

When the State of Hawaii acquired the land in 1962, the employee spoke to a state official about leasing the area. The official said that he would have to wait until the marina was completed to lease it, but that in the interim, he could use the dock.

It is the opinion of the Commission that this employee will not violate the ethics code by participating in competitive bidding to lease the dry dock.

We note that the position in which he serves the Department of Transportation is unrelated to bid-processing within that department. Thus, there is no possibility of his taking official action in violation of section 14.

Section 16 of the ethics code governs contracts between state agencies and state employees. Contracts for services or property valued under \$1,000 are unregulated by this section. Contracts for amounts exceeding \$1,000 in value are specifically permitted, if made after public notice and competitive bidding. Allowing such larger contracts to be made after public notice and competitive bidding protects the public interest in contracts favorable to the State without unfairly limiting the opportunity of state employees to obtain such contracts.

Dated: Honolulu, Hawaii, July 22, 1969.

STATE ETHICS COMMISSION
Vernon F.L. Char, Chairman
James F. Morgan, Jr., Vice Chairman
July Simeona, Commissioner
Margaret W. Smalley, Commissioner

Note: Commissioner S. Don Shimazu was excused from the meeting at which this opinion was considered and adopted.