

## OPINION NO. 86

A State employee has inquired whether Hawaii Revised Statutes, chapter 84, relating to ethics in public employment, prohibits the making of a contract by and between an agency of his employer and a firm of which he is the sole proprietor.

Under the contract, he and the employees of his corporation will provide specialist assistance relating to a study conducted by a State department. The value of the contract services will be approximately \$8,000 to \$10,000. He has indicated that his official duties are to teach his specialty and that his regular State duties do not have nor will have any bearing on or connection with the obtaining or carrying out of the proposed contract.

Based upon the facts disclosed to this Commission, the Commission finds that he will not be placed in a conflict of interest situation prohibited by HRS, §84-14 by entering into the proposed contract, nor is this contract prohibited by HRS, §84-16(a), relating to prohibited contracts, because the proposed contract involves services of a type not subject to competitive bidding. It is our opinion that this contract is within the exception contained in §84-16(c), relating to personal contracts of employment, even though the legal party to the contract is a corporation rather than an individual.

In performing this contract, however, he should not sacrifice or neglect his State duties. We recommend that his superior be informed of the additional employment he has undertaken in order that he may properly judge whether the employee is adequately performing his duties. This Commission further expects that this employee will not utilize State facilities in the performance of his outside employment. We refer him particularly to Opinion No. 12. The facts he has disclosed to the Commission do not indicate a present violation of HRS, § 84-13, but we think it appropriate to advise him to be particularly sensitive to the unethical practice of using public equipment or facilities for private gain.

Dated: Honolulu, Hawaii, October 19, 1970.

STATE ETHICS COMMISSION  
James F. Morgan, Jr., Chairman  
S. Don Shimazu, Vice Chairman  
Vernon F.L. Char, Commissioner

Note: Commissioner Walters K. Eli was excused from the meeting at which this opinion was considered. The vacancy left by the resignation of The Very Reverend John J. Morrett has not been filled.