

OPINION NO. 216

A state official inquired whether he might, without violating the ethics law, 1) solicit services, such as printing services, from various companies; 2) solicit sponsors of certain educational projects; and 3) acknowledge the companies donating services or sponsoring projects.

HRS §84-11 (Supp. 1974) states the following:

No ... employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

Thus, we stated that an employee should not accept a gift where it could reasonably be inferred that the gift was intended to influence him in the performance of his official duties or was intended as a reward for official action. In previous opinions, we have stated that application of HRS §84-11 to a particular situation requires consideration of such matters as 1) the business relationship between the donor and the recipient of the gift, 2) the relationship of the gift to the official functions of the recipient, and 3) the benefit of the donor and the recipient of the gift. (Commission Opinion Nos. 42, 45, and 121.)

Whether the State Official Might Solicit Services from Various Companies.

The official indicated that as a public service, his department was undertaking an educational project. He asked whether he might solicit a printing company to do some printing for the project and whether he might solicit a company to donate a staff member's time for the project.

The official indicated that he would have a buyer-seller or contractual relationship in his state capacity with the potential donors of services. He further indicated, however, that any business or contractual relationship that he (his agency) might have with a donor of services would have arisen from a contract that had been put out to public bid. Thus, we did not believe that he was in a position where he could be influenced to give unwarranted treatment to a donor.

We recognized that while the donation of services would be made to the state official, the ultimate recipients of the gifts would actually be members of the public and the State. The official and any employee of his agency would not receive any direct benefits from the services donated by the companies.

We also recognized that the donors of the services would receive substantial benefits; we said that acknowledgements might be made on the printed material, and good will could be expected from such acknowledgements. We said that it was likely that the gifts would be made for these benefits.

It was our opinion that the state official might solicit companies to donate printing and other services. We said that there would not be circumstances in which it could reasonably be inferred that donation of these services was intended to influence him in the performance of his official duties or intended as a reward.

Whether the State Official Might Solicit Sponsors of Educational Projects.

The official indicated that he was working with another department on another educational project. The projected cost of the project was about \$25,000 over a multi-year period. The official asked whether he would be able to have a company or companies sponsor such a project.

In determining whether soliciting sponsors for the educational project would violate HRS §84-11, we considered several factors. The official indicated that he would probably solicit sponsors from large corporations who in the past had given funds for public service projects. He further informed us that he would not have a buyer-seller or other business relationship with the potential sponsors. We said that because he would not have a business relationship with the potential sponsors, he would not be in a position where he could be influenced to give unwarranted treatment to them.

Once again, we observed that while the contribution of funds would be made to the official, the ultimate recipients of the gift would be members of the public and the State. The official and any other member of his agency would not receive any direct benefits from the contribution of funds.

Finally, we said that a sponsor of the educational project could expect that its public image would be improved and that it would receive benefits from public recognition of its contribution.

We held that the official might solicit a sponsor or sponsors for the educational project. We said that there would not be circumstances in which it could reasonably be inferred that sponsorship of the educational project was intended to influence him in the performance of his official duties or intended as a reward.

We expressed appreciation for the concern that he had shown for ethical matters within his province.

Dated: Honolulu, Hawaii, May 22, 1975.

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