

SUBJECT: VENDOR LOANING EQUIPMENT TO STATE AGENCY

SUMMARY:

A computer vendor would not be prohibited from loaning computer equipment to a state agency as part of a national disabilities program.

QUESTION:

The Commissioner of the Vocational Rehabilitation Department requests an opinion on the following situation:

"The South Carolina Vocational Rehabilitation Department was recently awarded a federal grant in the area of assistive technology for persons with disabilities. In connection with this grant, the IBM Corporation has offered computer network assistance to all states receiving this particular grant. More specifically, IBM will provide, at no cost, equipment on a loan basis as well as peripherals and software to assist with this project. IBM has been deeply involved, for many years, in developing technology to assist persons with disabilities. Enclosed is additional information concerning this offer from the IBM Corporation.

This Department utilizes IBM computer equipment in the operation of the general agency and has ongoing maintenance agreements for this equipment.

DISCUSSION:

This opinion is rendered in response to a letter dated August 27, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

The State Ethics Act generally prohibits the utilization of a public official's or employee's public position to obtain financial gain for himself. Based upon the facts as submitted, it appears that no public officials or employees would benefit personally from such a granting of equipment. Therefore, it does not appear to be prohibited by the State Ethics Act.

The Ethics Government Accountability and Campaign Reform Act of 1991 does, however, recommend that the Division of General Services be contacted concerning the applicability of the Consolidated Procurement Code to this situation.