

SUBJECT: USE OF VENDOR-SUPPLIED COMPUTER BY STATE AGENCY

SUMMARY: The Division of Motor Vehicle Management would not be prohibited from utilizing a computer supplied by a vendor for parts purchases.

QUESTION:

The Assistant Director of Maintenance for the Division of Motor Vehicle Management has requested an opinion on the following situation:

The Budget and Control Board Division of Motor Vehicle Management has recently been testing a computer owned by a commercial vendor and networked to that vendor's inventory system. This allows the Division to expeditiously check parts availability and cost. The Division has blanket purchase agreements with this vendor and others in accordance with the State Procurement Code. Although not required by the Code on a continuing basis, the Division checks prices on parts costing less than \$500.00. The lowest price parts are purchased and if that part can be supplied by the vendor who is loaning the computer equipment to the Division, no phone call is necessary to order the part.

As long as the Division continues to follow the procurement code in purchasing parts, and no unfair advantage is given to any vendor, can the Division of Motor Vehicle Management use a computer furnished by one of its vendors as long as no personal gain is realized by any State Employee?

DISCUSSION:

This opinion is rendered in response to a letter dated December 10, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (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 Ethics Reform 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 Ethics Reform Act.

The State Ethics Commission does, however, recommend that the Division of General Services be contacted concerning the applicability of the Consolidated Procurement Code to this situation.