

SUBJECT: SCHOOL DISTRICT EMPLOYEES PARTICIPATION IN PURCHASING AGREEMENT WITH VENDORS

SUMMARY:

School District may implement and School District employees may participate in District sponsored agreement with vendor for private purchase of computer equipment.

QUESTION: The attorney for the Horry County School District questions whether the District may create a program whereby district employees may purchase computers through arrangements made by the District with a vendor where the employees would obtain discounts on purchases from specified vendor(s).

DISCUSSION:

This opinion is rendered in response to a letter dated August 5, 1996 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; S.C. Code §2-17-5 et seq. and § 8-13-100 et seq. (Supp. 1995). This opinion does not supersede any other statutory or regulatory restrictions or procedures that may apply to this situation.

The School District proposes to solicit proposals from various computer vendors and evaluate the proposals in light of the system compatibility with the type of computers used by the District, price, and financing. A vendor would then be identified and employees would be able to privately purchase computers from the vendor under the terms of the bid.

In Advisory Opinion 93-026, the Commission advised that city employees could subscribe to a cellular telephone service which would be billed to them at City Hall since the service was offered to all public officeholders. That opinion relied on Advisory Opinion 90-012 where the Commission held that a city councilman could take advantage of car telephone service offered to public officeholders since there was no indication that the council member had utilized his public position to obtain any financial gain. The service was offered equally to all public officeholders under the same terms and conditions.

Thus, the analysis here is whether all school district employees would be treated equally rather than one individual negotiating a contract for personal purpose. Since the District envisions requesting proposals from various computer vendors, negotiating a discount applicable to all school district employees, and since there is no indication of use of public office for personal economic gain, the Commission advises that the District may go forward with the solicitation for proposals.¹

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¹ This opinion assumes compliance with the economic interest provisions of the Ethics Act including but not limited to S.C. Code §8-13-700(B) (Supp. 1995) [disqualification in the event that an official action will affect a personal economic gain or loss] and S.C. Code §8-13-775 (Supp. 1995) [economic interests in contracts with the State].