

SUBJECT: AGENCY ACCEPTING FURNITURE WON IN A CONTEST FROM VENDOR

SUMMARY:

An agency would not be prohibited from accepting furniture won in an "ugly office contest" from a vendor.

QUESTION:

The Executive Director of the Continuum of Care for Emotionally Disturbed Children has requested an advisory opinion concerning the following situation:

"An office furniture company that does business with the state sponsored an "Ugly Office Contest" to promote a new line of furniture. The contest was open to any business or agency. The prize was \$10,000 worth of furniture from this new line.

An employee of the Continuum took pictures of one of our office areas and submitted them to the contest. We have been notified that our agency has been selected as the winner of the contest. The agency and not the employee will be the recipient.

The questions we have are as follows:

1. Can the agency accept the prize?
2. Does it matter if the new furniture can not be delivered until after January 1 when the new Ethics law takes effect?
3. What guidelines should the agency follow with the office furniture company with regard to future procurement of furniture?

DISCUSSION:

This opinion is rendered in response to a letter dated November 12, 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., 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 gift of furniture. Therefore, it does not appear to be prohibited by the State Ethics Act.

The fact that the furniture is not delivered until after January 1, 1992 would not preclude its

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acceptance. The Commission advised in Advisory Opinion 91-056 that employees who accept a prize of significant value won in a drawing should follow the procedures of then-Section 8-13-460 of the 1976 Code of Laws. The Commission suggests that the vendor furnishing the furniture not be a sole source for equipment in the future unless approved by General Services. All other requisitions should be written to allow free competition among potential vendors.

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.