

MEMORANDUM

FROM: Betsy K. Dawson, Executive Director

DATE: February 10, 1998

RE: IO-98-17: Offer of cellular phone service to county employees for personal use

You inquired whether Cellular One, a current vendor with Anne Arundel County, could offer cell phone service to county employees for their personal and family use. The terms of this offer would allow county employees to purchase up to three cell phones per person and enter a two year contract for cell phone service at a significant savings over the current price available to the general public.

The Public Ethics Law prohibits county employees from receiving gifts, including discounts, from controlled donors, except in specifically defined circumstances. Cellular One is a controlled donor, because it has a contract with the county to provide cellular phone service to county employees in the course of their employment. The issue is whether the offer made to county employees of cell phone service for their personal use constitutes a gift.

The Commission believes that it does not. This offer is a marketing technique that is also available to employees of other large business organizations, including the State of Maryland, the University of Maryland, Baltimore County government, and the Johns Hopkins Hospital and University. There are other factors which support this conclusion. The contract between Cellular One and the county is the same contract that exists with the state, and is subject to the same terms. Although the county had been seeking cell phone service for its employees for quite some time, there is no evidence of any tie-in between the award of the county contract and the offer of cell service. In fact, the contract between Cellular One and the county predates the negotiations for this service. The county contacted other cell phone providers to solicit offers and did receive some others. Finally, the offer is made to all employees, and not just the group that uses these services on the job, or the agency that deals directly with the contracting of these services.

While it is acceptable for the vendor to make this offer to county employees, the county should refrain from promoting or advertising the offer in any way, in order to avoid the appearance that the county is endorsing the products or services offered, or recommending this service to its employees. Advertising or promoting this service could constitute the use of the prestige, title, and authority of the office, or officer for the financial gain of a specific vendor. The offer should be made by the vendor directly to the employees without the use any of the county's resources in the process.

If you have any further questions, please call me any time.