

May 19, 1998
Re: IO - 98 - 74

You inquired whether an inspector from the fire marshal's office could accept a 32" television won as a door prize donated by a fire alarm system contractor at a seminar co-hosted by the contractor and the Baltimore County Fire Department. You indicated that the purpose of the seminar was to provide education to the contractor's workers and subcontractors who install fire alarm equipment. Fire department personnel from different jurisdictions were invited to explain the applicable regulations. Upon arriving at the seminar, each attendee was asked to fill out a door prize ticket, providing their names and other pertinent information. The names of the winners were drawn from a bowl by representatives of the contractor.

The winner of the television is a fire inspector in the fire marshal's office. The duties of an inspector, among other things, include the site inspection of fire alarm equipment that is installed in new building projects. The contractor who donated the television door prize installs fire alarm equipment in buildings in Anne Arundel County and is subject to the regulation and control of the Anne Arundel County fire marshal's office.

The Public Ethics Law, §1-101(l)(1) defines a gift as ". . . something of value that is given, regardless of the form, without adequate and lawful consideration. The ethics commission has previously concluded that door prizes fall within this definition. See, IO - 97 - 18.

Section §3-106 of the ethics law prohibits the acceptance of gifts from "controlled donors", that is, people or entities:

1. doing business of any kind with the County;
2. engaged in activities that are regulated by the County;
3. having financial interest that may be substantially and materially affected by the performance or non-performance of any official duty of the employee; or
4. lobbying for matters within the jurisdiction of the employee.

The contractor who provided the gift is subject to the regulation of the fire department and is therefore a controlled donor.

There are exceptions in the law that permit the acceptance of certain gifts under certain circumstances. Section 3-106(c) provides that "gifts of nominal value" may be accepted from controlled donors, unless the gift: would tend to impair the impartiality and independence of judgment of the recipient; give the appearance of doing so because of its value; or is designed to influence the recipient's judgment. Presumably, a door prize given randomly, is not designed to "buy" influence. But because of the value of the gift, it may appear to interfere with the recipient's impartiality. Even if the appearance issue were not involved, the value of a 32" television is not a gift of "nominal value" and does not therefore, fall within the permitted exceptions to the prohibition against gifts. (In IO - 97 - 18, the Commission determined that the nominal value for a door prize gift is \$25.00 or less.) Therefore, the inspector may not accept the television.

Thank you for your inquiry. If you have any other questions, please feel free to call any time.

Sincerely,

Betsy K. Dawson
Executive Director