

July 12, 2000
Re: IO-00-37

You inquired whether you may invest in stock offered by a software company that is a vendor with your agency. Although the company's stock is not yet publicly traded, a company's representative informed you, along with other users at a conference, that the company hoped to "go public" soon. In your position with client support services, you made the recommendation to select this vendor's product and you are involved in the administration of the contract, and the use of the product.

The Public Ethics Law, §3-105(b)(1) prohibits a county employee from having an interest in an entity that is subject to the authority of the employee or the employee's agency, or that has entered into a contract (of more than \$1000) with that agency. This section would appear to prohibit your purchase of stock in Goldmine Software, since it is a vendor with your agency. There are no exceptions for interests that may be minimal in value. Any interest in Goldmine may impair your impartial and independent judgment in dealing with the company as a county vendor.

Even if you would be permitted to hold stock in a company doing business with your agency, §3-101(a)(1) would prohibit you from participating in any decisions affecting Goldmine, including the award or administration of any contract with Goldmine. There may also be issues of the use of prestige of office, under §3-104, for using information acquired in your capacity as a county employee to obtain a personal financial benefit. However, since §3-105 is dispositive in prohibiting your purchase of stock issued by a vendor with your agency, it is not necessary to address these other issues.

Thank you for your inquiry. If you have other questions, please call anytime.

Sincerely,

Betsy K. Dawson
Executive Director