

July 3, 2003
Re:10-03-63

You inquired whether one or two employees may accept meal and lodging expenses from a controlled donor under the following circumstances. The police department purchased a helicopter from the donor. The donor has requested permission from the department to exhibit the helicopter at the national conference Airborne Law Enforcement Association (ALEA). The donor would like to have the two county pilots who will fly the helicopter come to the conference and participate in the exhibit. The donor has stated that the pilots will not be engaged in endorsements of the product, but will showcase the county's police department. An added benefit to the pilots will be the opportunity to attend the educational seminars offered at the conference, which is free to members of the ALEA. An added benefit to the county is that while the helicopter is under the control of the donor, it will be tested and evaluated at no expense to the county. The pilots will also receive flight hours on the helicopter at the expense of the donor, as long as the helicopter is in the donor's possession. The police department anticipates a savings of about \$1000 to the department if the testing and pilot flight time is conducted during the conference.

The Public Ethics Law, §3-106(c) provides that a gift of travel, lodging, meal, and other reasonable expenses may be accepted from a controlled donor only when the gift is made in exchange for the recipient's participating in a speaking engagement or panel discussion at a conference or other similar function. The ethics commission has previously advised that assisting an exhibitor at a conference is not they type of participation at a conference that is intended by the law. See, AO-00-56. Although the donor has stated that the pilots would not be endorsing the helicopter, it is hard to imagine that the very presence of county pilots as part of the exhibit would not imply an endorsement. Section 3-104(a) of the ethics law prohibits county employees from endorsing products for personal gain or for the gain of another. See,10-00-179,10-00-139, 1098-92, AO-96-111, AO-96-109.

However, the lodging and meal expenses are more reasonably seen as part of a contractual arrangement where there is valuable consideration offered by both parties. On the one hand, the seller retains title, and the right to exhibit its state of the art equipment to potential cutomers. On the other hand, the county has the opportunity to have the helicopter tested and evaluated by the manufacturer, and receive flight time for its pilots without incurring additional expense or liability. As a contractual arrangement, payment for the pilots' meals and lodging is not offered as a gift, but as part of a mutually beneficial contract - a supplement to the already existing contract.

Therefore, meal and lodging expenses may be accepted by the county for its pilots to fly and otherwise attend the helicopter to and during the conference. The pilots may not participate in the exhibit, by the donor, as this activity would imply an impermissible endorsement of the product under §3-104(a). Conference expenses if any, may not be covered by the donor, since the pilots are not scheduled to be speakers or panel participants at the conference.

Thank you for your inquiry. Please call if you have additional questions or concerns.

Sincerely,

Betsy K. Dawson
Executive Director