

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 00-41
August 18, 2000

RE: May employee accept book and software package won at conference?

DECISION: Yes, if conference and prizes were open to the public.

This opinion is in response to your July 5, 2000, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 18, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You recently attended an international conference hosted by ESRI, a manufacturer of software. The conference had approximately 10,000 people in attendance and included customers of ESRI as well as non-customers. The purpose of the conference was to showcase software of the future as well as to see what others in the industry are doing.

You attended a pre-conference seminar that was attended by around 300 people. At the pre-conference seminar many T-shirts, books and software packages were given away as door prizes. You won a book valued at \$49.95 and a software package valued at \$2495.00 donated by ESRI. The agency for which you work has purchased software from ESRI in the past. You ask whether your acceptance of these prizes from ESRI violates the Executive Branch Code of Ethics.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to

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influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

Additionally, KRS11A.010(5) provides:

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions or door prizes available to the public.

It appears from the information provided to the Commission that the book and software package were won by you as a door prize. However, it is difficult to tell whether the door prize was available to the public. The Commission believes that if the conference was open to the public, and anyone interested could attend the pre-conference, then you may accept the book and the software package from ESRI. However, the Commission believes that if you accept such a valuable gift you should have no involvement in matters pertaining to ESRI as a part of your official duty for the Department (i.e., you should not be involved in the selection of software for your agency).

If the conference was not open to the public, but was for customers of ESRI only, then the Commission believes that you should return the prizes that have been awarded to you because they each have a value of greater than \$25.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.