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BOYCE A. CROCKER

ADVISORY OPINION 01-19

June 22, 2001

RE: May Kentucky Correctional Industries accept keyboards from the National Braille Association?

DECISION: Yes.

This opinion is in response to your May 23, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the June 22, 2001, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed by the Department of Corrections, Kentucky Correctional Industries ("KCI"), as a purchasing officer. Compaq Computer Corporation has donated computer keyboards to the National Braille Association, which in turn has offered KCI thirteen of the keyboards for the cost of shipping only. KCI will use these keyboards at the Kentucky Correctional Institute for Women where children's textbooks are translated from English to Braille for the American Printing House for the Blind.

KCI has no business or regulatory relationship with the National Braille Association. However, Compaq Computer Corporation is a potential vendor of KCI. It is your understanding that Compaq donated these keyboards to the National Braille Association with no stipulation as to who would ultimately receive them. The only requirements in accepting the keyboards are that KCI use them for the production of Braille and that they not be sold. You ask for an opinion as to whether KCI may accept the keyboards from the National Braille Association.

KRS 11A.045(1) provides:

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel

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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 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.

Although, the Commission believes that a state agency may not accept a gift or gratuity from a person or business that is doing business with the state agency, the Commission does not believe that KCI is prohibited from accepting the keyboards from the National Braille Association because KCI does not do business with the National Braille Association. Although there is some potential for KCI to do business with Compaq Computer Corporation, because the keyboards are being offered to KCI by the National Braille Association, and Compaq has no input into who receives the keyboards, the Commission believes the potential for conflict is minimal. Thus, the Commission believes that KCI may accept the keyboards from the National Braille Association for use at the Kentucky Correctional Institute for Women.

Additionally, in order to avoid even an appearance of a conflict of interest, the Commission recommends that in your official position as a purchasing officer, you have no input into the purchasing of computer equipment of which Compaq Computer Corporation might be a potential vendor.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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