

December 18, 2006
Opinion Number 06-0206

90-A-1 PUBLIC FUNDS & CONTRACTS

Mr. Steven L. Mayer
General Counsel, Dept. of Social Services
P.O. Box 1887
Baton Rouge, Louisiana 70821

La. R.S. 46:474(B) (3), La. Const. Art. VII, Sec. 14, La.
Const. Art. X, Sec. 10

There is no legal prohibition on the state and its departments accepting donated property, funds, or services. However, a donation or award of private monies to employees of the Department of Social Services requires approval from the State Civil Service Commission and State Board of Ethics.

Dear Mr. Mayer:

On behalf of the Department of Social Services, you have requested an Attorney General's opinion regarding whether there are any legal, ethical, or civil service/payroll problems or prohibitions with the Department of Social Services accepting and spending certain donated funds on a select group of Department of Social Service employees, and whether there are any legal, ethical, or civil service/payroll problems or prohibitions with the Department of Social Service employees accepting those funds. The funds in question were collected and donated by employees of the Oklahoma Department of Human Services with instructions that the funds were to assist Department of Social Services employees affected by Hurricane Katrina and to be distributed as the Department of Social Services sees fit.

As previously stated by this office, there is no legal prohibition on the state and its departments accepting donated property, funds, or services. See Attorney General Opinion 00-33. Further, pursuant to Louisiana Revised Statute 46:474(B)(3), the Secretary of the Department of Social Services shall have the authority to accept and use, in accordance with law, gifts, grants, bequests, and endowments for purposes consistent with the responsibilities and functions of the department and take such actions as are necessary to comply with any conditions required for such acceptance.

Since the funds in question were donated by the employees of Oklahoma Department of Human Services, in their private capacity, an analysis under Article VII, Section 14(A) of the Louisiana Constitution is not necessary. However, with respect to any donation or award of monies to employees of the Department of Social Services, this office recommends that you obtain approval of any award or donation from the State Civil Service Commission and the State Board of Ethics. Civil Service employees are regulated by the State Civil Service Commission. Louisiana Constitution Article X, Section 10 (A), vests the State Civil Service Commission with "...the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and

transactions...". The Louisiana Code of Governmental Ethics also applies to Civil Service employees. Louisiana Revised Statute 42:1134 gives the State Board of Ethics the power to render advisory opinions with respect to possible ethics violations.

Subject to approval from the State Civil Service Commission and the State Board of Ethics, this office is of the opinion that there are no legal prohibitions to accepting the funds donated by the employees of the Oklahoma Department of Human Services.

We trust this adequately responds to your request.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY:

MICHAEL J. VALLAN
Assistant Attorney General

CCF, JR/MJV/crt

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Syllabus

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Date Received:

Date Released: December 18, 2006

Michael J. Vallan
Assistant Attorney General