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COOK COUNTY BOARD OF ETHICS

118 North Clark Street, Room 1000
Chicago, Illinois 60602

(312) 443-4304
FAX (312) 443-4683 T.D.D. (312) 443-5255

October 24, 1994



RE: 94 A 0020 Acceptance of Free Computer Hardware

Dear [REDACTED]:

This letter is in response to your request for an advisory opinion on the above matter.

FACTS

[REDACTED] has worked as an industrial engineer in the Bureau of Administration ("Administration") for the past eleven years. He is responsible for developing management studies, internal management methods and procedures for all Cook County departments. [REDACTED] reports to [REDACTED].

During the week of August 22-26, 1994, [REDACTED] received a mailing (Exhibit A) from IBM¹. This mailing describes an offer of free computer hardware from a new division of IBM named OPTIONS. OPTIONS sells peripherals, such as keyboards, hard-drives and modems for non-IBM personal computers. According to [REDACTED]

¹ The mailing was actually addressed to [REDACTED]. Since [REDACTED] is the "computer person" in the department, all such mailings are forwarded to him. [REDACTED] no longer works for Cook County.

████████ Fulfillment Manager² of the OPTIONS division, approximately 30,000 offers were mailed to various businesses and individuals throughout the nation. The names of those receiving the offer were compiled from a compendium of various magazine subscriber lists over the last five years. The purpose of this offer is to promote IBM's new division and product line. This offer allows ██████████ to choose one of fifteen items for Administration courtesy of IBM. The value of each item is estimated to be between \$100-\$300 depending on the item selected. No individual salesman or representative of IBM has contacted ██████████ in regards to this offer and there is no requirement that Administration buy any other products from IBM if they decide to take advantage of this offer. ██████████ stated that Administration often receives technical announcements from IBM, and he believes that Administration received this offer because it is on an IBM mailing list. He added that Administration has never received a free offer from IBM in the past. IBM is currently doing business with the County, and Administration does use IBM products. ██████████ stated that Administration would like to take advantage of this offer which expires on September 30, 1994. According to ██████████ their current equipment is running out of storage space. If the Board of Ethics authorizes ██████████ to take advantage of the offer, he would select a hard-drive which would increase the amount of available computer storage space. ██████████ has never worked for IBM, nor does he have any relatives who work or have worked for IBM.

ISSUE

Can the Bureau of Administration accept IBM's offer of free computer hardware without violating the Ethics Ordinance?

APPLICABLE SECTIONS OF THE ETHICS ORDINANCE

Definitions

Whenever used in this Ordinance, the following terms shall have the following meanings:

- (j) "Gift" means anything of value given without consideration or expectation of return.

² Fulfillment Manager is the title given to the individual responsible for this offer.

2.4 Receiving and Soliciting Gifts and Favors.

(b) No official or Employee or any of their relatives shall knowingly solicit, accept, receive or agree to receive either directly or indirectly, anything of value, including but not limited to any alleged Gift, favor or promise of future employment, based upon any mutual understanding, either explicit or implicit, that the votes, official actions, decisions or judgements of such Official or Employee concerning the business of the County would be influenced.

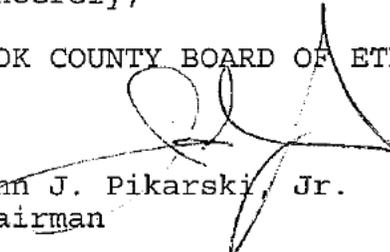
DISCUSSION

The Bureau of Administration may accept IBM's offer of free computer hardware. Under Section 2.4(b) of the Ethics Ordinance, no Employee may accept anything of value where there is a mutual understanding, either implicit or explicit, that County business will be influenced. In this situation, there is no evidence of a mutual understanding that County business will be influenced. IBM's offer has been extended via mail to 30,000 companies and governmental agencies throughout the United States whose names were derived from a random list of magazine subscribers. The scope of this mailing combined with its random targets strongly suggests that IBM has extended this offer in an attempt to familiarize a broad section of customers with its new product line. Although IBM is admittedly conducting this promotional offer with the hope that Administration will purchase its product, there is no evidence of a mutual understanding between IBM and Administration that in return for accepting a free product the County will purchase additional IBM equipment. Furthermore, given that the \$100-\$300 value of the hardware is minimal when compared with the vast sums of money the County spends on computer equipment, there can be no inference that accepting the offer will influence Administration to purchase additional IBM equipment. In addition, given that IBM has made no other contact with, or put any pressure on [REDACTED] other than the generic mailing the Board finds no evidence of a mutual understanding that County business will be influenced.

We hope that this opinion addresses your concerns. The Board thanks you for your inquiry and commends you for your conscientiousness in seeking to uphold the guiding principles of the Ethics Ordinance. Under the rules and regulations of the Cook County Board of Ethics, all requests for reconsideration of an advisory opinion must be filed within fifteen days of receipt of this opinion. Please do not hesitate to contact our office if you have additional questions or require additional information.

Sincerely,

COOK COUNTY BOARD OF ETHICS


John J. Pikarski, Jr.
Chairman

MDI/bh
Enclosures

cc: 

a:\augmtgmat\nick

Exhibit A

OPTIONS YOU SHOULD CONSIDER. AN OFFER YOU CAN'T REFUSE.

Now through September 30, 1994 you can take advantage of an important offer from IBM.

To introduce you to the Options™ by IBM® product line, we're giving you the option of your choice (which you select from the list inside) at no charge.

Why are we doing this? Because we want Options by IBM to be the single source for all your organization's after-market computer product needs. These days, your organization's computing requirements are constantly changing. And you need the ability to quickly and easily respond to your company's needs and expand its capabilities—with the least disruption to productivity.

So when it comes to computer peripherals and options, the products that make expansion and upgradability possible, you can't afford to compromise.

That's why you should consider Options by IBM—a broad line of peripherals, add-ons, add-ins and system enhancements that give you the quality, technology, and reliability IBM is known for, without having to pay a premium.

• Whether your organization currently uses IBM computers or not, you can still get the advantage of IBM quality.

Options by IBM products are not just for IBM computers. In fact, they're tested for compatibility with a variety of industry-standard personal computers, as well as Micro Channel® IBM and many non-IBM personal computers.

• And you don't have to pay a premium for this quality.

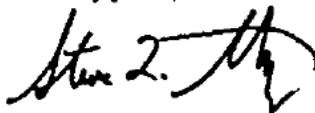
Options by IBM are competitively priced with other leading brands, so it doesn't pay to settle for anything less than IBM quality.

• Options by IBM belong on your standards list because they meet high standards for performance and reliability.

When you go with IBM, you can't go wrong. Especially since our products offer the reassurance of 24-hour support by the IBM HelpCenter®, a 30-day, money-back guarantee and an IBM warranty. (See enclosed brochure for more information.)

Compare our specs with competitive products, and you'll see that, when it comes to quality, reliability and cost efficiency, Options by IBM really are the preferred option.

Sincerely yours,



Steve Starkey
Options by IBM, Brand Management

OPTIONS
by **IBM**

A COMPLETE LINE
OF QUALITY
PERIPHERALS AND
OPTIONS FOR IBM
AND MANY NON-IBM
COMPUTERS

P.S. The enclosed brochure describes Options by IBM in detail. If you'd like more literature, or wish to take advantage of the Options by IBM trial offer, please complete and return the enclosed business reply card—or call us, at 1-800-426-4550—before September 30, 1994.

AND MOUSE OPTIONS

- Keyboard - PS Style
- Keyboard - AT Style
- Keyboard with Trackball - PS Style
- Keyboard with Trackball - AT Style
- Keyboard with Trackpoint II
- Keyboard with Trackpoint II
- Mouse
- Numeric Keypad

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OPTIONS[™]
by **IBM**[®]

Now IBM, a computer technology leader for more than 25 years, offers a broad line of quality peripherals, add-ons, add-ins and system enhancements for personal computers.

We call it Options™ by IBM®. And we want it to be the single source for your company's after-market computer product needs.

Options by IBM has the products your company needs. More speed and power, added storage capacity, expanded network connections, a keyboard upgrade or system enhancement capabilities like multimedia and graphics.

And you don't have to pay a premium for IBM quality. Options by IBM are priced competitively with other well-known brands on the market.

Options by IBM products are tested for compatibility with industry-standard and Micro Channel® IBM and many non-IBM personal computers. So even if your organization doesn't own IBM computers, you can still get the advantage of IBM quality.

Options by IBM are designed for reliability. You can be sure that the peripherals and add-in products you're buying are designed to keep on working for a long time.

Options by IBM are backed by superior support. So you'll get the assistance you need to keep your systems running. Including 24-hour support by the IBM HelpCenter®, a 30-day, money-back guarantee and an IBM warranty.

Select the product of your choice from the following list of options, and it's yours—at no charge. Simply, fill out the attached business reply card, or call 1-800-426-4550.

accessories

DisplayMiser™

A new way to reduce energy costs on industry-standard PCs. It automatically powers off an inactive display screen.

Enhanced Keyboard with TrackPoint II™ PS Style
IBM's latest keyboard offer has the revolutionary new TrackPoint II integrated into IBM's popular Enhanced Keyboard. With just the touch of a finger you can move the cursor around the screen.

Enhanced Keyboard with Trackball-AT™ Style
This keyboard features a built-in 25mm trackball.

communications

ISA 14.4/14.4 Data/Fax Modem
The 14.4 Kbps/14.4 Kbps Data/Fax Modems combine industry-standard V.42bis data

memory

72-PIN Parity SIMM ISA - 4MB (1M x 36)

Options by IBM offers a wide selection of parity and ECC memory for industry-standard systems as well as IBM products.

multimedia

Audiovation™ Adapter

Includes microphone, headphone, and device driver software.

pcmcia

PCMCIA 14.4Kbps/14.4Kbps Data/Fax Modem
Includes Integrated DAA, advanced power management features to conserve battery, auto-dialing, and ring detect in "sleep" mode.

PCMCIA Ethernet Credit Card Adapter II (10Base-T)
Compatible with other Ethernet adapters complying with the IEEE 802.3/Ethernet V2.0 standards.

PCMCIA Ethernet Credit Card Adapter II (10Base2)
Compatible with other Ethernet adapters complying with the IEEE 802.3/Ethernet V2.0 standards.

storage

364MB* AT (IDE) Hard Disk Drive

Options by IBM hard drives bring the technical advantages of IBM disk drive technology to desktop PC users at very affordable prices.

ISA External CD-ROM Drive

Options by IBM drives are designed for industry-standard and Micro Channel PCs with SCSI-2 support, providing double-speed data transfer rates with high-performance access times.

But act now. This offer, which is too good to pass up, expires on September 30, 1994.

Micro Channel and HelpCenter are registered trademarks of International Business Machines Corporation.
Options by IBM™, TrackPoint II and Audiovation are trademarks of International Business Machines Corporation.
DisplayMiser is a trademark of Technical Marketing Partners, Inc., exclusively licensed to International Business Machines Corporation.
PCMCIA is a trademark of the Personal Computer Memory Card International Association.

Accessories

Through Options by IBM, you can choose top quality keyboards, pointing devices, energy savers and a growing list of other accessories for IBM as well as non-IBM computers.

Your choices start with the Enhanced and QuietTouch™ keyboards with TrackPoint II™ pointing device. Fast and intuitive, TrackPoint II has won raves from technical reviewers in a number of national magazines. It's a unique eraser-sized red or black button in the center of the keyboard, which operates instead of a detached mouse. So you won't have to move your hands from the keypad for drag-and-drop cursor control.

QuietTouch keyboards increase your typing level by making typing and data entry whisperquiet - a big plus for open offices.

Our Accessories line also offers a variety of other keyboards for your industry-standard PCs including models with an

product choices*

accessories

1. **DisplayMiser™**
A new way to reduce energy costs on industry-standard PCs it automatically powers off an inactive display screen (Supported on IBM personal systems and compatibles that do not employ touch or light pen control displays)
2. **Enhanced Keyboard with TrackPoint™ II PS Style**
IBM's latest keyboard offer has the revolutionary new TrackPoint II integrated into IBM's popular Enhanced Keyboard. With just the touch of a finger you can move the cursor around the screen. (Supported on IBM personal systems and compatibles.)
3. **Enhanced Keyboard with TrackBall-AT™ Style**
This keyboard features a built-in 25mm trackball. (Supported on IBM personal systems and compatibles.)

communications

4. **ISA 14.4/14.4 Data/Fax Modem**
Our 14.4 Kbps/14.4 Kbps Data/Fax

multimedia

8. **Audiovation™ Adapter**
Includes microphones, headphone, and device driver software. (Supported by 80386SX 25MHz processor or higher that complies with minimum Multimedia Personal Computer, MPC-2, requirements.)
9. **PCMCIA 14.4 Kbps/14.4 Kbps data/fax modem**
Includes integrated DAA, advanced power management features to conserve battery auto-dialing, and ring detect in "sleep" mode. (Supported by IBM or non-IBM systems that comply with PCMCIA Release 2.01.)
10. **PCMCIA Ethernet Credit Card Adapter II (10Base-T)**
Compatible with other Ethernet adapters complying with the IEEE 802.3/Ethernet V2.0 standards. (Supported by IBM or non-IBM systems that comply with PCMCIA Release 2.01.)
11. **PCMCIA Ethernet Credit Card Adapter II (10Base2)**

Modems combine industry-standard V42bis data compression for a maximum throughput of 57,600 bps. (Supported by PS/1, ValuePoint, PC-A1, PS/2 or Compatibles.)

5. **IBM LAN Adapter for Ethernet (ISA)**
Features 8- or 16-bit, half-or full ISA slot and includes device driver software. (Supported by industry-standard personal computers based on 80286 or higher processors.)
6. **IBM ISA Token-Ring Adapter 16/4**
Features full size ISA slot, supports shielded (STP) or unshielded (UTP) cables. (Supported by IBM personal computers and other compatible ISA-bus computers.)

memory

7. **72-PIN Parity SIMM ISA - 4MB (1M x 36)**
Options by IBM offers a wide selection of parity and ECC memory for industry-standard systems as well as IBM products. (Supported on IBM compatibles that use 4MB 70 ns 72-Pin industry-standard SIMMs)

Compatible with other Ethernet adapters complying with the IEEE 802.3/Ethernet V2.0 standards. (Supported by IBM or non-IBM systems that comply with PCMCIA 2.0 Type II slots.)

storage

12. **364MB AT (IDE) Hard Disk Drive**
Options by IBM hard drives bring the technical advantages of IBM disk drive technology to desktop PC users at very affordable prices. (Supported by ISA-bus PCs complying with ANSI ATA standard X379.2/50 - 143 Rev 3.2)
13. **ISA External CD-ROM Drive**
Options by IBM drives are designed for industry-standard and Micro Channel PCs with SCSI-2 support, providing double-speed data transfer rates with high-performance access times. (IBM ISA Internal and External CD-ROM Drives are compatible with a broad array of ISA-bus personal computer systems.)

*30-day money-back guarantee does not apply and other warranty restrictions may apply to this option of choice offer.

In order to answer this Or, if you

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- X Authori

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City _____
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Options™ by IBM.

POSTAGE
NECESSARY
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IN THE
UNITED STATES

A COMPLETE LINE OF QUALITY
PERIPHERALS AND OPTIONS FOR IBM
AND MANY NON-IBM COMPUTERS

OPTIONS.
by IBM

**exercise your options...
and choose an Options™ by IBM®
product, with our compliments**

Choose any one Options by IBM product listed on the reverse side, and we'll give it to you at no charge. But only if you act by September 30, 1994.

We're extending this offer to introduce you to Options by IBM quality, technology and reliability. Try it on your PC or pass it on to your product evaluator. You'll see why it should become the single source for all your after-market computer product needs.

Requests must be received by 9/30/94. Every attempt will be made to honor your first or second choice, however supplies are limited and IBM reserves the right to substitute product. This offer is extended only to those whose names have been authorized by IBM to receive this mailing. Requests are subject to verification. Only one product request per name. This offer is good only as described herein and cannot be redeemed at retail. IBM reserves the right to modify or withdraw the Option of choice product program at any time without prior notice. Allow 4-6 weeks for receipt of your selection.