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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

December 11, 2003

Nancy Bloodgood, Esquire  
Employment Attorney for County of Anderson  
P. O. Box 993  
Charleston, South Carolina 29402-0993

Dear Ms. Bloodgood:

In a letter to this office you questioned whether the sheriff can give an "employee Christmas gift" equaling between zero and \$400.00 based on the number of sick days the employee has used during the year. Also, you asked whether the sheriff can give each full-time employee \$400.00 as a Christmas bonus and part-time employees \$200.00 as a Christmas gift.

A prior opinion of this office dated May 9, 2002 dealt with the question of whether a county official can provide bonuses to employees in her office as remuneration for additional duties performed which are not part of their job descriptions. Reference was made to Article III, Section 30 of the State Constitution which provides

The General Assembly shall never grant extra compensation, fee or allowance to any public officer, agent, servant or contractor after service rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law....

The opinion stated that even though the referenced constitutional provision prohibits only action by the General Assembly, this office has concluded that the provision also limits political subdivisions, such as counties, "at least in the powers delegated to them by the General Assembly." The opinion concludes that

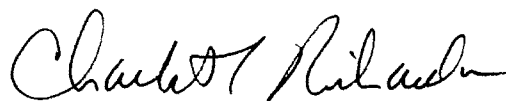
...this office has repeatedly concluded that bonus payments (or such pay that amounts to bonus payments) are prohibited as being made after services have been rendered or a contract fulfilled...Accordingly, if a county is not under any legal or contractual obligation to pay its employees bonuses, the payment of bonuses would be inappropriate.

Consistent with such, payment under both scenarios referenced by you would be inappropriate.

Ms. Bloodgood  
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If there are any questions, please advise.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Richardson".

Charles H. Richardson  
Senior Assistant Attorney General