



City of San Antonio, Texas

Ethics Advisory Opinion No. 2012-01

January 23, 2012

Issued By: City Attorney's Office

I. Issue:

May a City employee accept admission to a conference, including expenses related to travel, lodging, entertainment and meals from a third party doing business with the City, if the conference is related to the employee's official duties for the City?

II. Inquiry

A City employee has been offered the opportunity to travel to a conference relating to their official duties for the City, by a third party who is doing business with the City. The conference is a national conference, held out of state. The conference is directly related to the work the employee does for the city, and the materials provided in the conference will be beneficial to the employee in conducting their work for the City. In addition to the conference costs, the third party has offered to pay transportation, lodging, and other costs associated with the conference. The employee has asked whether or not they may accept the offer, and if so, what limitations would apply under the City's Ethics Code.

III. The Ethics Code

A. Restrictions on the Receipt of Gifts and Benefits by City Employees

The Ethics Code contains two rules which regulate the acceptance of gifts or benefits by city employees. The first restricts gifts given with the intent to influence or reward a City official or employee for official action:

A City official or employee shall not solicit, accept, or agree to accept any gift or benefit for himself or herself or his or her business:

(A) that reasonably tends to influence or reward official conduct; or

(B) that the official or employee knows or should know is being offered with the intent to influence or reward official conduct.

Ethics Code, Section 2-45(a)(1).

The second rule restricts gifts from specific sources, regardless of the motivation for the gift:

A City official or employee shall not solicit, accept, or agree to accept any gift or benefit, from:

- (A) any individual or business entity doing or seeking to do business with the City; or
- (B) any registered lobbyist or public relations firm; or
- (C) any person seeking action or advocating on zoning or platting matters before a City body.

Ethics Code, Section 2-45(a)(2). This rule provides an exception for the gift of admission to a training or educational program or other program, including meals and refreshments offered to all attendees, if such training is related to the official or employee's official duties and the training is in the interests of the City.

In this instance, the City employee is being offered a benefit with financial value of greater than \$50 from a city vendor. There is no indication from the inquiry that the organization is trying to provide the admission to the conference, travel, lodging or meals to the employee with the intent of influencing or rewarding official conduct, so the first rule does not appear to be applicable.

The second rule imposes restrictions regardless of intent, on gifts from three specific sources: those doing or seeking business with the City; registered lobbyists; and those seeking action or advocating on a zoning or platting matter. The third party does business with the city and so the restrictions of the second rule would apply.

The Ethics Code gift provision, however, lists some exceptions that are relevant to this inquiry. Sections (b)(2) and (11) allow City officials and employees to accept the following from potential contractors or vendors:

(2) advancement for or reimbursement of reasonable expenses for travel in connection with official duties authorized in accordance with City policies; such payments must be disclosed in a travel report as required in Section 2-76; payment for or reimbursement of expenses for travel in excess of authorized rates under City policy will be treated as a personal gift to the official or employee for any applicable reporting requirements under Sections 2-73, 2-74, or 2-78; and

(11) admission to training or education program, including meals and refreshments furnished to all attendees, if such training is related to the official or employee's official duties and the training is in the interest of the City.

The facts presented in the inquiry indicate that the conference is an event directly relevant to the employee's City duties, and that the event will be widely attended by many individuals involved in the same type of work. Accordingly, the employee may accept reasonable travel costs and the admission to the conference under these provisions.

B. Travel Reports

Although the provision of transportation to the conference is not prohibited, the benefit must be reported on a Travel Report Form to be filed with the Office of the City Clerk. Ethics Code Section 2-76 states:

- (a) Any City official or employee, who, in connection with his or her official duties, accepts a trip or excursion involving the gratuitous provision of transportation, accommodations, entertainment, meals, or refreshments paid for by a person or entity other than a public agency must file with the City Clerk, before embarking on the travel*, a disclosure statement identifying:
 - (1) the name of the sponsor;
 - (2) the places to be visited; and
 - (3) the purpose and dates of the travel;
 - (4) the estimated amount of the expenses paid.

As noted, the employee will be traveling to a facility outside the City for a purpose related to City business. The donor is an entity doing business with the city, and not a public entity. However, the employee is not permitted to accept the gift of entertainment from the third party, as the third party is doing business with the City. The employee is required to obtain permission to travel from their department director, and file a travel report with the Office of the City Clerk before embarking on the trip.

IV. Conclusion

Under the facts and circumstances presented in this inquiry, the Ethics Code would not prohibit the employee from accepting the gift of conference fees, and the transportation and lodging expenses, from the third party, so long as the conference is related to the employee's official duties for the City. The employee may accept meals, no more than \$50 per meal, with a cumulative total of \$500 per year, from this third party. However, because the third party is doing business with the City, the gift of entertainment is not permitted by the City's ethics code. The employee must fill out the third party travel request form, and receive approval before embarking on the trip.

**Note:* Section 2-76 of the Ethics Code was amended in May, 2013, to require the filing of the report within ten business days of return from the travel.