

Gifts -  
Charter Section 2604(b)(5)

Advisory Opinion No. 94-4

A high-level public servant has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether he may accept, on behalf of his agency as a gift to the City, an accessorized notebook computer from a private company (the "Company") which has business dealings with the City. For the reasons discussed below, the Board finds that the acceptance of the computer by the public servant on behalf of the City does not violate Chapter 68.

Background

The public servant attended an out-of-state conference held for the largest and most important customers of the Company, which is a vendor to the City generally and to the public servant's agency, in particular. The public servant's attendance at the conference conformed with Board rules and was approved

by the First Deputy Mayor.

At the conclusion of the conference, each attendee was given a case containing a notebook computer, a modem and battery. Upon the public servant's return from the conference, the public servant accepted the computer as a gift to the City.

Discussion

It is the opinion of the Board that contributions from non-governmental entities which serve to aid the City in its efforts to provide services to the public are beneficial to the City and should be encouraged. However, an appearance of impropriety may arise when an organization makes a contribution which has the appearance of providing that organization with an undeserved benefit or an "edge" in dealing with that City agency. Thus, all such contributions must be in compliance with Chapter 68 of the Charter.

Charter Section 2604(b)(5) provides that no public servant shall accept any valuable gift, as defined by rule of the Board, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the City. The Board's Valuable Gift Rule, Section 1-01, defines a valuable gift as any

gift to a public servant with a value of \$50 or more. Thus, in general, public servants may not accept valuable gifts from persons or firms which are engaged in business dealings with the City.

However, the Board has held that, under certain circumstances, agencies, as distinct from individual public servants, may accept gifts from private entities which are engaged in business dealings with the City. See Advisory Opinion No. 92-21.

In the case at issue, the public servant was offered the computer personally, but then accepted it as a gift to the City. He did not solicit the gift from the Company and was, in fact, only one of approximately 170 individuals who were given the same gift. The nature of the gift, a computer, is such that it can be of general use to the City and will not benefit the public servant personally. In fact, at the time of the presentation of the gift, the public servant's agency was looking into the purchase of three of these computers. As a result of the gift, the agency purchased only two of the computers, thereby saving the City a substantial sum of money.

Furthermore, the context in which the gift was given mitigates any appearance of impropriety. The gift was given to many individuals, all of whom were attending the meeting, not to the public servant alone. However, the Company must be put on notice, in writing, that it will not receive preferential treatment as a result of the gift.

Conclusion

It is the opinion of the Board that it is not a violation of Chapter 68 for the public servant to accept, as a gift to the City, the accessorized notebook computer given to him. However, a letter must be sent to the Company informing them that the acceptance of the computer will not affect the bidding processes of the public servant's agency or serve as a quid pro quo in securing any future contracts with the City.

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