

Use of City Position
Charter Section 2604(b)(3)

Advisory Opinion No. 95-14

A public servant has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, the employees working in a branch office (the "Office") of his City agency may accept an offer of special banking privileges and incentives from a local bank (the "Bank"). For the reasons discussed below, the Board has determined that the employees of the Office may accept the Bank's offer.

Background

The public servant received a letter from a vice president of the Bank informing him that the employees of the Office are eligible for "a custom designed package of banking products and services offered with special incentives and discounts." The letter also indicated that several businesses located in the area had already accepted the offer on behalf of their employees and that the offer would also be extended to the employees of other area businesses and organizations.

Discussion

City employees are prohibited from using their official City positions to obtain private advantages. See Charter Section 2604(b)(3), which provides that "no public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant."

In Advisory Opinion No. 95-5, the Board determined that it would violate Chapter 68 for members of a not-for-profit association whose members were all employees of a City agency to solicit discounts from various businesses in the City. In the opinion, the Board stated that such solicitation would mean that the members of the association were using their City positions to obtain special discounts which were not available to non-City employees and that this would be inconsistent with Charter Section 2604(b)(3).

Unlike Advisory Opinion No. 95-5, the Bank has extended the offer of these privileges to the employees of numerous private businesses and organizations

throughout that part of the City which is served by the Office. Further, employees in the Office did not solicit the offer of special privileges from the Bank.

Thus, the offer does not specifically target City employees; rather, it appears to be a marketing tool used by the Bank in the regular course of business to attract more customers. By accepting the offer of special banking privileges, employees of the Office would not be obtaining a private benefit solely because of their status as City employees, but they would merely be taking advantage of a business incentive offered to both City employees and many private businesses and organizations.

Conclusion

It is the opinion of the Board that, for the reasons discussed above, it would not violate Chapter 68 for the employees of the Office to accept the Bank's offer of special banking privileges and incentives.

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