

City of Memphis Board of Ethics

February 6, 2013

Formal Ethics Opinion No. 13-01

This opinion responds to a specific question presented, particularly whether certain behavior is permissible pursuant to the City of Memphis Code of Ethics, Ordinance 5206. It does not address any other applicable policy, local, state or federal laws. The Board of Ethics' jurisdiction is limited to the applicability of the City of Memphis Code of Ethics, Ordinance 5206, as amended. This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Question

Whether it is appropriate for a vendor (who currently does business with the City) to pay the cost of flight, meals and local transportation for City employees to visit and tour its manufacturing plant, meet with key personnel and review product specifications.

Opinion

A City employee may not accept gifts or gratuities which might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing business of the City. Further, a City employee may not accept or solicit a gift or gratuity from a person or entity that has or is seeking a business relationship with the department in which the City employee is employed.

Facts

Knapheide Manufacturing would like to fly three City employees (representing different departments) to tour its manufacturing plant, meet with key personnel and to review product specifications. The employees will be flown on Air Knapheide – Learjet 40, a 6 passenger capacity airplane with cruise speed up to 600 miles per hour. Knapheide proposes to cover the cost of flight, meals and local transportation for the City employees.

According to the information provided, the majority of utility beds the City currently utilizes are from this vendor. This includes service trucks, ARVs (Fire Department), shelving inside vans, etc. Knapheide Manufacturing is not a sole provider of these products/equipment, but a large number of the City utility vehicles use their product. City departments/divisions conducts research via internet and otherwise, to determine products best for use when bidding vehicles. Often truck, vans and etc. change yearly.

The proposed fly-in program would be an opportunity for 3 City departments to meet with Knapheide Manufacturing's design team at their facility to gather information on changes in the industry, new products and etc.

Analysis

City Ordinance No. 5206, Section 5 provides, in pertinent part, that:

“[a]n officer or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the City: ...[t]hat might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing business of the City.”

Executive Order No. 2-2009 issued by the Mayor further explains that:

“no employee shall solicit or accept ... any gift, including but not limited to any gratuity, service, favor, **food**, entertainment, **lodging, transportation** ... from any person or entity that: [h]as or is seeking to obtain contractual or other business or financial relations with department... of the City in which the individual is employed; [c]onducts operations or activities that are regulated by the department, division or agency of the City for which the individual is employed; or [h]as interests that may be substantially affected by the performance or nonperformance of the employee’s official duties.” (emphasis added)

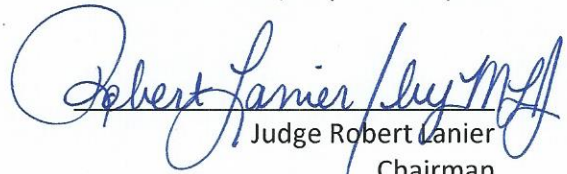
In the instant case, Knapheide Manufacturing is currently a City vendor and provides products/equipment to the City. In addition to this, it appears that Knapheide Manufacturing is attempting to secure additional business from the City and has strategically chosen three different City departments who can benefit from the products/equipment it provides.

It is clear based upon the above, that it would be inappropriate for a City employee to accept the payment of transportation, lodging and meals from an entity if it can be reasonably interpreted as an attempt to influence the employee’s action in executing the business of the City. Further, it would be inappropriate for a City employee to accept the payment of transportation, lodging and meals from an entity which has or is seeking a business relationship with the department in which the employee is assigned.

Conclusion

Based upon the foregoing, it is the opinion of this Board that the City employees should not accept the payment of flight, hotel, local transportation and meals from this vendor in this instant case because it may reasonably be interpreted as an attempt to influence the employees’ action and because the vendor has and is seeking a business relationship with the City.

Board of Ethics, City of Memphis


Judge Robert Lanier
Chairman

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