

City of Detroit Board of Ethics

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Advisory Opinion #2019-32

Issued: May 13, 2020

Advisory Opinion #2019-32: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2019-32. Accepting the gift of [REDACTED] and [REDACTED] from [REDACTED] would be a violation of Section 2-5-70 of the Ethics Ordinance because the gift is from an entity doing business with the City. In order to avoid a violation of the Ethics Ordinance, the Requestor may dispose of or return the gift. The Board of Ethic is aware that the Requestor returned the gift and acknowledges that the Requestor followed the Ethics Ordinance.

I. Procedural Background

Request for Advisory Opinion 2019-32 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on December 10, 2019. In accordance with Sec. 2-6.101, the Request was submitted by a current public servant as defined by Section 2-6-3 of the Detroit Ethics Ordinance (the “Ordinance”). The Public Servant maintains confidentiality in this matter.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code (Code), the 91-day period for review of this request will conclude on March 19, 2020. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on June 17, 2020.

At its meeting on May 13, 2020, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. The Board heard a Preliminary Analysis from legal counsel on the same day and after consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant Section 2-6-104(b)(4) of the Ethics Ordinance.

II. Information from the Request

The Requestor is an [REDACTED]. According to the Request, the [REDACTED] received [REDACTED] and [REDACTED] as a gift from an entity named [REDACTED]. The Request indicates that [REDACTED] is a current vendor of the City.

The question presented to the Board is whether the Requestor may accept a gift of [REDACTED] and [REDACTED] from a current vendor for the City. By this request, the Requestor seeks an advisory opinion as to the applicability of the 2012 Detroit City Charter and 2019 Detroit City Code.

III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1 that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests. This Request involves Section 2-106.4 of the 2012 Detroit City Charter codified at Sections 2-5-71 of the 2019 Detroit City Code. It states as follows:

Sec. 2-5-70. - Prohibition on gifts and gratuities; exceptions.

(a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the City, is seeking official action from the City, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-5-35 of this Code.

(b) The prohibition in Subsection (a) of this section shall not apply:

(1) To an award publicly presented to a public servant by an individual, governmental body, or non-governmental entity or organization in recognition of public service;

(2) To complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials;

(3) To a gift received from a public servant's immediate family member or relative, provided, that the immediate family member or relative is not acting as a third party's intermediary or an agent in an attempt to circumvent this prohibition;

(4) To an admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the public servant:

a. By the sponsor of an event, appearance or ceremony, which is related to official City business in connection with such an event, appearance or ceremony and to which one or more members of the public are invited; or

b. In connection with teaching, a speaking engagement, or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshment for the same activity.

(Code 1984, § 2-6-71; Ord. No. 18-12, § 1(2-6-71), eff. 8-31-2012)

IV. Application of the Charter and Code to the Information Presented

Section 2-5-70(a) of the Ethics Ordinance generally prohibits public servants from accepting gifts from entities doing business with the City. According to the information provided in the Request, AST is a current vendor for the City. Thus, the gift of [REDACTED] and [REDACTED] is a gift from an entity doing business with the City. Section 2-5-70(b) of the Ethics Ordinance provides several exceptions to the prohibition. However, none of the exceptions are implicated by the facts described in the Request.

V. Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2019-32. Accepting the gift of [REDACTED] and [REDACTED] from [REDACTED] would be a violation of Section 2-5-70 of the Ethics Ordinance because the gift is from an entity doing business with the City. In order to avoid a violation of the Ethics Ordinance, the Requestor may dispose of or return the gift. The Board of Ethic is aware that the Requestor returned the gift and acknowledges that the Requestor followed the Ethics Ordinance.

Detroit Board of Ethics
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Dated: June 12, 2020