

**Advisory Opinion # 2021-13**  
**Issued: May 28, 2021**

**Advisory Opinion #2021-13:** 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 2021-13. The Requestor is not in violation of the disclosure requirements set forth by Section 2-5-70 of the Ethics Ordinance. Furthermore, because the Requestor is not prohibited from attending the [REDACTED] [REDACTED] [REDACTED] at the expense of [REDACTED] [REDACTED], there is also no violation of the standards of conduct.

**I. Procedural Background**

Request for Advisory Opinion 2021-13 (the “Request”) was sent to the Board of Ethics (the “Board”) by electronic communication and received on April 20, 2021. In accordance with Sec. 2-106.1, the Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the “Ordinance”).

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 July 20, 2021. 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 October 19, 2021.

At its meeting on May 28, 2021, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day, and after consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

**II. Information from the Request**

The Requestor serves as the [REDACTED] for three divisions: Homeland Security, the Detroit Fire Department (“DFD”), and the Detroit Police Department (“DPD”). Within this position, the Requestor [REDACTED], which include developing requests for proposals, participating in the review committee with the Office of Contracting and Procurement, maintaining ongoing relationships with vendors, and presenting vendors to City Council.

According to the Board’s Fact Finding, [REDACTED], a City of Detroit (“City”) vendor and sponsor of the [REDACTED], asked the Requestor to participate in the event on [REDACTED] at [REDACTED] expense. [REDACTED] currently serves on the Board of Directors for the Detroit Public Safety Foundation (“DPSF”) and has a longstanding business relationship with the City, as evidenced by recent contracts that have

been presented to and approved by the City Council. The DPSF and DPD worked in partnership on the [REDACTED].

In 2003, the DPSF, formerly known as the Detroit Police Foundation, was incorporated in Michigan as a tax-exempt organization under Section 501(C)(3) of the Internal Revenue Code. DPSF works in partnership with citizens, businesses, and philanthropies to help the DPD and the DFD initiate programs that make Detroit a safer place to live, work and visit.<sup>1</sup> The DPSF focuses in the areas of training, technology, equipment, community engagement and wellness. It invests in both Departments by providing funding for needs and priorities not covered in the City's budget. Historically, the DPSF has focused most of its funding on community engagement initiatives.<sup>2</sup> One such event is the [REDACTED]. This event specifically benefits the DPD Chief's Neighborhood Liaison unit.<sup>3</sup> The Chief's Neighborhood Liaison unit plans and implements department wide community engagement initiatives, which play a vital role in connecting the community and the police department.<sup>4</sup>

### III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1, *Ethical Standards of Conduct*, 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 Sections 2-106.2 and 2-106.4 of the 2012 Detroit City Charter, codified in Sections 2-5-31 and 2-5-70 of the 2019 Detroit City Code. The relevant sections of the Code state as follows:

#### **Section 2-5-31. - Disclosure of interests by public servants.**

(a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority over a pending matter shall disclose:

- (1) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before City Council;
- (2) Any financial interest, direct or indirect, that the public servant or an immediate family member has in any contract or matter pending before or within any office, department, or agency of the City; and
- (3) Any interest that the public servant, or an immediate family member has in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement.

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<sup>1</sup> See generally DETROIT PUBLIC SAFETY FOUNDATION, <https://www.detroitpublicsafety.org/> (last visited May 5, 2021) (being the website for DPSF).

<sup>2</sup> *Id.*

<sup>3</sup> See generally DETROIT PUBLIC SAFETY FOUNDATION, <https://www.detroitpublicsafety.org/> [REDACTED]

<sup>4</sup> *Id.*

(b) All disclosures that are required under Subsection (a) of this section shall be made, in writing, on a form that is created by the Law Department and sworn to in the presence of a notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

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

**Commentary**— This provision implements the directive of Section 2-106.2 of the Charter that this article shall provide for the disclosure of any financial interest, which a public servant, or the public servant's immediate family member, has in any contract or in any real or personal property, that is the subject of a governmental decision by the City or any agency of the City over which the public servant exercises significant authority in the performance of the public servant's duties. This section is not intended to conflict with the Michigan Contracts of Public Servants with Public Entities Act, being MCL 15.301 *et seq.*

**Section 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.<sup>5</sup>

(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**

The disclosure requirement promulgated by Section 2-5-31 is, in part, predicated upon the Requestor or an immediate family member having a financial interest in a contract or matter that is pending before City Council or an agency of the City. This Request, however, pertains to the Requestor attending the [REDACTED]. Accordingly, based on the facts provided, there is no there is no financial interest or pending contract present. This Request also does not provide any facts indicating that the Requestor, or an immediate family member, has an interest in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement. Therefore, there is no violation of the Ordinance's disclosure requirement.

While the Request requests an advisory opinion regarding the application of the disclosure requirement, the facts of this Request implicate the standards of conduct set forth in the Ethics Ordinance. Specifically, Section 2-5-70, *Prohibition on gifts and gratuities; exceptions*, because Requestor is a public servant who is receiving something of value from an entity that is doing business with the City. Therefore, an analysis of Section 2-5-70 of the Ethics Ordinance is also necessary.

A public servant is prohibited from accepting gifts, gratuities, honoraria, or other things of value from any person or entity doing business or seeking to do business with the City. Here, the Requestor is receiving free entry into the [REDACTED], a thing of value, from [REDACTED], an entity doing business with the City. Therefore, pursuant to Section 2-5-70(a), Requestor is prohibited from attending the golfing event at the expense of [REDACTED], *unless an exception applies*.

The prohibition on gifts and gratuities is not applicable in cases where (1) there is an event related to official City business; (2) the admission or registration fee, travel expenses, entertainment, meals or refreshments are furnished to the public servant by a sponsor of said event and furnished in connection to said event; and (3) one or more members of the public are invited to said event. DPD, a City department, and DPSF, a non-profit that assists DPD and DFD initiate programs for the benefit of the City, have partnered to have this event, which would be of benefit to DPD Chief's Neighborhood Liaison Unit. Since a City department is the beneficiary and a partner of this event, it is related to official City business. [REDACTED] is a sponsor of the

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<sup>5</sup> *Id.*

event and the Requestor would receive free admission to an event that the public is eligible to attend. Accordingly, the Requestor is not prohibited from attending the [REDACTED].

## **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 2021-13. The Requestor attending the [REDACTED] does not suggest that the Requestor, or an immediate family member, has a financial interest in a contract or matter pending before the City or a City Agency. Furthermore, the facts provided do not indicate that Requestor, or an immediate family member, has an interest in real or personal property that is subject to a decision by the City regarding purchase, sale, lease, zoning, improvement, special designation tax assessment or abatement, or a development agreement. Therefore, there is no violation of the Ethics Ordinance's disclosure requirement. Moreover, since the Requestor is not prohibited from attending the event at the expense of [REDACTED], there is also no violation of the standards of conduct.