

ASK THE ETHICIST

Gifts of Travel

By
Ethan Carrier

Question: *I'm an employee at the New York City Department of Sanitation. I've been invited by TrashMaster Inc. to travel to Mexico City to tour their new, state-of-the-art trash incinerator, the TrashMaster 9000. TrashMaster Inc. has a contract with the New York City Department of Sanitation for leasing and maintaining their older model TrashMaster 8500. TrashMaster Inc. has offered to pay for my coach class airfare and hotel accommodations and will provide all meals while I'm in Mexico City. TrashMaster Inc. has also invited government employees from other large cities around the world to tour the new TrashMaster 9000, offering them the same travel and accommodations. May I go on this trip?*



Answer: This is one of those tricky areas where you're smart to ask the Conflicts of Interest Board ("COIB") for advice! We will need more information from you, but let me start by talking about the basic rule.

The issue here is that the offer of free travel by a firm that does business with the City is a valuable gift from a City vendor; Chapter 68 of the New York City Charter generally prohibits City employees from accepting valuable gifts from City vendors, but there are some exceptions. One of these exceptions permits a City employee to accept travel-related expenses from a City vendor as a gift to the City rather than to himself under certain, limited circumstances.

First, the trip must be for a City purpose and therefore could properly be paid for with City funds. In other words, the trip must be a true City business trip rather than your personal vacation.

Second, the travel arrangements must be appropriate to the City business purpose of the trip. Generally this means that you will be using travel accommodations similar to those you would use if the trip were being paid for by the City.

Third, the trip must not be longer than reasonably necessary to accomplish the business that is its purpose. This means you cannot accept travel-related expenses from TrashMaster Inc. for a five-day trip to Mexico City so that you can attend a two-hour tour of the new TrashMaster 9000.

Finally, it is strongly recommended that you get prior, written approval of such travel from your agency head (or, in the case of agency heads, from the deputy mayor who oversees the agency). This helps ensure that you have a legitimate City purpose for the trip, among other things.

There are a number of other concerns. For example, you cannot accept the gift of free travel for your spouse or another guest (you have to pay for your guest's travel-related expenses). In

addition, you have to be careful not to use your City position to solicit the gift of free travel from anyone. City employees who file annual financial disclosure reports with COIB may need to report the acceptance of travel-related expenses. Advice is available from COIB. Here's what you need to provide to COIB in order to get advice:

1. A detailed itinerary of the trip, including as complete a description as possible of all scheduled activities, and the anticipated travel and hotel accommodations;
2. An identification of the trip's sponsor and its reasons for offering to pay for the trip, including a description of any business dealings that the sponsor has with the City;
3. A statement of the trip's City purpose, which must be reflected in the presented itinerary;
4. A statement of the cost of the trip to be borne by the trip's sponsor; and
5. Written approval of such travel from the City employee's agency head.

Be sure to get this information to COIB well in advance of your travel. COIB staff may need to pose follow-up questions and time may be needed for deliberation. If you don't ask for advice in time for COIB to give you advice before your travel, then you'll assume the risk that your travel does not conform to the conflict of interest law.

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