

ASK THE CITY ETHICIST

Travel

By
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Question: *I have worked as a full-time City employee for about five years. Recently, a vendor that does business with my agency invited me to a conference in another state and offered to pay for my flight and travel accommodations. Would it be a conflict of interest for me to accept the offer?*



Answer: The answer to your question is: “it depends.” The City’s conflicts of interest law includes a Valuable Gift Rule, which states that no public servant is allowed to accept a valuable gift from any entity that is doing business --or seeking to do business-- with the City. A “valuable gift” is defined by the Conflicts of Interest Board as “any gift...which has a value of \$50.00 or more, whether in the form of money, service, loan, **travel**, entertainment, **hospitality**, thing or promise, or in any other form.” This means that accepting anything worth \$50.00 or more from a vendor doing business with **any** City agency would violate the law. The conflicts of interest law also contains a provision prohibiting public servants from using their official position in order to obtain a private or personal benefit, such as plane tickets or other travel accommodations, for themselves or anyone associated with them.

There is, however, an exception in the Board Rules for the acceptance of payment for travel-related expenses from an outside entity doing business with the City in circumstances where travel is deemed to serve an official City purpose. Payment for City-related travel can be viewed as a gift to the **City**, rather than the public servant, and therefore permissible, when:

- i)** The trip is for a City purpose and therefore could properly be paid for with City funds;
- ii)** The travel arrangements are appropriate to that purpose; and
- iii)** The trip is no longer than reasonably necessary to accomplish the business which is its purpose.

First, travel must be for a “City purpose,” so a public servant’s presence at a conference, event, meeting, etc., should be something he or she could be asked to do in an official capacity. For example, a vendor might pay for a flight and travel accommodations so that

a City employee could inspect new equipment on behalf of a City agency. Accepting travel from a City vendor when there is no clear official function (for example, a trip you'd take using vacation time), on the other hand, would be viewed as a private benefit extended to the public servant merely because of his or her City position, and therefore a violation of the Valuable Gift Rule. To determine whether or not the travel in question serves a City purpose, it's recommended that a public servant get the approval of his or her agency head, preferably in writing. (If offers of travel are made to an agency head, the determination would be made by a deputy mayor.)

If your agency head determines that the travel DOES serve a City purpose, we come to our second point: the travel arrangements should not be more generous than necessary for the performance of City business. For example, public servants may not fly first-class or stay in the presidential suite at a hotel because they can perform their City duties adequately without any of these extravagances.

In addition, an outside entity may not cover the travel expenses for a guest of the public servant (such as a spouse) because the guest's travel is not an expense that could be properly paid for using City funds. However, the public servant COULD take his or her spouse along, as long as the spouse paid all of the associated costs, such as airline tickets and meals.

Lastly, the trip should not be longer than what is reasonably necessary for the public servant to conduct business on behalf of the City. So if an out-of-state conference lasts three days, a public servant cannot stay an extra two days to do a little sightseeing, unless he or she pays for those extra days himself or herself.

So to recap: an offer to pay for travel from an entity doing business with the City may be accepted, but only if certain conditions are satisfied. Those conditions include: the travel serves a City purpose; the travel arrangements are appropriate to that official City purpose; and the trip is no longer than what is essential. Agency leadership can help you to determine if the trip you are inquiring about meets these requirements.

Remember, if you have any additional questions about this particular situation, or about *any* conflict of interest matter, you can always call the Conflicts of Interest Board at (212) 442-1400 and speak to the Attorney of the Day. The agency can also be reached through the website (www.nyc.gov/ethics) under the "Contact Us" tab. All calls and emails are strictly confidential, so if you are ever in doubt, just ask.

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