

Advisory Opinion No. 91-18

An agency has asked the Conflicts of Interest Board (the "Board") for an opinion as to whether it is a violation of Chapter 68 for public servants to purchase vehicles or other property which is vouchered by employees of that agency and then sold at auctions conducted by the agency. Under the agency's current policy, all public servants are prohibited from participating in such auctions.

It is the opinion of the Board that it would be a violation of Chapter 68 for public servants employed by the agency to participate in such auctions. See Charter Section 2604(b)(2), which provides that no public servant shall engage in any transaction which is in conflict with the official discharge of his or her official duties and; Charter Section 2604(b)(3), which provides that no public servant shall use or attempt to use his or her official position to obtain any private or personal advantage for the public servant or anyone associated with the public servant.

Chapter 68 does not, however, similarly prohibit

public servants who are not employed by the Department from participating in such auctions. See, e.g., Charter Section 2604(c)(7), which provides that Chapter 68 does not prohibit a public servant from bidding on and purchasing City-owned real property at public auction, other than elected officials and certain employees in the Department of Housing Preservation and Development and the Department of General Services.

We note, however, that this statute sets forth only minimum standards, the violation of which may result in the imposition of serious penalties. We encourage agency policy that goes beyond Chapter 68, when, in the agency's discretion, such policy is appropriate.

Sheldon Oliensis  
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: December 26, 1991