

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



BOARD OF ETHICS
OF BALTIMORE CITY

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BALTIMORE CITY BOARD OF ETHICS
Ethics Opinion 12-001
(December 11, 2012)

The Ethics Board became aware of a situation involving the acceptance and distribution of property (in this instance, tickets or free admissions) provided to the City without payment, and undertook to explore the possibility that Ethics Code violations may have occurred. Upon learning of the Board's interest in the matter, the agency involved provided a prompt and thorough response to the Ethics Board's request for more information.

Regrettably, the Board did not have the opportunity to examine the currently operative contract between the City and the outside party that provided the property to the City agency. In the absence of this document (which the Board was told could not be located despite diligent efforts to do so), the Board was forced to instead infer the terms of the current contract by reviewing the older contracts between the parties that were provided, and the statements it received about the parties' course of conduct.

Based on this careful review, the Board found that, for the most part, the property in question was provided pursuant to a valid agreement between the City and the supplier and was therefore not a "gift" for Ethics Code purposes.

However, the Board could find nothing in any of the contracts provided, or in the descriptions of the parties' course of conduct in implementing those contracts, that would justify the acceptance of more of the property in response to a particular request than was stipulated for in the original contracts provided to the Board. The acceptance, or solicitation, of more than the stipulated amount of property would therefore be in violation of Ethics Code § 6-27 {"Acceptance prohibited"}, or § 6-26 {"Solicitation prohibited"}, respectively.

The Board was also troubled by the manner in which the property, owned by the City under the agreements that allowed for its acceptance, was distributed. The logs that purported to track its distribution were not maintained in a way that allowed the Board to discern precisely who ultimately used the property, or what legitimate City purpose was served by its distribution. Without a more detailed log, it is not possible to determine whether or not a particular distribution served a City purpose or instead represented an improper use of an official's position

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for the private gain of themselves or another in violation of Ethics Code § 6-36 {“Prestige of office”}.

The Ethics Board understands that the current administration simply continued the practices regarding this property that it had inherited from previous administrations. Although this on its own would not immunize an official from a finding that a practice lead to an Ethics Code violation, the fact that the practices were not developed by this administration, and – putting aside their wisdom – were in significant respects justified by a valid contract, does convince the Board that any Ethics violations that may have occurred were inadvertent rather than intentional.

Therefore, it is the Opinion of the Board that any violations that may have occurred in relation to this property can be cured by the immediate adoption of protocols, for both the property in question and similar items, to ensure that future practices do conform to the Ethics Code’s requirements. These protocols should include, at a minimum:

- (1) a strict prohibition on the solicitation, or, even if unsolicited, acceptance, of more property than allowed for under the agreements governing its acceptance;
- (2) a list of the legitimate City purposes for which this type of property can be distributed; and
- (3) a format for tracking the distribution of City property that identifies precisely who received the property, by full name and title, as well as which of the legitimate City purposes were satisfied by the distribution.

Adoption of protocols along these lines would not only serve to cure any past inadvertent Ethics Code violations, it would also go a long way toward ensuring that the continued acceptance of property without payment, and the distribution of that property, does not lead to any future violations, or the appearance of any violations.

Also, the City should take care to ensure that any future arrangements it makes with any entity that allow any City agency to request free items are explicitly spelled out in, and governed by, a valid contract.