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Baltimore City Board of Ethics Gifts – Complaint Summary 002

The complaint alleged that two City public servants violated the Ethics Law’s gift provisions when one of the public servants (Public Servant 1) accepted a piece of electronic equipment that the other public servant (Public Servant 2) had obtained for free after requesting it from a vendor (Vendor).

The City had a contract with the Vendor to provide certain electronic equipment and related services to City employees for official use. Public Servant 2 was in charge of obtaining and distributing this equipment. Public Servant 1 needed an updated piece of equipment and asked Public Servant 2 for a particular updated model. The particular model was not included in the City’s agreement with the Vendor, but Public Servant 2 decided to ask the Vendor to provide the updated model for free as a one-time promotion. The Vendor agreed and Public Servant 2 gave the equipment to Public Servant 1.¹

The Ethics Board made a preliminary determination that this scenario constituted a *prima facie* violation of the Ethics Law’s gift provisions. Those provisions, in relevant part, prohibit public servants from soliciting and accepting a gift from any person that “does or seeks to do business of any kind” with the public servant’s agency. Ethics Law § 6-26 and 6-27.² Here, the Vendor did business with both Public Servants’ agencies, and because the particular equipment model was not included in the City’s agreement with the Vendor, Public Servant 2’s request to the Vendor to provide the updated model for free constituted an improper gift solicitation.³ In turn, Public Servant 1’s acceptance of the equipment constituted an improper gift acceptance. *See* Ethics Board Opinion 12-0001 (Dec. 11, 2012) (explaining that accepting or soliciting more property or goods than stipulated in a valid contract or agreement would violate the Ethics Laws gift restrictions in §§ 6-26 and 6-27). The fact that the equipment would be used by Public Servant

¹ The equipment model’s value was well over \$20; gifts of \$20 or less are generally exempt from the Ethics Law’s gift restrictions. *See* Ethics Law § 6-28(2) and Regulation R 06.28.

² The Ethics Law is contained in Article 8 of the City Code.

³ The Ethics Law defines “gift” as “the transfer of any thing or any service of economic value, regardless of the form, without adequate, identifiable, and lawful consideration.” § 2-17.

1 for official City business was immaterial; under the Ethics Law, the intended purpose of a gift does not matter.⁴

The Ethics Board provided the Public Servants with an opportunity to cure the *prima facie* violations by returning the equipment to the Vendor. The Public Servants complied and the Ethics Board dismissed the complaint without further proceedings. *See* Ethics Law § 5-4 (“Dismissal on cure of violation”).

⁴ The Ethics Law contains an exception for gift solicitations that are “for the benefit of an official governmental program or activity or a City-endorsed charitable function or activity,” but *only if* the solicitation is approved by the Ethics Board. *See* Ethics Law § 6-26(b).