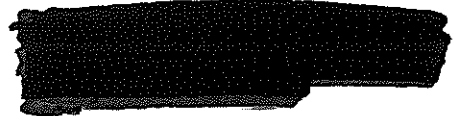


MEH



City of Chicago
Eugene Sawyer, Acting Mayor

June 1, 1988



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CONFIDENTIAL

CASE NUMBER 88045.A

Dear

This letter is in response to your request for an advisory opinion from the Board of Ethics concerning the regulations of the Governmental Ethics Ordinance and the Campaign Finance Ordinance as they relate to the activities of City employees seeking or accepting political contributions from actual or potential City contractors. You asked whether it is permissible for a department head to sell tickets to a political fundraiser to City contractors.

The Board has considered your question and held that a department head may sell tickets to a city contractors provided: 1) the employee does not perform these political activities during City time or with the use of City property or other City resources; 2) the City employee has not been coerced, intimidated, or in some sense compelled by another City employee or official to participate in these activities; 3) there is no mutual understanding, implicit or explicit, between the employee and the City contractor that the employee's actions concerning the business of the City would be influenced thereby; and 4) that the employee shall not solicit or accept a political contribution in return for advice or assistance concerning the business of the City.

A. A TICKET TO A FUNDRAISER IS A POLITICAL CONTRIBUTION

That an official or employee is merely selling tickets to a fundraiser instead of seeking a direct political contribution is irrelevant for the purposes of the ordinances. The Campaign Finance Ordinance states that, "Contribution means a contribution as defined in Article 9 of the



Illinois Election Code, as amended." (26.3-1 (d)). In turn, Article 9 of the Illinois Election Code. Ill. Rev. Stat. ch. 46, sect. 9-1.4 (1985) states:

"Contribution" means - (2) the purchase of tickets for fund-raising events, including but not limited to dinners, luncheons, cocktail parties, and rallies made in connection with the nomination for election, or election, or any person to public office, or in connection with any question of public policy[.]

Therefore selling tickets to a fundraiser is the same thing as seeking a political contribution to a campaign.

B. WHILE AN OFFICIAL OR EMPLOYEE CAN SEEK OR ACCEPT POLITICAL CONTRIBUTIONS FROM CITY CONTRACTORS ON HIS OR HER OWN TIME, THERE ARE RESTRICTIONS ON THE CONDITIONS OF SUCH SOLICITATIONS AND CONTRIBUTIONS

There are several sections in the Ordinance which govern the type of political activity an official or employee may or may not engage in. Especially discussed are the sections which prohibit officials or employees from doing such activity on City time and with City property or services. In addition there are sections of the Ordinance which regulate the political contact between both those covered by the Ordinance and those who are not.

1. POLITICAL CONTACT AMONGST OFFICIALS AND EMPLOYEES

The ordinance specifically addresses the problem of an official or employee forcing another official or employee to make political contributions. Section 26.2-14 states that:

No official or employee shall compel, coerce or intimidate any City official or employee to make or refrain from making any political contribution. Nothing in this section shall be construed to prevent any official or employee from voluntarily making a contribution or from receiving and voluntary contribution.

2. POLITICAL CONTACT BETWEEN OFFICIALS,
EMPLOYEES AND CITY CONTRACTORS

There is no parallel provision in the Ordinance which prevents an official or employee from compelling, coercing or intimidating a city contractor into making a political contribution. However, there are sections which regulate the conditions under which an official or employee could solicit or accept a political contribution from a City contractor.

a. POLITICAL CONTRIBUTIONS IN RETURN FOR ADVICE
OR ASSISTANCE IS PROHIBITED

There is a section of the ordinance which would prohibit an official or employee from soliciting or receiving a political contribution in exchange for advice or assistance. Section 26.2-5 states that:

No official or employee or the spouse or minor child of any of them shall solicit or accept any money or other thing of value including, but not limited to, gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee or the spouse of an official or employee from accepting compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.


This section (26.2-5) would prohibit an official or employee from soliciting or accepting any monetary benefit or service of any kind, including contributions such a fundraiser tickets, campaign funds or voluntary fundraising services, in return for advice or assistance given to persons seeking City contracts. In addition this prohibition applies whether the thing of value was received prior to or subsequent to the advice or assistance.

- b. POLITICAL CONTRIBUTIONS GIVEN OR RECEIVED BASED UPON A MUTUAL UNDERSTANDING THAT AN OFFICIAL OR EMPLOYEE'S ACTIVITIES WILL BE INFLUENCED THEREBY IS PROHIBITED

A final section of the ordinance which would apply here is Section 26.2-4(b) which states that:

No person shall give or offer to give to any official, employee, or City contractor, or to the spouse or minor child of any of them, and none of them shall accept, anything of value, including, but not limited to, a gift, favor or promise of future employment, based upon any mutual understanding, either explicit or implicit, that the votes, official actions, decisions or judgments of any official, employee or City contractor concerning the business of the City would be influenced thereby. It shall be presumed that a non-monetary gift having a value of less than \$50 does not involve such an understanding. (emphasis added.)

This section prohibits an official or employee from accepting or a City contractor from offering, anything of value, including a political contribution, based on a mutual understanding, explicit or implicit, that the official's or employee's activities would be influenced thereby.

 you should proceed very carefully in your voluntary fundraising activities. Any contact you have with a City contractor doing business with your department could easily be misconstrued by many as a way to increase contracts with your department. The Board of Ethics hopes these guidelines will be useful in avoiding any violations of the Ordinance or appearance of impropriety.

Should you have any questions, please do not hesitate to contact the Board of Ethics at 744-9660.

Sincerely,


S. Brandzel
Chairman