



# CITY OF ATLANTA

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## **Formal Advisory Opinion 2006-2 Expense Reimbursements from Prohibited Sources**

### **Opinion Summary**

City officials and employees may accept payments from prohibited sources for travel and other expenses in only four situations. The travel must be made in connection with the individual's speaking engagement, participation on a professional or civic panel, teaching, or attendance in an official capacity at a conference, convention, or seminar. Any payments or reimbursements from prohibited sources must be publicly disclosed in the City of Atlanta eFiling System, effective March 1, 2006.

### **Question Presented**

When may city officials and city employees accept reimbursements from prohibited sources for travel and other expenses incurred for work done in an official capacity?

### **Facts**

The Board of Ethics has previously ruled that city officials cannot accept expense reimbursements from a prohibited source to review a best practices program in another city because a fact-finding trip does not fall within any exception to the ban on gratuities. See FAO 2004-5 (discussing travel exception for panel participation). In that opinion, the Board gave several examples of when city officials and employees may accept travel expense reimbursements from a prohibited source. Because the Ethics Officer continues to receive inquiries about when prohibited sources may pay for travel, training, and conferences, she has asked the Board to consider additional examples.

1. The Mayor is asked, along with the Governor and the Atlanta Falcons owner, to present the City's bid for a future Super Bowl to the owners of the National Football League. A local corporation, which is a prohibited source, offers to fly the three speakers on the company jet to Washington, D.C., where the owners are meeting.
2. One of the city's banks asks an employee in the Finance Department to serve on a government advisory group to advise the bank on products and services that

local and state governments need. The bank offers to pay for the employee's air fare, lodging, and meals to attend the meeting at the bank's headquarters in another state.

3. A national engineering company under contract with the city invites a city engineer to attend a luncheon at the annual conference of their professional association. The luncheon costs \$55. At the same out-of-town conference, another city contractor invites the employee to dinner at a restaurant.

4. A national airline offers to provide a free ticket for a city employee to travel to New York City for a meeting with concert producers to discuss sponsoring a similar event in the City of Atlanta.

### **Discussion**

The Code of Ethics bans gratuities, which it defines as "anything of value given by or received from a prohibited source." Atlanta, Ga. Code § 2-817. A prohibited source is a person or entity that seeks or does business with the city, seeks official action from the city, has interests that may be substantially affected by an individual's performance of his or her official duties, or is a registered lobbyist. See § 2-801 [m].

There is an exception for expenses paid by sources other than the City of Atlanta for "reasonable hosting expenses," which includes travel, meals, lodging, and conference registration fees. This exception permits city officials and employees to accept expense reimbursements "in connection with speaking engagements, participation on professional or civic panels, teaching, or attendance at conferences in an official capacity," provided the recipient reports the expense reimbursements on a city disclosure form. See § 2-801 [g] (5).

To comply with the disclosure required under sections 2-801 and 2-815 of the Code of Ethics, the Ethics Officer has developed an Expense Reimbursement report. The form requires the city official or employee to report his or her name and position; the name and address of the persons providing the reimbursement; the date, location, and subject matter of the conference, speaking engagement, or event; and the amount and type of expense paid. The form is now available online as part of the City of Atlanta eFiling System.

Normally, the City would pay for an employee to travel in an official capacity on city business. This opinion does not deal with any city policy or procedure related to the city's payment of expenses for employee travel on official city business, such as attending a conference, a business meeting, or a training session. If the city is paying for the travel, then there is no reimbursement from a prohibited source.

In addition, this opinion does not deal with any trip that is provided under a city contract, such as travel for city employees to receive training on new equipment. In that situation, there is no "gift" or "gratuity" since the travel was negotiated as part of an arms-length transaction between the City and the contractor.

This opinion deals with the reimbursement, or payment, of "reasonable hosting expenses" provided by a prohibited source to a city official or employee. The examples are intended

to illustrate when an official or employee may receive reimbursements under the Code of Ethics.

*Permissible Expense Reimbursements from a Prohibited Source*

1. The Mayor may accept the offer for payment of travel expenses related to her presentation to the National Football League on the City's bid for the Super Bowl. While not every presentation by the Mayor or bid for business would constitute a "speaking engagement," the bid for the Super Bowl falls within the exception. Among the relevant factors are an invitation to speak, prepared remarks, a formal presentation, an audience, and a public or publicly known event. The only difficult question raised by this example is whether travel on a private jet is a "reasonable" hosting expense. Due to the nature of the event; its potential benefit to the City; the need for a coordinated presentation by state, local, and private officials; and the fact that any reimbursement would be publicly disclosed, the Board concludes that the travel expense is reasonable under the circumstances.

2. The Finance Department employee may serve on the bank advisory group and accept expense reimbursements to attend a meeting to discuss the needs of local governments under the exception for participation on a professional panel. The employee must disclose all expenses, whether paid directly or reimbursed by the bank, on an online Expense Reimbursement report.

3. The city engineer may accept the invitations to lunch and dinner since a meal is a "hosting expense," the cost of the luncheon is reasonable, and the employee is attending the conference in an official capacity. He, too, must complete the online Expense Reimbursement form.

*Impermissible Expense Reimbursements from a Prohibited Source*

4. The city employee may not have her expenses paid by a prohibited source to travel to New York City for a business meeting. Although the employee may prepare remarks and make a formal presentation at the meeting, the other elements normally associated with a speaking engagement are not present, such as a formal invitation to speak or a gathering of spectators or listeners at a public event.

**Conclusion**

The Code of Ethics prohibits city officials and employees from having a prohibited source pay for their travel and related expenses unless the travel is undertaken for a speaking engagement, teaching, participation on a civic or professional panel, or attendance in an official capacity at a conference. A routine business trip or travel to attend a business meeting does not fall within this exception to the ban on gratuities.

The city official or employee who receives expense reimbursements from a prohibited source must report the expenses online on an Expense Reimbursement form. This reporting requirement applies whether the prohibited source reimburses the employee or makes the payment directly to the airline, hotel, restaurant, or other company. The online reporting requirement is effective on March 1, 2006.

Adopted February 23, 2006

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