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Formal Advisory Opinion 2005-6 Solicitations for City Programs that Benefit Citizens

Opinion Summary

City officials and employees may solicit gifts and donations for city programs and projects from any source as part of a broad public appeal, provided that the fund-raising is for an official city purpose and does not target prohibited sources. The gifts may not be calculated to influence the official or employee and must be publicly reported on an online gift report form.

Question Presented

When may city officials and employees solicit donations from prohibited sources for city programs and projects that benefit citizens?

Facts

The Mayor's Chief of Staff has asked the Board of Ethics to address when city officials and employees may engage in solicitations for events that benefit citizens. He describes four events in which the Mayor and the Mayor's office have historically been involved in soliciting contributions for programs for the public good.

1. Mayor's Cup. This annual golf tournament and auction raises money for two youth programs, Camp Best Friends and The First Tee. The Mayor signs a solicitation letter asking for donations, but does not receive a list of donors. A private company, which donates its services, coordinates the fund-raising efforts and presents a check to the City of Atlanta that goes into the trust accounts for the two programs. The Mayor's Cup Golf Tournament started in 1997.

2. Mayor's Seniors' Ball. Sponsored by the Mayor and held for at least nine years, this black-tie affair attracts more than 4,000 senior citizens. A city employee serves as event coordinator and a planning committee composed of city employees, citizens, and business representatives manages the annual event, including the fundraising, hotel, menu, program, transportation, and tickets. The Mayor's office solicits and receives donations and in-kind services from a broad range of individuals and companies, including ones that do business with the City, want to do business, and have done business in the past. The City has established the Older Atlantans Trust Account to accept the contributions and pay the expenses related to the event.
3. Atlanta Dream Jamboree. The Atlanta Dream Jamboree is a city-sponsored program that enables students from the Atlanta public high schools to meet college recruiters and representatives of other educational and training programs. A team of employees and volunteers solicits donations, which are deposited into the Dream Jamboree Trust Account and used to buy supplies, food, and book bags for the students. The event began in 1982.
4. Mayor's Masked Ball. Also begun in the early 1980's, the Mayor's Masked Ball is a fundraising event of the United Negro College Fund to support students attending the nation's historically black colleges and universities. There is a broad public appeal for support, including television ads and letters. The City of Atlanta Mayor is the official host of the ball and lends his or her name to the event.

Discussion

The City of Atlanta's Charter gives the City unlimited authority to accept gifts, donations, bequests, or grants for any purpose related to its powers and duties. Atlanta City Charter § 1-102 (7). The Code of Ethics prohibits city officials and employees from soliciting or accepting anything of value in exchange for a vote, decision, or favorable action, but permits the acceptance of gifts on behalf of the City in certain situations.

No official of employee shall solicit or accept anything of value, in any form whatsoever, calculated to influence a vote, decision, or the exercise of official authority in any manner involving the city; provided, however, nothing in this section shall prohibit any official or employee from accepting a gift on behalf of the city which is properly reported to the board of ethics and the department on administrative services for addition to the inventory of property of the city. See Atlanta, Ga. Code § 2-818. Consistent with this provision, section 2-801's definition of banned gratuities has an exception for gifts to the City. To meet this exception, the gift or thing of value must be offered to the City, accepted on behalf of the City, remain the property of the City, and be properly reported.

The Board of Ethics has rendered two opinions dealing with solicitations. In the first opinion, the Board concluded that an employee may not personally solicit funds from a prohibited source for a charitable or professional organization. See FAO2004-6, Solicitation of Charitable Contributions from a Prohibited Source. In the second opinion, the Board considered whether city employees may solicit contributions in an official capacity from prohibited sources for employee awards. The Board determined that

sections 2-818 and 2-801 prohibit officials and employees from soliciting personal gifts as a quid pro quo for a favorable decision or vote, but allow city officials and employees to solicit donations on behalf of the City for employee prizes and awards under certain conditions.

The Board established the following guidelines for solicitations made by city officials and employees on behalf of the City of Atlanta:

- The official or employee must solicit in an official capacity
- The solicitation must be made for a city purpose, project, or program
- The fund-raising campaign should make a broad public appeal for support
- The solicitation should not target prohibited sources
- The gift must be given to the City of Atlanta or one of its agencies
- The gift must be publicly disclosed on an online gift report form
- The gift cannot be calculated to influence any vote, decision, or official action

These guidelines apply whether the solicitation is made by an elected official or city employee and whether the ultimate recipient is another city employee or a citizen.

Applying these guidelines to the solicitations in which the Mayor and her office are involved, the Board finds that the first three events -- the Mayor's Cup Golf Tournament, Mayor's Seniors' Ball, and the Atlanta Dream Jamboree -- all meet the criteria set out for permissible solicitations. The campaigns are broad public appeals for support of official city programs that benefit the junior and senior citizens of the City. The solicitations do not target companies that are doing business with the City or seeking official action from the City, and the City has set up special trust accounts to receive the donations for the programs or events. In the future, the Mayor's office will need to complete an online gift report form each year, listing the donations and contributions received for each program.

Unlike the first three events, the Mayor's Masked Ball does not involve a city program, use of city property, or a gift to the City and, therefore, is not covered by the Code of Ethics. Instead, the City's top elected official for the past two decades has lent his or her name and good offices to support fund-raising efforts aimed at helping students attend college, including ones in Atlanta. Because no city property is used, the Mayor may help solicit funds for charities like the United Negro College Fund, United Way, Red Cross, and similar organizations.

This opinion does not address solicitations that officials and employees make to host events for citizens in specific council districts.

Adopted October 27, 2005

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