

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**ADVISORY OPINION NO. 169**

This advisory opinion concerns whether members of a City department [department] who have formed a ball team may accept the offer of a commercial firm to sponsor their team by paying the cost of its registration fee and uniforms.

The Ethics Commission [Commission] believes that the team may accept the offer because a reasonable person would not infer that such sponsoring is intended to influence the team members in the performance of their duties.

The Commission bases this opinion on the following facts:

About ten employees in the department play on a team registered in a professional league. The cost of registration is under \$200.00 and the cost of uniforms for the members would be under \$150.00.

A member of the team asked an officer of the commercial firm whether or not that company would sponsor the team. A sponsor pays the cost of registration and possibly shirts, which may bear the firm's logo.

The commercial firm has several stores in Hawaii now and intends to open other stores in a planned expansion program. Each store needs a zoning permit and a liquor license, which the Zoning and Liquor Commissions respectively approve. One employee of the City department advises the Zoning Commission and another the Liquor Commission. However, neither is a member of the ball team.

The ethical question is whether a reasonable person would infer that an outside business that needs City approval from two City agencies would sponsor members of a recreational athletic team representing a third City agency in order to influence such team members in the performance of their official duties.

This question follows from Section 11-102.1, Revised Charter of the City and County of Honolulu 1973 (1984 Ed.), which provides the only City standard of conduct pertaining to this question. This section states:

No elected or appointed officer or employee shall . . . [s]olicit or accept any gift, directly or indirectly, whether in the form of money, loan, gratuity, favor, service, thing or

promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of such person's official duties.

On one hand, one member of the ball team has solicited a gift because he has asked the commercial firm to be the team's sponsor. The gift would be in the form of the firm paying the team's registration fee and possibly the cost of shirts bearing the company's logo.

On the other hand, a reasonable person would not infer that the company sponsoring the team is intended to influence its members in the performance of their official duties. The only business the company has and will apparently have in the future during its expansion program is obtaining zoning permits from the Zoning Commission and liquor licenses from the Liquor Commission. Although two employees of the City department advise the Zoning and Liquor Commissions, neither has the authority to grant permits or licenses. In addition, neither person is a member of the team.

Therefore, although one team member solicited a gift in the form of the company sponsoring the team, this solicitation does not give rise to either a real or apparent conflict of interest because a reasonable person would not infer that the sponsoring is intended to influence the team members in the performance of their official duties.

In addition, the State has a standard of conduct similar to the City's and uses factors the Commission adopts for use in determining whether or not a gift is permissible. Hawaii Revised Statutes Section 84-11 states:

No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can be reasonably inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

The eight factors are as follows:

1. The official duties of the recipient-employee, and whether they include official action directly affecting the donor;
2. The business relationship between the recipient and the donor;
3. The existence of past, present, or possible future applications or contracts between the donor and the City;
  - a. whether the employee's department presently has before it, or had before it, an application affecting the donor;
  - b. whether or not the contract was made through an open, public process;

4. The size of the gift;
5. Whether the gift relates to the job of the recipient-employee and thus redounds to the City's benefit, or whether the recipient-employee gains a personal benefit;
6. Whether the receipt of the gift impugns the integrity of the recipient-employee's department;
7. The benefit the donor stands to gain from giving the gift;
8. The custom and practice in the community with regard to the giving of gifts.

The eighth factor does not apply to the facts at hand because whether or not a City athletic team may have a sponsor is a question of first impression for the Commission. However, the other seven factors apply as follows:

On one hand, two factors weigh against the team having the commercial firm as its sponsor. Sponsoring the team gives the employees a personal benefit rather than the City receiving a benefit. In addition, each member appears to gain the equivalent of about (\$ amount), or about one tenth of the cost of registration and uniforms.

On the other hand, five factors support the team having the commercial firm as its sponsor. The official duties of the employees of the City department do not include official action directly affecting the donor because they do not approve zoning permits and liquor licenses. The business relationship between these employees and the commercial firm is non-existent. Although the commercial firm has had, and may have in the future, applications for zoning permits or liquor licenses before the City, these permits and licenses do not come before the employees who are members of the team. Also, the size of the gift, at under \$300.00 for the entire team, or about (\$ amount) per member, does not seem sufficient to induce official action if such action were possible.

Therefore, the Commission believes the team may have the commercial company as its sponsor because after weighing the factors, a reasonable person would not infer that such sponsoring is intended to influence the members of the team in their official duties.

Date: March 19, 1987

JANE B. FELLMETH  
Chair, Ethics Commission