

Anne Arundel County Ethics Commission

Advisory Opinion 97-122

Issue:

Whether the police and fire departments may solicit private businesses to donate money for the purchase of fire safety devices to be given as door prizes at the annual Public Safety Expo.

Background:

The county police and fire departments hold an annual Public Safety Expo, which is open to members of the public. The expo provides an opportunity for both departments to demonstrate their capabilities and to educate people on fire, injury, and crime prevention matters. There are not sufficient budgeted funds to cover the cost of the event and in the past, private businesses have been solicited for cash contributions to fund such items as smoke detectors, fire extinguishers and smoke detectors to be given as door prizes to those in attendance.

Discussion:

Section 3-106(a) of the Public Ethics Law of the county provides that "an employee may not solicit any gift". Although this appears to be an absolute prohibition, the ethics commission has previously concluded that there are certain exceptions to this rule. Specifically, in AO-97-41, the commission found that if certain constraints were carefully followed, the police department could solicit private insurers to provide a specific anti-theft item to be given to members of the public who agreed to participate in the department's "Stop Thief" program.

There are valid reasons for this exception. First, the "gifts" are solicited in furtherance of legitimate agency objectives, namely, the promotion of public safety. Second, the gifts are given to members of the general public in exchange for their participation in the program. These are not gifts designed to directly benefit individual county employees. Third, the types of gifts offered provide a benefit to the health and well-being of all county citizens.

There are also valid reasons for the constraints placed upon the solicitation of gifts in these circumstances. First, the legislative policy underlying the ethics laws, at §1-102, is to help insure that county officials and employees act with impartiality and independence of judgment and without improper influence. Second, §3-104 prohibits employees from using their positions for their own or somebody else's financial gain.

Without the imposition of certain restrictions on the solicitation of gifts, even in permitted circumstances, the opportunities for ethical breaches would clearly exist. For example, an agency soliciting donations would be in a position to coerce a sizable donation from a regulated business. Conversely, a regulated business might, through a particularly generous donation, expect favors in return. While the ethics commission is not suggesting that these

possibilities are likely to occur, the ethics laws are designed to be construed broadly so as to avoid even the "appearance of improper influence". §1-102(a)(2). Issues involving the appearance of improper influence are particular evident in matters involving the police and fire departments because virtually every business is subject to the authority of, regulated by, and dependent upon the services of the police and fire departments.

It is for these reasons that the ethics commission both supports and limits official agency solicitation of gifts from private businesses. The limits include requirements that the soliciting agency may not communicate directly with the donor business and may have no knowledge of the amount of the donation given by any participating business. The selection of businesses to be solicited for donations should be reasonable and should not appear to favor any particular type of interest, business or individual. Meticulous records and receipts must be kept and fire and police department employees and their families should be ineligible to receive door prizes. This latter restriction prevents the possibility that receipt of a door prize by a department employee could appear "fixed". And of course, the expo, as an officially sanctioned county program, should be approved by the county administration.

Conclusion:

The ethics commission concludes that it would be permissible, within certain constraints, for the police and fire departments to solicit donations from private businesses to help fund door prizes for the annual Public Safety Expo. The solicitation will further the agency's purpose and it is the public who will benefit from the donations. As long as certain precautions are taken to ensure that there is no appearance of improper influence, there will be no violations of the Public Ethics Law.

June 24, 1997

By: Anne Arundel County Ethics Commission

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