

May 15, 2007

*By first-class and electronic mail*

Re: AO-07-39

You have inquired whether county employees may accept an invitation to a luncheon or breakfast event held by your organization, to honor a county employee. If the answer to this question is in the affirmative, you also ask what would constitute the “acceptable dollar range on the value of the lunch.” The ethics commission advises that under the specific circumstances you have described, county employees may not accept this invitation.

The organization that proposes to hold this event is the Anne Arundel County Chapter of the Home Builders Association of Maryland (HBAM). The HBAM is an umbrella organization made up of builders, developers, and other related entities. You stated that some of your sister chapters hold an annual luncheon or breakfast to honor an employee in county government who “has been helpful to our industry.” The local chapter is interested in holding the same kind of function. Previous events have been attended by 100 – 150 people, of whom 10%- 25% have been county employees. The county employees are all invited guests. The other people attending the event will be builders, developers, and consultants – members of HBAM.

The HBAM is a “controlled donor” under the gift prohibitions set forth in §7-5-106(b) of the Public Ethics Law. It is, by definition, a lobbyist under §7-1-101 (18)(iv) although it is currently exempt from the lobbyist reporting requirements of Title 7 of the ethics law. *See*, §7-7-101(b)(1). Additionally, the members of the local chapter are for the most part, “regulated or controlled by” the agencies of the employees that presumably will be invited to attend the event.

Under §7-5-106(b)(2) and (4), county employees generally are not permitted to accept gifts from controlled donors. There is an exception to the general prohibition that permits employees to accept “occasional meals and beverages of modest value.” §7-5-106(c)(2)(i). In the context of a gift to one or two employees, a “modest value” is considered to be \$25 (or \$50 if the employee’s spouse, partner, or guest is included). However, where a lobbyist is the donor of the gift, employees may not accept any gift that exceeds the cost of \$20. §7-5-106(c)(2)(iv). Such a gift normally comes up in the context of a working lunch or dinner, or another type of work-related circumstance. In this context, and when offered on an “occasional” or infrequent basis, the gift is seen as a convenience or incidental gift of insignificant value.

However, the event that you describe does not fall within this context. By your estimate, out of a total of about 150 people attending the event, as many as 38 attendees could be employees of the county. The others in attendance are the people who are subject to regulation by these employees’ county agencies. Even if the value of the event to each employee is in the range of \$20 - \$25, the overall cost to your organization could

be as much as \$1000. While this cost may be insignificant to your organization and its members, it is hardly of “insignificant value.” In the context of this type of event, the ethics commission looks at the value to the donor as well as the value to the recipients. See, e.g., [IO-03-65](#), [IO-98-01](#).

Section 7-5-106(c) of the ethics law provides that an employee may accept “occasional meals and beverages of modest value” unless,

*as to a gift of significant value, the gift would give the appearance of impairing the impartiality and independent judgment of the employee, or the employee believes or has reason to believe that the gift is designed to impair the impartiality and independent judgment of the employee.*

It appears to the ethics commission that a party held for a potentially large number of county employees is a gift of “significant value” in the aggregate, to that group of employees and to your organization, particularly because as you said, it is to honor employees who have “been helpful to our industry.” The value to your organization is the continued good relationships with county employees that you will encourage by holding this type of event.

In expressing this opinion, the ethics commission does not mean to suggest that county employees should not continue to be helpful to your industry, or that they are not deserving of recognition for a job well done. However, when a large regulated entity holds a party for a large group of regulators, it reasonably appears that the party is designed to impair the impartial and independent judgment of the regulators.

There are any numbers of other ways to honor exceptional service given by county employees that would not create an appearance of impropriety. A charitable contribution given in honor of an employee would be an example. A letter of commendation to the employee’s supervisor, department head, or to the county executive would be another example. A letter to the editor of a newspaper, or a mention of the employee’s exemplary service in your organizational publications would be another example.

This advice is not offered with the intent of demeaning the good intentions of your organization. But as public servants, county employees must be particularly sensitive to a reasonable appearance of impropriety. Gifts of more than nominal value given by regulated entities to county regulators are frequently viewed with suspicion by the public and by other regulated entities. The county council has determined that confidence and trust in government is “eroded when the conduct of the County’s business is subject to improper influence or even the appearance of improper influence.” §7-1-102 (a).

For these reasons the ethics commission advises that an “open” invitation to a department within county government to attend a luncheon held to honor a county employee is a gift of significant value and may not be accepted by county employees.

Thank you for your inquiry. If you have any questions, please call.

The Anne Arundel County Ethics Commission

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