

**City of Memphis
Board of Ethics**

December 4, 2019

Formal Ethics Opinion No. 19-01

This opinion responds to a specific question presented, particularly whether certain behavior is permissible pursuant to the City of Memphis Code of Ethics, Ordinance 5206. It does not address any other applicable policy, local, state or federal laws. The Board of Ethics' jurisdiction is limited to the applicability of the City of Memphis Code of Ethics, Ordinance 5206, as amended. This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Question

Whether it is permissible for a City Employee to start secondary employment with an Agency expecting to do business with the City of Memphis?

Opinion

An officer or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the city position or conflicts with any provision of the city's charter or any ordinance or policy.

Per the Mayor's Executive Order Section 7), "[n]o employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the City or its agencies."

From the specific facts given, there is the appearance that a direct or indirect benefit is derived by the City employee if he begins employment with the Agency. Therefore, the Employee should not accept employment with the Agency, or the Agency should not do business with the City, because it conflicts with provision 7) of the Mayor's Executive Order.

Facts

Labor Standards Coordinator [Employee] for the Housing & Community Development of the City of Memphis would like to begin secondary employment for CorporateFACTS or C-FACTS [Agency]. The company is a consulting agency. The employment will be a contractual fee-based agreement. Employee will act as an advisor for the Agency. The Agency is a strategic and financial advisory firm helping clients build strong, vibrant communities. This Agency specializes in neighborhood investment planning, organizational program design and assessment, real estate financing and financial management. Employee's assistance will be primarily directed in the U.S. Virgin Island.

Employee's work hours for the City are from 8:30a.m. to 5:00 p.m. Agency work hours are scheduled after City work hours. Employee will work for the Agency from home. The work will entail one (1) to three (3) hours of telephone conference instructions. The work hours for the City and the Agency will not overlap.

The Agency will be doing business with the City, but the Employee "will have no interaction with them nor make any decisions regarding their contract."

Analysis

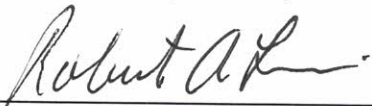
The Employee's proposed secondary employment involves an Agency that is expecting to do business with the City of Memphis. Provisions 7) of the Mayor's Executive Order provides that no employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the City or its agencies. The fact that the Employee "will have no interaction with them nor make any decisions regarding their contract," does not negate the effect of this provision.

Additionally, Section 2-10-9 of the Code of Ethics for City Officials further provides that "[a]n officer or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the city position or conflicts with any provision of the city's charter or any ordinance or policy."

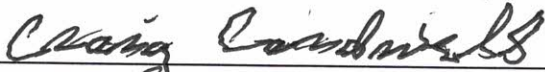
Conclusion

Based upon the foregoing, it is my opinion that under these facts, a Conflict of Interest exists, if the Employee begins work for the Agency, a company doing business with the City. Therefore, Employee should not accept employment with the Agency, or the Agency should not do business with the City, because it conflicts with provision 7) of the Mayor's Executive Order.

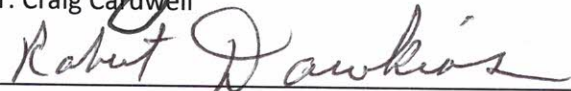
Board of Ethics, City of Memphis



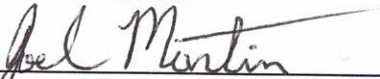
Chairman, the Honorable Robert A. Lanier (Retired)



Mr. Craig Cardwell



Mr. Robert Dawkins



Mr. Joel Martin



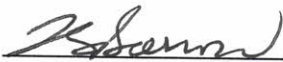
Mrs. Cindy Newman



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