

*Ethics lights the
way to good gov-
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The Ethical Times

A Publication of the New York City Conflicts of Interest Board

Quinn Haisley, Editor



Gifts of Travel

By Ethan A. Carrier

Question: I'm an employee at the New York City Department of Sanitation. I've been invited by TrashMaster Inc. to travel to Mexico City to tour their new, state-of-the-art trash incinerator, the TrashMaster 9000. TrashMaster Inc. has a contract with the New York City Department of Sanitation for leasing and maintaining their older model TrashMaster 8500. TrashMaster Inc. has offered to pay for my coach class airfare, hotel accommodations, and all my meals while I'm in Mexico City. TrashMaster Inc. has also invited government employees from other large cities around the world to tour the new TrashMaster 9000, offering them the same travel and accommodations. May I go on this trip?

Answer: This is one of those tricky areas where you're smart to ask the Conflicts of Interest Board ("COIB") for advice! We will need more information from you, but let me start by talking about the basic rule.

The issue here is that the offer of free travel by a firm that does business with the City is a valuable gift from a City vendor. Chapter 68 of the New York City Charter generally prohibits City employees from accepting valuable gifts from City vendors, but there are some exceptions. One of these exceptions permits a City employee to accept travel-related expenses from a City vendor as a gift to the City rather than to the employee under certain, limited circumstances.

First, the trip must be for a City purpose and therefore could properly be paid for with City funds. In other words, the trip must be a true City business trip rather than your personal vacation.

Second, the travel arrangements must be appropriate to the City business purpose of the trip. Generally this means that you will be using travel accommodations similar to those you would use if the trip were being paid for by the City.

Third, the trip must not be longer than reasonably necessary to accomplish the business that is its purpose. This means you cannot accept travel-related expenses from TrashMaster Inc. for a five-day trip to Mexico City so that you can attend a two-hour tour of the new TrashMaster 9000.

Finally, it is strongly recommended that you get prior, written approval of such travel from your agency head (or, in the case of agency heads, from the deputy mayor who oversees the agency). This helps ensure that you have a legitimate City purpose for the trip, among other things.

There are a number of other concerns. For example, you cannot accept the gift of free travel for your spouse or another guest (you have to pay for your guest's travel-related expenses). In addition, you have to be careful not to use your City position to solicit the gift of free travel from anyone. City employees who file annual financial disclosure reports with COIB may need to report the acceptance of travel-related expenses.

Advice on free travel is available from COIB. Here's what you need to provide to COIB in order to get that advice:

1. A detailed itinerary of the trip, including as complete a description as possible of all scheduled activities and the anticipated travel and hotel accommodations;
2. An identification of the trip's sponsor and its reasons for offering to pay for the trip, including a description of any business dealings that the sponsor has with the City;
3. A statement of the trip's City purpose, which must be reflected in the presented itinerary;
4. A statement of the cost of the trip to be borne by the trip's sponsor; and
5. Written approval of such travel from the your agency head.

Be sure to get this information to COIB well in advance of your travel. COIB staff may need to pose follow-up questions and time may be needed for deliberation. If you don't ask for advice in time for COIB to give you advice before your travel, then you'll assume the risk that your travel does not conform to the conflict of interest law.

If you have any further questions about this or any other conflicts of interest situation, call the Conflicts of Interest Board at 212-442-1400 and ask for the "attorney of the day." You can also e-mail us through our website (<http://www.nyc.gov/ethics>) by clicking on "Contact COIB." All calls and e-mails are confidential, and you may contact us anonymously.

*Ethan A. Carrier is an Associate Counsel
at the New York City Conflicts of Interest Board*

Recent Enforcement Cases

▶ The Board and ACS concluded a settlement with a Child Protective Specialist who admitted that she accessed the New York State Central Register's confidential database on two occasions to view confidential information concerning a complaint filed against a friend of her mother. The Child Protective Specialist then used the confidential information she obtained to assist her mother in evaluating whether she should serve as the caretaker of her friend's children after they were removed by ACS from the friend's home. For this violation, the Child Protective Specialist agreed to serve a five work-day suspension, valued at \$995. As part of a joint resolution, the Board accepted the agency suspension in settlement of the Board's proceeding against the Child Protective Specialist.

▶ The Board issued a public warning letter to a Chief Engineer at DPR who was hired by a client of his private engineering consulting firm to provide services for an appeal of a DOB Construction Code determination. The Chief Engineer consulted with DOB personnel on behalf of the client, including asking about the status of the appeal and drafting a plan and appeal response that were submitted to the DOB.

▶ The Board issued a public warning letter to a Maintenance Worker at HHC who, while employed at HHC's Jacobi Medical Center, entered into a superior-subordinate financial relationship by accepting compensation from his HHC supervisor for constructing a bathroom and a deck at his supervisor's home.

▶ The Board and HRA concluded a joint settlement with an HRA Computer Specialist who used a City vehicle for a non-City purpose at a time when he was required to be performing work for the City. The Computer Specialist admitted that he secured authorization to use a City vehicle from his supervisor under the guise that he would use it to drive between two City office locations to conduct City business. Instead, at a time he was required to be performing work for the City, the Computer Specialist drove the City vehicle to meet his brother to conduct personal business, which he was not authorized by HRA to do. The Computer Specialist then submitted a Daily Route Sheet in which he falsely stated that used the vehicle for City business. As a penalty, the Computer Specialist agreed to a twelve work-day fine, valued at \$4,466, to be imposed by HRA. As part of a joint resolution, the Board accepted the agency fine in settlement of the Board's proceeding against the Computer Specialist.

▶ The Board issued a public warning letter to a former Associate Director at Coney Island Hospital for disclosing confidential bid information from one vendor to a second vendor. In issuing its letter, the Board took into account that the former Associate Director had resigned from HHC in the face of pending HHC disciplinary action related to this and other misconduct.

Congratulations! to the winner of the Conflicts of Interest Board's March Public Service Puzzler contest:

Eliseo Contes, an Office Coordinator and Administrative Assistant for the General Counsel's Office with the Department of Buildings.

You can read Mr. Contes's bio and get the details for the April Public Service Puzzler by clicking [here](#).

*Interested in more information?
Get in touch with COIB's Training &
Education Unit to arrange a class in
Chapter 68 for you and your staff.
Contact Alex Kipp, Director of Training, at
kipp@coib.nyc.gov*

**The New York City
Conflicts of Interest Board
2 Lafayette Street, Suite 1010
NYC 10007**

**Phone: 212-442-1400
Fax: 212-442-1407
TDD: 212-442-1443
www.nyc.gov/ethics**

*A searchable index of all the COIB
Enforcement Dispositions and Advisory
Opinions is available courtesy of New
York Law School here:*

http://www.nyls.edu/center-for-new-york-city-law/cityadmin_library/

