



CITY OF PHILADELPHIA

BOARD OF ETHICS  
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**Philadelphia Board of Ethics  
Non-Public General Counsel Opinion No. 2019-503**

June 11, 2019

**Re: Application of Ethics Code Conflicts of Interest Restriction to  
Outside Business Opportunity with Agency Client**

Dear Requestor,

You have asked whether a conflict of interest would arise for you under the City Ethics Code if you enter into a business relationship with a private entity (the “Private Entity”) that participates in a City program you help administer. As discussed below, in my view, if you pursued this business opportunity, it would indeed give rise to a conflict of interest that would require you to file a disclosure and disqualification letter and would preclude you from taking any official action that would affect the Private Entity.

**I. Background**

You are a City employee whose work for the City includes overseeing the implementation of a program that affects numerous local organizations and institutions, including the Private Entity. This work is funded through state and federal programs administered by your office, with a local non-profit serving as the contracted service provider.

In addition to your City position, you own a company that sells products developed by you. Recently, your business received an unsolicited email inquiry from a representative of the Private Entity asking if you could become a vendor for the entity. The Private Entity participates in the program that you help administer as part of your City job.

## **II. Relevant Law**

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule Charter provisions and ordinances pertaining to ethical matters. The Charter and the Philadelphia Code authorize the Board to render advisory opinions concerning a City officer or employee's proposed future conduct.

Philadelphia Code Section 20-607 prohibits a City officer or employee from taking action in an official capacity when either (a) he or she (or a close family member) has a personal financial interest in that action; or (b) a for-profit business of which the official is a member, or a fellow member of such business, has a financial interest in the official's action.

The Board has advised that a person or entity has a financial interest in matters that have a potential impact on the person or entity's income, compensation, value of assets, wealth, employment prospects, or business prospects. The Board has further advised that a financial interest may arise from an ongoing, present financial relationship. As such, you would have a personal financial interest in a matter that affected a client of your business. Thus, if you were in a position to take action in your official capacity in a matter that affected a client of your private business, you would have a conflict of interest under Code Section 20-607(a). *See* Board Opinion 2012-001; General Counsel Opinion 2014-506.

## **III. Discussion**

Based on the information you have provided, if the Private Entity became a client of your business, a conflict of interest would arise under the Ethics Code because you would be in a position to take action in your official capacity that could affect the Private Entity.

In light of this conflict, your options are to either (1) decline to engage in this business opportunity, or (2) follow the disclosure and disqualification procedures set forth in the Ethics Code. If you choose option (2), you must send a letter by certified or registered mail to me, the head of your department, and the Records Department in which you: (a) give your name, City position, and City duties relevant to the conflict; (b) describe the financial interests or relationships that give rise to the conflict; and (c) include a statement that you intend to be disqualified from taking official action in any relevant matters.

Thank you for your concern about compliance with the Ethics Code and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided as stated here. You are entitled to act in reasonable reliance on this opinion and not be subject to penalties under the laws within the Board's jurisdiction, unless you have omitted or misstated material facts in your request.

Since you requested a non-public opinion, the original Opinion will not be made public. As required by the City Code, this version of the Opinion, which has been redacted to conceal facts that are reasonably likely to identify you, is being made public. Please let me know if you have any questions.

BY THE PHILADELPHIA BOARD OF ETHICS

Michael J. Cooke  
Acting General Counsel

cc: Michael H. Reed, Esq., Chair  
J. Shane Creamer, Esq., Executive Director