



**BALTIMORE CITY BOARD OF ETHICS**  
**Ethics Opinion 11-001**  
**(May 10, 2011)**

A City agency has requested an opinion from the Ethics Board about whether a proposed “sponsorship” solicitation campaign would violate the City Ethics Code. The proposed campaign would allow corporations and businesses to receive varying levels of public recognition as “sponsors” of certain City events or activities in exchange for the payment of a certain set amount.

The City’s Ethics Code places significant restrictions on the ability of City employees, and by extension City agencies acting through their employees, to solicit or accept gifts from certain classes of donors. At issue here is the question of when a payment is in fact a gift. A City employee calling someone up and asking them to contribute to a charity is clearly soliciting a gift. An employee accepting a prescribed payment on behalf of the City for issuing a necessary permit is clearly taking part in a transaction that does not involve a gift. The proposed sponsorship campaign falls somewhere between these two examples.

City Code Article 8, § 2-17(a) defines “gift” for ethics purposes as “the transfer of anything of economic value, regardless of the form, without adequate and lawful consideration”. Under the proposed sponsorship campaign, City employees would be asking potential sponsors to transfer something of economic value - a monetary payment to the City - and would be offering prominent public recognition of that payment as consideration. There is nothing to suggest that the placement of a corporate logo on a sign announcing a City event, or the mention of a sponsor during an opening ceremony, would be in any way unlawful, so the remaining question is whether or not the recognition accorded to a sponsor is “adequate” consideration for the payment made to the City.

Determining the adequacy of consideration in any transaction is a notoriously difficult undertaking. Generally, the Ethics Board does not review City contracts to determine if they are in fact gifts. Instead, it relies on market forces to dictate the value of services that the City may provide, and the Board of Estimates to set service charges and approve contracts at rates that provide adequate consideration to both parties to an exchange. Since the Ethics Board is not in a position to systematically evaluate the value of the consideration in every transaction involving the City, it must presume, absent evidence to the contrary, that contracts openly entered into under market conditions and approved by the Board of Estimates are genuine, provide adequate consideration on both sides, and are not disguised gifts.



The benefit purportedly offered to entities for becoming sponsors of City activities is advertising to the general public and association with a positive event. The ubiquitousness of stadiums, sporting events, and festivals named after one corporation or another proves that this is a legitimate product for which there is a genuine market. When sponsorships are offered to a broad enough segment of this market, including entities who may be considering sponsoring other, non City related, events, it can be presumed that the market will set the prices that the City will be able to charge. This presumption is strengthened when the conditions of the sponsorships are publically known and vetted by the entity within the City's government charged with evaluating and approving financial transactions, the Board of Estimates.

It is the Opinion of the Ethics Board that when sponsorship agreements are entered into under these conditions they should be treated the same as any other contract. Therefore, absent any evidence to rebut an assumption of genuineness, a campaign to solicit sponsorships of City facilities, activities, or events does not need to be approved by the Ethics Board if the campaign:

1. publically offers the opportunity to become a sponsor to a broad group of potential sponsors;
2. describes any criteria that will be used to select the sponsors or to determine whether certain entities are not eligible to be sponsors; and
3. is approved by the Board of Estimates.

Any sponsorship solicitation campaign that does not meet the three conditions listed above, however, is not entitled to the presumption that adequate consideration is being offered for the sponsor's payments, and must instead be evaluated in the same way as a campaign to solicit charitable donations under Ethics Code § 6-26 and Ethics Board regulation R 06.26.