



May 24, 1989

City of Chicago  
Richard M. Daley, Mayor

[REDACTED]

Board of Ethics  
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Suite 530  
205 West Randolph Street  
Chicago, Illinois 60606  
(312) 744-9660

Re: Ethics Ordinance and car purchase  
Case No. 89097.A

Dear [REDACTED]

In your letter of April 6, 1989, you requested the Board of Ethics to render an advisory opinion regarding the following situation: A contractor has assigned a City employee a car for use on a particular project with the City on which the contractor was the low bidder. Upon completion of the project, can the assigned car be purchased by the City employee?

In a subsequent telephone conversation with our staff, you stated that the current City practice is for the contractor to bill the City for the use/depreciation of the car once the project is finished. You also indicated that, for purposes of this hypothetical, the Board should assume that the employee [REDACTED] could substantially affect the project in question.

We have determined that the Ethics Ordinance (Chapter 26.2 of the Municipal Code of Chicago) will not prohibit the employee from buying the car, so long as the price he pays is its fair market value. A discount on the car would be improper, because the difference between the fair market value of the car and the (lower) purchase price would constitute a gift prohibited under Section 26.2-4 of the Ordinance. However, we must strongly emphasize our belief that the potential for the appearance of impropriety under such circumstances would be considerable. The relationship between a City employee and the contractor under his supervision is such that few would be confident of the "arm's length" nature of the hypothetical car purchase. In addition, such a system would seem to invite abuse, i.e., invite contractors to attempt to manipulate the selection and sale of cars to City



employee-buyers in order to "purchase" favorable treatment. Accordingly, while the course of action envisioned by your hypothetical is not prohibited by the Ethics Ordinance, we would advise you against it.

**ANALYSIS:** The Ordinance section upon which this determination rests, 26.2-4, prohibits City personnel from taking gifts from persons who have business with the City that they (the City officials or employees) can substantially affect. Subsection (c) of Section 26.2-4 states:

No person who has an economic interest in a specific City business, service or regulatory transaction shall give, directly or indirectly, to any City official or employee whose decision or action may substantially affect such transaction..., and none of them may accept, any gift of (i) cash or its equivalent regardless of value, or (ii) an item or service other than an occasional one of nominal value.

A City employee who is engaged in the supervision of the performance of a City contract is bound by these restrictions in his dealings with the contractor. Therefore, any discount or price advantage that the contractor granted to the contractor which was not available to the general public would be considered a prohibited gift.

**ADDITIONAL ISSUES:** You also asked what guidelines, if any, the Board of Ethics could provide as to the selection of cars which contractors would assign to the City employees for use on projects. Since such a situation would turn on the specific facts of a given case, we cannot give you a hard-and-fast rule. However, we can offer you a general policy by way of the following example: If a Cadillac were assigned to one of the City's ~~employee~~ <sup>employee</sup> when a Ford Escort would clearly suffice, then some part of the difference between the value of the use of the two cars could be construed as a prohibited gift (under Section 26.2-4, above). In other words, you should be attentive to matching the assigned car to the specific needs of the job. While admittedly this is a grey area, a very disproportionate car assignment would certainly raise questions under the Ethics Ordinance.

Finally, you requested a paragraph regarding the use of the assigned cars. Under the Ethics Ordinance, the use of such cars by City personnel for their personal business is clearly prohibited. Section 26.2-6 of the Ordinance states that no employee or official of the City may use City resources for his private benefit. Because the use of the cars is ultimately paid for out of City funds, they must be considered a City resource

for purposes of this section and consequently can only be used  
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for the public benefit.

Should you have any questions, please contact the Board of Ethics  
at 744-9660.

Sincerely,

*Sol. Brandzel*

Sol Brandzel  
Chairman

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