

**From:** Ferguson, Boyd  
**Sent:** Wednesday, May 13, 2009 9:44 AM  
**To:** Lyon, Matt  
**Cc:** Rutan, Ed  
**Subject:** Conflict of interest question

Matt:

You informed us that Mayor Becker has established a leadership expense fund as described in Salt Lake City Code § 2.44.090(I), and that the Mayor will be holding a fundraising event to raise money for that fund. An organization affiliated with the mayor has asked people if they would be willing to purchase tickets to that fundraising event.

One person who was so approached asked whether his donation would violate the City's conflict of interest ordinance (Chapter 2.44) in that the person from time to time does legal work for the City as outside counsel.

We conclude that the person can make the contribution to the mayor's leadership expense fund without violating the conflict of interest ordinance, under the following circumstances.

City Code § 2.44.080 provides that "no public servant . . . shall knowingly receive, accept, take, seek, or solicit, directly or indirectly, for himself or herself or another, a gift that the public servant . . . knows, or with the exercise of reasonable care should know: 1) would influence the recipient to depart from the faithful and impartial discharge of his or her public duties . . ." However, § 2.44.090(I) makes an exception for contributions to a leadership expense fund (as long as the contribution isn't adversely influential).

The ordinance clearly contemplates that money may lawfully be given to elected officials so they can put the money into a leadership expense fund. We believe that it is reasonable to presume that the Code contemplates that solicitation of such donations is appropriate as long as the solicited person is not pressured to make the donation and is not promised benefits or threatened with adverse consequences.

Therefore, as long as no undue pressure or coercion or promise or threat of consequences is made to a solicited person, such person may contribute to the mayor's fundraising event without violating Chapter 2.44, even though that person is a "vendor" to the City.

Boyd Ferguson  
Senior City Attorney