



NYAOT
Celebrating America's 250th Birthday

Municipal Ethics

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Analyzing a Conflict of Interest:

1. Is there a potential conflict with a contract with the municipality?
2. If yes to #1, do you have an “interest” in the contract?

“Interest” means a direct or indirect financial or material benefit received because of the contract.

3. If yes to #1 and 2, do you have “control” over the contract?

“Control” means you can, individually or as a board, negotiate/approve contract authorize payments from contract audit bills from contracts or appoint someone who can.

4. If “yes” to #1-3, do any statutory exceptions listed in General Municipal Law § 802 apply?

STOP! If you answered yes to #1-3 and “no” to #4 the contract is prohibited.

5. What does your local ethics code say?

6. Is there common law conflict of interest? (applies to more than just contracts – includes Land Use Applications)

- Is the interest personal?

- Is the interest substantial?

GML
Article 18

Family: No general prohibition against two members of the same family from working for the same municipality; however, an officer should not participate in decisions concerning salary or terms and conditions of employment for family members also employed by municipality. Also, consult local ethics code for local nepotism rules that may apply.

Incompatible Positions: A person cannot hold 2 different positions in the municipality if any of the following apply:

- Statutory prohibition (e.g. Town Law says one person cannot hold two elected offices);
- Subordinate - one position cannot be subordinate to the other (you can't be the boss of yourself)
- Conflict of Duties –if one person held both positions, would it upset a system of checks and balances?

Gifts: Officer or employee cannot solicit or accept gifts worth more than \$75 that could reasonably be inferred to influence performing official duties. Local ethics code could lower threshold amount.

Compensation for Matters Before an Agency: Officer or employee may not receive, or enter into any agreement, express or implied, where they get paid in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he has the power to appoint any member, officer or employee

Conflict of Interest Flow Chart

