



*Everyday Ethics for Local Officials*

## **Using Public Office to Promote One's Business Interests**

*October 2002*

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### **QUESTION**

*I am newly elected. Several years ago, I became active in the local chamber of commerce to increase the visibility of my business and my stature in the community. Ultimately, I became president of the chamber. Later, people in the community encouraged me to run for elected office. This was flattering, of course, and I also thought it would be good for business, just as my service to the chamber has been.*

*Now I am finding that my public service is significantly affecting the time I spend on my business, which is creating a financial hardship for my family. As a result, I have stepped up my business marketing efforts – something that my fellow elected officials seem to disapprove of. One even questioned my ethics. What are your thoughts on this issue?*

### **ANSWER**

Public service does indeed require a great deal of time and, in most jurisdictions, the stipend paid to elected officials is minimal. Such a stipend comes nowhere close to compensating an individual for the many hours that public service involves. Many elected officials find it challenging to juggle their family, work and public responsibilities.

In this way, what you are describing is a “right-versus-right” dilemma—a tension between your responsibilities to provide for your family and your new responsibilities to promote the public’s trust in your leadership and your agency.

There also is a “personal cost” aspect to this dilemma, inasmuch as you may become aware of business and financial opportunities during your service as an elected official. In most instances, the public’s trust in your leadership will be enhanced if you forgo taking advantage of those opportunities. Applying the either the newspaper or neighbor test, in most instances the consensus will be that the public did not elect you for your personal financial gain.

## **Public Service As, Well, Public Service**

Why is this? While your original motivation for joining the chamber and running for elected office was to increase your business' visibility, this can no longer be your motivation. When the voters elected you, they did so with the expectation that you would place the public's interests first – not your business or financial interests.<sup>1</sup>

This is one way in which the public sector differs from the private sector. In the private sector, aggressive marketing efforts and pursuit of financial gain are often necessary and admired. In the public sector, however, personal financial interests cannot take precedence over public duties.

Some local agencies have specific policies where officials must agree not to use their agency affiliation in any kind of individual communications (see "Examples of Policies on this Issue," below). This avoids the public perception that public resources are supporting the communication or that the agency has endorsed it.

## **About Those Marketing Activities**

You don't say what kind of marketing efforts are causing concern. Wearing a T-shirt or other form of logo-wear that advertises your business at meetings is an obvious example of a marketing approach to avoid (particularly if the meeting is televised). So is any communication or situation that links your business endeavors or interests with your public service in any way.

Thus, there are at least two key things to do to avoid ethical questions about your business endeavors.

- Avoid mentioning your status as an elected official or your public agency affiliation (including use of agency seals or pictures of government buildings) in your business communications (and vice versa – avoid mentioning your business in your communications as an elected official); and
- Avoid marketing to people who have matters pending before your agency.

Let's examine the second issue more closely.

## Marketing to Those with Business Before the Agency

Most public officials find it best to keep personal financial interests completely separate from their public duties. This means not doing business with those who have issues before your agency, so the public can be assured that a public official's decision was not influenced by business considerations or a desire to curry favor with customers or potential customers.

The perception of those being marketed to should also be taken into consideration. Needless to say, it would be unethical (and likely unlawful) to imply that a public decision is tied in any way to whether someone does business with you. Moreover, even if such considerations are the farthest thing from your mind, your customers may not know this and may worry that a decision not to do business with you will adversely affect your decision on their issue with your agency.

### Examples of Policies on this Issue

Here is how some agencies have addressed this issue in their local ethics policies:

- Elected officials may use their title only when conducting official business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.
- Elected officials should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of official stationery or other agency resources to obtain or promote personal business.
- No official may engage in any activity or enterprise resulting in the use of agency time, facilities, equipment or supplies for private gain; or prestige or influence for private gain.

The issues surrounding the use of public resources for business is something to take particularly seriously. One Northern California public official was criminally prosecuted for using public agency resources to support her business.

Sample ethics codes are available from the Institutes' website at [www.ca-ilg.org/ethicscodes](http://www.ca-ilg.org/ethicscodes).

## Political Reform Act Restrictions On Sources of Income

Another reason to not market to those who have business before your agency is that it could create conflict-of-interest issues for you in the future. This may be one of the reasons that your colleagues are concerned – your marketing efforts could create Political Reform Act issues that will require you to disqualify yourself from voting on certain matters affecting your customers.

As a public official, you may not make, participate in or influence a governmental decision that will have a foreseeable and material financial effect on the economic interests of public officials or their immediate family. The Fair Political Practices Commission has adopted an eight-step procedure for identifying when a financial conflict of interest may arise.

One of the steps analyzes whether a person has an “economic interest” in the decision within the meaning of the Political Reform Act. Receiving \$500 or more in income from one source within 12 months prior to the decision creates an economic interest. Additionally, if an official has been promised \$500 or more from any one source within the 12 months prior to the decision, the person or entity that promised the money is a source of income to the official.

You will want to consult with your agency attorney about your specific relationships with customers.

### Beyond the Laws Minimum Requirements

But candidly, the Political Reform Act may not be your best source of guidance on the issue you present. Recent discussions among officials about ethics in public service have focused on the distinction between what the law requires of public officials and higher ethical principles.

#### Aspirational Goals

Relevant ethics code provisions relevant to this topic include:

- **Trustworthiness**  
I avoid any actions that would cause the public to question whether my decisions are based on the personal interests instead of the public's interests.  
I do not use my public position for personal gain.
- **Fairness**  
I am impartial and do not favor those who either have helped me or are in a position to do so.
- **Responsibility**  
I do not use agency resources for personal or political benefit.

Other sample ethics code provisions are available under the “ethics codes” tab of the Institute’s website at [www.ca-ilg.org/trust](http://www.ca-ilg.org/trust).

Remember that the law sets only the floor for ethical behavior, not the ceiling. There are many situations that the law, in all its complexity, cannot specifically address. As keepers of the public's trust, public officials' actions must set the standard for integrity, forthrightness, public-mindedness and fair dealing in their communities.

## **What to Do?**

The bottom line is, as an ethical matter, you should keep personal business issues completely separate from your public service. Your public service may indeed create a financial hardship for your family and you may need to evaluate whether you can continue your public service as a result. But the solution is not to mix your business activities with your public service.

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This piece originally ran in *Western City Magazine* and is a service of the Institute for Local Government (ILG) Ethics Project, which offers resources on public service ethics for local officials. For more information, visit [www.ca-ilg.org/trust](http://www.ca-ilg.org/trust).

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