

ADVISORY OPINION

APPROVAL DATE: September 11, 2009

NUMBER: 09-05

STATUS: **Current**

REVIEWED: November 7, 2016

NEXT REVIEW: November 2021

REFERENCES: RCW 42.52.160, WAC 292-110-010

SUMMARY OF CHANGES: Updated format only.

Gift of Employee Time

QUESTION

May a state employee or official “donate” a lunch or other type of meal with them or time with them to an outside organization to be auctioned off to raise money for that outside organization?

ANSWER

State employees and officials may donate a lunch with them as an item to auction off to raise money for a charitable organization, but they may not use any state resources to purchase the meal or request reimbursement for the meal. No state resources may be used to support any time with the state employee or official that is an auction item as well.

ANALYSIS

Some state employees/officials are asked by charitable organizations to donate either a meal with them or a day spent with them as an item that the organization can auction to raise money for their cause. For example, lunch with the Attorney General is auctioned at an event sponsored by a domestic violence victim advocacy organization to raise money for their programs.

State officials want to know if they must pay for the meal personally, or if their agency can reimburse them for the expenditure. Also, if the donated item is actually a day spent shadowing the official, what state resources can be used to support this event.

RCW 42.52.160 states in pertinent part:

- (1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

- (2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

The de minimis use rule under WAC 292-110-010 allows for some personal use of state resources that supports organizational effectiveness. An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee. In addition, a state officer or employee may make an occasional but limited use of state resources only if each of the following conditions are met:

- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any officer's or employee's official duties; and
- (v) The use does not compromise the security or integrity of state property, information, or software;
- (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain;
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

The donation of one's time appears to fall within the de minimis parameters as long as there is little or no cost to the state and the use is not prohibited by another law or rule. For example, shadowing the Governor for a day would not cost the state anything monetarily and could be permitted under the de minimis use rule as long as the person shadowing the Governor did not ride in a state vehicle if that act was prohibited by another statute. On the other hand, if a state official donated a lunch or other meal with them as the auctioned item, the meal would have to be paid for by that official personally, not by their agency.

Since the state employee/officer is the person donating their time to be auctioned, it would be up to that employee/officer to pay any costs associated with the donation, but the use of their time could be considered a de minimis use as long as it met the de minimis use parameters.