



MUNICIPALITY OF ANCHORAGE
Board of Ethics

Date: November 17, 2023

To: James Armstrong, Project Manager, Anchorage Water and Wastewater Utility

From: Municipal Board of Ethics

Re: Response to Request for Advisory Opinion 2023-05

Dear Mr. Armstrong:

You asked the Board of Ethics (the “Board”) for an advisory opinion on whether you may accept an invitation to speak at a conference, with your travel and lodging expenses paid for by a manufacturer of water pipes and fittings. This advisory opinion constitutes the findings and conclusions of the Board, based on the information you provided in your written request and in person during the November 17, 2023, meeting of the Board. If material facts were not disclosed or were misrepresented, the opinion is without force or effect.¹ The Board concludes you may accept the invitation to speak at this conference and allow the manufacturer to pay associated travel costs. Doing so would not cause a reasonable person to question your judgment in exercising official municipal duties, provided your supervisor approves the travel and certain conditions are met, as explained further in this opinion.

FACTS OF THE REQUEST

The Anchorage Water and Wastewater Utility (AWWU) is a municipally owned enterprise activity. You explained that as a project manager for AWWU, you write standards for the use of water pipes and fittings. Although you are not involved in the contracting process, the standards you write impact the suitability of certain pipes and fittings for use by AWWU.

The Korea Institute for Water Technology Certification (KIWATEC) is a public institution fully supported and organized by the Ministry of Environment for the Korean government. Its main work is the certification and verification of products and technologies related to the water industry. KIWATEC is hosting a conference called “Water Korea 2024,” which will take place in Seoul from March 20-22, 2024. The conference is billed as a representative event in the water industry, with delegates from many countries meeting with Korean water companies to share the latest technologies and discuss water-related issues. KIWATEC asked you to give a presentation at the conference titled “The current issues and challenges in the U.S. water industry centered on technology.” You explained to the Board that Anchorage’s location, geology, and history present unique challenges in water and wastewater management. Because of this, AWWU is often recognized as being in the forefront of innovative policies and is recognized as a leader in the

¹ AMC 1.15.150.B reads as follows: “In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board’s advice so long as the facts remain substantially unchanged from those represented to the board in the inquiry.”

industry. You said this is likely the reason you were asked to be a presenter at this conference. Other attendees include at least seventeen government representatives from major metropolitan areas in the western United States.

PPI America, Inc., is a company with manufacturing facilities in Korea, where the company produces newly designed seismic resistant iPVC water pipe and fittings. The company is one of the sponsors of the Water Korea 2024 conference and has offered to cover your cost of attending the conference, to include air travel, hotel accommodations, meals for all event days, and transportation to and from the airport and events. The company's proposed itinerary includes the two-day conference, one day to tour the company's manufacturing plant and meet with company representatives, and another day for a guided tour of Seoul.

You informed the Board that the company previously gave presentations to you about their product and its suitability for AWWU projects. Although there are not any current projects under consideration involving the company's product, you said attending the conference and learning about new technologies in the industry, including the seismic resistant pipes manufactured by PPI America, would be beneficial to AWWU and the municipality. You believe using seismic resistant iPVC water pipes and fittings will not be cost efficient for most of AWWU's projects. However, you said there could be some benefit to using this product near the port and you would like to learn more about it. Therefore, you believed your supervisor would approve the travel without hesitation.

You also informed the Board you are currently working on revising standards related to water pipes and pipe fittings for projects approved by AWWU. These revisions would not benefit PPI America because their product is already eligible for use under existing standards, and the changes will not make their product preferable or exclude other products manufactured by competitors. You anticipate the revised standards you are working on will be completed before the conference. Finally, you explained that the contracting process AWWU uses involves obtaining pipes and fittings from local vendors. PPI America could only make money from AWWU projects if it were to sell its product to a local vendor, who would then be awarded a contract through the normal contracting process. You said you are not involved in that process.

DISCUSSION

A "gift" is an item of value.² A public servant's receipt of travel expenses, lodging, and meals is a gift from the person paying those expenses. AMC 1.15.050.B establishes the general rule of when a public servant may accept a gift:

General Rule: To avoid undue influence or the appearance of undue influence, a public servant may not accept a gift from an individual or an entity with interests that may be substantially affected by the performance of the person's official municipal duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the person's judgment in exercising official municipal duties.

² AMC 1.15.050.A

The code then lists several exceptions where accepting a gift is generally permissible:

Examples: Unless other factors of influence are present or inconsistent with the general rule, a public servant may accept the following gifts:

...

9. Items such as employee travel discounts, vendor-provided accommodations, training, and payment of employee registration fees that are approved by the appropriate supervisor for legitimate governmental purposes.³

Here, the Board concludes PPI America, Inc., is an entity with interests that may be substantially affected by the performance of your official municipal duties. Although you are not involved in the contracting process to select their product for use in projects, your ability to write standards and specifications for projects might affect the likelihood the company's products are ultimately selected for use. However, the Board also concludes that the timing and nature of this conference and the company paying your travel expenses would not cause a reasonable person to question your judgment in exercising official municipal duties.

Factors that the Board considered relevant include the nature of the conference and the purpose of the trip. The workshop you were asked to speak at is hosted by a public institution funded by the Korean government. It involves representatives from government agencies, academics, utility companies, and manufacturers. Attending this conference and learning about the latest technological developments in the water industry seems to serve a legitimate governmental purpose. If your supervisor agrees and approves the travel, then it would fit squarely within exception (9) listed above.

The Board also considered it relevant that there are no current contracts with the company that are pending, and that you would not be the sole approval authority for any future contracts involving the company. You also said you would be finished with any revisions to municipal standards related to water pipes and pipe fittings before the conference, and that any revisions being contemplated would not materially benefit PPI America. So long as these conditions are met, and your supervisor approves of the travel, the Board does not believe the timing and nature of you accepting PPI America's offer to fund your travel would cause a reasonable person to question your judgment in exercising official duties.

CONCLUSION

The Board concludes that accepting PPI America's offer to fund your travel expenses to attend and speak at the Water Korea 2024 conference in Seoul does not violate the code of ethics if your supervisor approves the travel, and the facts as described above remain unchanged. The Board wishes to thank you for your dedication to ethical principles in raising this issue with the Board before accepting the travel expenses.

³ AMC 1.15.050.C.9

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Windt", with a long horizontal flourish extending to the right.

Rebecca Windt Pearson, Chair
Kelly Moghadam, Vice Chair
Terrence Kelly
Patrick Teagarden

Copy to:

- (1) Requestor
- (2) Municipal Clerk for electronic publication