

UNT System Ethics Advisory Opinion – 02

December 5, 2023

“Guest” exception to the prohibited benefits provision – Complimentary Lunch

A UNT System Enterprise employee asked the UNT System Administration Ethics & Compliance Program to sign a vendor’s form certifying that receipt of a complimentary meal in connection with a briefing presented by the vendor does not “violate the letter or spirit” of any UNT System “gifts and ethics rules.” The request states that a vendor with whom the UNT System conducts more than nominal business represents that the meal has a market value of \$50.00, it is not offering the meal in return for favorable treatment, and the UNT System Enterprise is not under any obligation to acquire or use its product or services by accepting the meal.

Opinion

The component’s ethics policy generally prohibits a System Administration employee “who exercise[s] discretion in connection with contracts, purchases, payments, claims, and other pecuniary transactions of government” from soliciting, accepting, or agreeing to accept “any benefit from any person the employee knows is interested in or is likely to become interested in any contract, purchase, payment claim, or transaction involving the employee’s discretion.”¹ However, this prohibition generally does not apply to food when the employee is a guest of a vendor who offers a meal **and** a representative of the vendor is present when the meal is accepted. This exception applies even when the employee knows or reasonably should know the vendor is interested or is likely to become interested in transacting business with the System. An employee is a “guest” when a representative of the vendor is present at the time the food is received or enjoyed by the employee.

Notwithstanding the “guest” exception, in deciding whether to accept a meal from a vendor, an employee must consider whether accepting the benefit would create the appearance that the employee is violating the law, UNT System Regents Rules, System regulations or [the component’s] policies (i.e., the appearance of impropriety).² In making this determination, an employee should consider: his or her degree of involvement in making contracting and purchasing decisions regarding the vendor; the nature and value of the benefit; whether there is a benefit to the UNT System Enterprise in attending the event where the meal is being offered; whether the event relates to the employee’s job duties so that if not for the benefit the UNT System could lawfully pay for the employee to attend; and if in a managerial position, whether the employee would be comfortable with non-managerial employees accepting a similar benefit.

Guidance

Based upon the information provided, including representations on the vendor’s form, the employee may accept the complimentary meal while attending the vendor’s strategy briefing, provided a representative of the vendor is present at the briefing and at the meal. The individual employee is solely responsible for determining whether accepting the meal presents an appearance of impropriety under these circumstances known to the employee.

¹ UNT System Administration Ethics and Standards of Conduct Policy No. 03.701, section VII.B.

² Ethics and Standards of Conduct Policy No. 03.701, section IV.A.xi.