



# CITY OF ATLANTA

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## **Formal Advisory Opinion 2007-3 Police Department Employees Working for National Airline**

### **Opinion Summary**

The Code of Ethics does not prohibit city employees from engaging in outside employment with a national airline that is a prohibited source when they work in a job that is unrelated to their official duties and they are paid the same salary and benefits as airline employees in comparable positions.

### **Question Presented**

Is it a conflict of interest for police officers to accept outside employment with a national airline that is a prohibited source?

### **Facts**

The Atlanta Police Department has asked for an opinion involving an extra job that police officers perform for a local airline. DAL Global Services, a subsidiary of Delta Air Lines, Inc., has hired off-duty police officers and other city employees to work as Ready Reserve-Customer Service Agents at the Delta ticket counters at Hartsfield-Jackson Atlanta International Airport. The job involves unskilled labor; the employees' primary duty is to ensure that baggage is placed correctly on the conveyor belt. They wear white shirts, dark trousers, and a Delta identification card while working. The officers are paid \$5.15 an hour and receive flight benefits for themselves and their immediate family, which allows them to fly anywhere on Delta as stand-by passengers free of charge. There are 36 active officers and three retired police reserve officers who work for DAL Global, including several officers assigned to the airport. Each officer works eight hours per week in the extra job.

The Atlanta Police Department has a detailed standard operating procedure that regulates extra jobs. The department's policy permits employees to work approved extra jobs that do not present a conflict of interest, violate any rules or procedures, or impair the employee's job performance. By its prohibitions, the policy addresses many jobs that create potential conflicts of interest. Among other things, the policy prohibits officers from working at adult entertainment establishments, collection or repossession agencies where police authority could be used, or jobs outside the City of Atlanta where the use of law enforcement powers is anticipated. The police chief or his designee must approve all extra jobs of uniformed and civilian employees in the department.

The DAL Global job is classified as a Type I extra job. The “Type I” job is defined as one where “the use of law enforcement powers is not anticipated or expected and one that is not police related and does not routinely require police action.” Officers may not use city of Atlanta equipment or their uniform gear in a Type 1 job.

## **Discussion**

### Hourly wages and flight benefits are not a gratuity

The Code of Ethics bans city employees and officials from accepting gratuities, which are defined as “anything of value given by or received from a prohibited source.” There is an exception when a non-city employer or company pays a person a salary, employee benefits, or fees for services rendered under a contract, and the payment is unrelated to the employee’s status with the city and not made for the purpose of influencing any official action or city decision.

The police officers’ receipt of an hourly wage and free flight benefits from Delta is not a violation of the ban on gratuities. The officers are being paid for work they perform as customer service agents for the airline during their off-duty hours, and the payment is not related to the officers’ status with the city or intended to influence their decisions while working their regular job with the city. See Atlanta, Ga., Code §§ 2-801, 2-817.

### Airline customer service jobs are not incompatible interests

The primary code provision on outside employment prohibits city employees from engaging in private employment that is adverse to and incompatible with the proper discharge of the employee’s official duties. See § 2-820 (b). Working as a customer service agent does not interfere with a police officer’s proper discharge of his public duties since there is no connection between the officer’s public duties, which involve law enforcement and police action, and the officer’s private duties handling baggage at the airline’s ticket counters.

### City employees can work as unskilled laborers for an airline

There is another code provision that indirectly regulates the outside employment of city employees. Section 2-820 (c) prohibits employees and officials from owning stock, being employed by, or having any connection with “any business, company or concern which does business with the city,” unless the business is conducted through sealed competitive bidding or requests for proposals and the bids are opened and awarded at public meetings.

As a major tenant at the airport, Delta Airlines is a company that does business with the city. Its lease agreements are subject to approval by the City Council. Taken to its logical extreme, a literal interpretation of the “doing business” clause would prohibit any city employee from working for Delta or any of its subsidiaries in any position because the airline’s business with the city is not done through sealed bids or requests for proposals that are opened and awarded at public meetings.

In previous opinions, the Board has interpreted this provision as precluding city employees from owning a business that provides goods and services to the city except through a sealed competitive bid process. See FAO 2005-3 (May 19, 2005). The requirements of a sealed competitive bid process and disclosure ensured that any

transactions were open and transparent. Similarly, the Board concluded that city board members may not do business directly with the boards on which they serve, unless the business is awarded through a sealed competitive bid process, and they must publicly disclose any business that their firm does with other city boards or departments. See FAO 2006-3 (Nov. 16, 2006). In both situations, the employee or official had a direct financial interest in the company conducting business with the city.

While there may be situations where it would be a conflict of interest for city employees to receive employment income from an outside company that does business with the city, the Board does not believe that the “doing business” restriction was intended to extend to employees who are hired to perform a minimum wage job for a city contractor or vendor. First, the city employees have no direct financial interest in the company doing business with the city. Second, there is no direct relationship between the official duties of the city employees and their outside employer or job responsibilities. Third, the outside job requires no special skills, and the city employees do not rely on any information or expertise gained while working on their city job. Finally, the city employees are paid the same salary and benefits as other employees performing the same job for the private company.

### **Conclusion**

Based on a review of the duties that the officers perform for the City of Atlanta and for the outside employer, the Board concludes that the Code of Ethics does not prohibit city employees from engaging in outside employment with a national airline that is a prohibited source when they work in a job that is unrelated to their official duties with the City of Atlanta and they are paid the same salary and benefits as airline employees in comparable positions.

**Adopted November 15, 2007**

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