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Dino Ioannides, *Executive Director*

Advisory Opinion 17-08

(Acceptance of a Scholarship from Nonprofit Entities and Government Exchange Organization)

Summary: Based on the circumstances described below, it would not be a violation of Article XXIX for a local government official or government employee to accept a waiver of up to 20% of conference fee from the government exchange organization. However, it would be a violation to accept more than 20% of the conference fee from the non-profit organizations receiving more than five percent of their funding from for profit organizations and the for-profit company hosting the conference.

I. Background

Jefferson County, Colorado, submitted a requested for an Advisory Opinion to determine whether three county human services employees and the county manager (“Requestors”) may accept a conference fee waiver to attend the Harvard Leadership for a Networked World Health & Human Services Summit (“Summit”).

The Summit is an invitation-only program for health and human services leaders and is limited to federal, state, county/local agencies or non-profits. Other applicants will be reviewed and accepted on a case-by-case basis, depending in part on available space. There is no tuition charged for the event if an individual is accepted to participate. However, if tuition were charged, the cost would be approximately \$1650.¹

Although the hosting and collaborating organizations support the Summit, which allows the tuition waiver, travel and hotel expenses are the responsibility of the individual participant. Costs for three of the county human services employees’ travel and accommodations will be paid by Jefferson County through cost-allocated programs funded from 50% federal, 30% state, and 20% county funds; while the county manager's costs will be paid for out of all county funds.

The hosting and collaborating organizations include the following:

¹ It should be noted that the conference brochure points out that some states prohibit government officials from accepting a thing of value such as the cost of admission and advises attendees to check with their ethics counsel.

Technology and Entrepreneurship Center at Harvard (“TECH”). TECH is part of the Harvard John A. Paulson School of Engineering and Applied Sciences and is convening the Summit as a component of the Innovation Fellows program and the Public Sector Innovation Award. The Summit provides for students, faculty, alumni, and industry leaders to learn together, collaborate and innovate. TECH enables this holistic exploration by sponsoring and supporting opportunities for the innovation community to gather and exchange knowledge via courses, study groups, mentorship relationships, innovation programs and special events. TECH receives more than 5% of its funding from for-profit entities.

American Public Human Services Association (“APHSA”). APHSA, a non-profit human services membership organization, is an in-kind partner for the summit. APHSA is a member-driven association comprised mainly of state and local public human service agencies who work through their executive leadership and program administrators. Its members include state and territorial human services agencies, local agencies, and several thousand individuals who work in or otherwise have an interest in human service programs. The purpose of APHSA is to, "in accordance with specific objectives established by the Board of Directors, represent public human service agencies and leaders in the exchange of knowledge and best practices and in the review, development and advocacy of sound national policy in matters pertaining to health and human services. Jefferson County pays dues of \$4825 per year to APHSA and conference participation and conference discounts are part of the membership dues.

Leadership for a Networked World (“LNW”). Founded in 1987 at Harvard Kennedy School, LNW is now an applied research initiative of the Harvard Public Sector Innovation Award Program at the Technology and Entrepreneurship Center at Harvard. LNW helps leaders ideate and activate organizational transformations that generate capacity and sustainable value. Since 1987, LNW has delivered more than 200 learning events and gathered more than 12,000 alumni globally. LNW receives more than 5% of its funding from for-profit entities.

Accenture. Accenture describes itself as a global management consulting, technology services and outsourcing company, with more than 323,000 people serving clients in more than 120 countries. Combining unparalleled experience, comprehensive capabilities across all industries and business functions, and extensive research on the world's most successful organizations, Accenture collaborates with clients to help them become high performance businesses and governments. Accenture is a private for-profit company serving customers worldwide.

The Summit is held in a classroom setting, and there are no vendor displays or appeals for marketing opportunities. At the conference, Accenture’s representatives attend sessions and participate in the same way as other participants. In past events, Accenture has given general opening remarks that did not involve any promotion of their company or its products or services.

To date, Accenture has never approached Jefferson County for any business opportunities. Accenture has always presented itself as being an entity interested in utilizing practice to improve peoples’ lives through better technology and innovative business practices in the role at the Summit.

TECH and LNW are non-profit entities associated with Harvard University, and are covering

50% of the total costs, such as meals, materials, speakers, conference facilities, security and logistical support. Amy Ramsey, Program Director for LNW, indicated that LNW and TECH each receive more than 5% of their funding from for-profit sources. Accenture is a for-profit limited liability partnership, that is paying 30% of the costs. APHSA, through its in-kind contributions, is paying approximately 20% of the costs.

II. Jurisdiction

Three (3) of the Requestors are employees of Jefferson County government and are government employees (Art. XXIX, sec. 2(1)) and the county manager is a local government official (Art. XXIX, sec. 2(3)). All are subject to the jurisdiction of the Commission for purposes of this request under Colo. Const. Article XXIX.

III. Applicable Law

Section 3 of Article XXIX (gift ban) reads in relevant part:

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person's spouse or dependent child, shall solicit, accept, or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year, including but not limited to, gifts, loans, travel, entertainment, or special discounts, from a person without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

(e) Admission to and cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears to speak or answer questions as part of the scheduled program.

(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the nonprofit organization receives less than five percent (5%) of its funding from for profit organizations or entities.

IV. Discussion

Travel and Lodging

The requestors' cost of travel and lodging are being paid directly from county funds or from cost-allocated funds from federal, state and local funds. The Commission finds this funding is

for a proper purpose of carrying out the requestors' duties, (Art. XXIX, sec. 1(1)(b)) and, therefore, these are appropriate sources of funding under sec. 3(3)(f). *See also*, Advisory Opinion 12-05.

Conference fees

The Commission also looks to whether Jefferson County's membership in APHSA would provide an exemption under section 3(3)(f). APHSA is a member-driven association comprised mainly of state and local public human service agencies. Its members include state and territorial human services agencies, local agencies, and individuals who work in or otherwise have an interest in human service programs. Jefferson County pays dues of \$4825 per year to APHSA and conference participation and conference discounts are part of the membership dues.

In Advisory Opinion 10-03, the Commission applied the concepts specified in Position Statement 10-01. Advisory Opinion 10-03 indicated that, if the State or a local agency pays dues to an organization, and the public employee or official can demonstrate that the dues specifically cover travel and related expenses to annual meetings or conferences, then there is valid consideration for the travel provided, and the gift is not a prohibited gift under Article XXIX, even if the sponsor of the conference is a nonprofit which receives more than 5% of its funding from for-profit sources.

If Jefferson County's annual dues to APHSA, a government exchange organization ("GEO"), are intended to defray conference expenses for its employee's and manager, such dues would constitute lawful consideration for the portion of the Summit expenses covered by APHSA. As such, Jefferson County may accept up to 20% of the \$1650 for each person's conference fee.

V. Conclusion

It would not be a violation of Article XXIX for a local government official or government employee to accept a waiver of up to 20% of the conference fee of the Summit, as indicated in the discussion above. It would be a violation to accept more than 20% of the conference fee.

The Commission reminds the requestors that they are covered individuals who are subject to the proscriptions of Article XXIX throughout the event. Meals, gifts, outings and other extracurricular activities that are outside of the scope of the conference itself likely would be considered gifts subject to the prohibition contained in Section 3 of Article XXIX. Government officials and employees should exercise particular caution to avoid accepting any benefits provided by firms that may offer goods and services to their county. *See* Advisory Opinion 12-04, Advisory Opinion 12-07, Letter Ruling 14-01.

The Commission cautions that this opinion is based on the specific facts presented herein, and that different facts could produce a different result. The Commission therefore encourages individuals with particular questions to request more fact-specific advice through requests for advisory opinions and letter rulings related to their individual circumstances.

The Independent Ethics Commission

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Dated: September 28, 2017