

ED GAINEY  
MAYOR



LEANNE DAVIS  
EXECUTIVE DIRECTOR

CITY OF PITTSBURGH  
**ETHICS HEARING BOARD**  
CITY-COUNTY BUILDING

## FORMAL ADVICE

October 2, 2024

**To the Requester:**

Bernell Alton, Tax Compliance Specialist  
Carey Alton  
*Via electronic mail*

**RE:** 24-A-025 Ethics Opinion on URA Home Assistance Program for Independence

Dear Ms. Alton:

**Issue:** On September 24, 2024, you asked the City of Pittsburgh Ethics Hearing Board (“Ethics Hearing Board” or “Board”) if the ethics rules permit you to receive residential housing assistance from the Urban Redevelopment Authority (“URA”) as it relates to making your personal residence more accessible.

**Short Answer:** Yes, you may receive URA financial assistance. The described conduct is not prohibited by conflicts of interest restrictions. This URA program does not violate contracting restrictions.

### Legal Analysis

**Relevant Law:** The State Ethics Act and City Code contain conflict of interest laws, our Code also has contracting laws. [65 Pa.C.S. §§ 1103 and 1102](#); [Code § 197.03\(a\)](#); [Home Rule Charter § 706](#), and [Code § 161.17](#). These laws are listed at the end of this letter.

**Statement of Facts:** Advice is issued based upon the facts submitted, without independent investigation as to the facts provided or potentially omitted. [City of Pittsburgh Code of Ordinances \(“Code”\) § 197.13](#). The stated facts are: You are a City of Pittsburgh (“City”) employee. Your job is the position of [Tax Compliance Specialist](#) with the Department of Finance. Your job involves auditing and investigation and can impact the financial interests of any person. You have some interaction with the URA as it relates to the performance of your tax compliance work as the URA may seek to confirm the

businesses and organizations they engage with are compliant. Your job does not otherwise involve the URA or decisions affecting the URA as it relates to their funding or operations. Your position and the source of the URA funding do not to your knowledge involve funds subject to additional restrictions under HUD program compliance.

You seek to participate in the Home Assistance Program for Independence (HAPI). Your request is to make accessibility modifications to two bathrooms of your personal residence. The URA administers this program. The URA generally receives funds from the City and other sources. URA programs help residents of Pittsburgh with qualifying income to become first time homeowners or to rehabilitate their homes. These programs are open to all city residents.

**Conflict of Interest:** Governmental ethics rules vary based on employee status. If a position is a “public employee” under state law, then they are subject to conflicts rules, as the authority of their position confers the capacity to create unlawful financial gains. In every instance of a conflict of interest an employee must disclose the conflict and recuse themselves from the official action relating to the conflict. [65 Pa.C.S. § 1103\(j\)](#).

Your position of [Tax Compliance Specialist](#) would meet the criteria described in the definition of a public employee because of your auditing and investigative duties impacting the determination of tax liability, which also creates a financial impact on the interests of any person. Accordingly, it is my recommendation that your position is considered a public employee under the Ethics Act, and our Code, and accordingly is subject to conflict of interest restrictions.

The described conduct is not prohibited under the conflicts rules. There is no basis to indicate that a conflict has or would occur. Your auditing work does not affect any decision on the allotment of funds to the URA, nor whether and how the URA decides to perform its independent mandate. The URA staff you interact with to verify tax compliance is not involved with the program relating to your request. There must be a use of position to create an unlawful conflict of interest. [Kistler v. State Ethics Comm’n](#), 22 A.3d 223 (Pa. 2011).

**Contracting:** Our ethics rules on contracting apply to all City staff, and generally make it unlawful to enter into a contract with the City, or to receive any benefit from a City contract. The Board looked at how the contracting rules apply to your situation in an earlier case, [URA](#), Opinion 23-A-002, and found receiving funds through URA housing assistance programs is not an unlawful financial gain from a City contract because the program is available to all residents and is similar to other City services.

**Reliance:** This ethics opinion is based on the facts summarized in this opinion letter. [Code §§ 197.13, and 197.16\(a\)](#). Please contact me if these facts are inaccurate or incomplete – or if the facts change in the future. Advice can be appealed or amended. [Code § 197.13](#).

This advice is limited to the substantive matters within the Ethics Hearing Board's jurisdiction. The Board works from the City's Code of Conduct, which adopts the State Ethics Act, and portions of the Code and Home Rule Charter. Code §§ 197.09, 197.01. The State Ethics Commission is the authority on the State Ethics Act. [65 Pa.C.S. §§ 1107, and 1109](#). The Board and its staff are legally bound to adopt or exceed State Ethics Commission interpretations of the State Ethics Act. [65 Pa.C.S. § 1111](#).

**Conclusion:** You are permitted to receive URA financial assistance, per the Board's ruling in [URA](#), Opinion 23-A-002. Your conduct is permitted under the conflict and contracting rules.

Thank you for contacting me for this ethics opinion. Please contact me with any questions.

Sincerely,

*Leanne Davis*

Leanne Davis, Ethics Officer

cc: Maryann Herman, Board Chair; URA Legal Counsel (*via electronic mail*)

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**Relevant Governmental Ethics Provisions:**

**State Ethics Act § 1103 (a) Conflict of interest.**--No public official or public employee shall engage in conduct that constitutes a conflict of interest.

**State Ethics Act § 1102 (a) "Conflict" or "conflict of interest."** Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

**Code § 197.03 (a) - CONFLICT OF INTEREST.** No public official or public employee shall exert influence with respect to property or a business with which he or a member of his or her direct family is associated.

**State Ethics Act § 1102 (a) "Public employee."** (also at [Code § 197.02](#))

Any individual employed by the Commonwealth or a political subdivision who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

The term shall not include individuals who are employed by this Commonwealth or any political subdivision thereof in teaching as distinguished from administrative duties.

**Home Rule Charter § 706:** No elected official, officer or employee shall in any manner receive benefit from the profits or emoluments of any contract, job work or service for the City, or accept any service or thing of value directly or indirectly upon more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City. No elected official, officer, or employee shall solicit or receive any compensation, gratuity or other thing for any act done in the course of public work. This section shall be broadly construed and strictly enforced. Any violation of this section shall cause the offending official, officer, or employee to forfeit office or employment.

**Code § 161.17 CONTRACT INTEREST OF City OFFICIALS, OFFICERS AND EMPLOYEES..** No contract shall be made with any City elected or appointed official, officer or employee, or with any corporation, partnership or other nongovernmental entity of which he or she is a member. If any official, officer or employee should, during his or her term of office or employment, knowingly acquire a proprietary or pecuniary interest in any contract, he or she shall forfeit his or her office or employment.