

CONFIDENTIAL

met

October 9, 1990

[REDACTED]

Conflicts
G. GAs

Re: Case No. 90045.Q

Dear [REDACTED]

I first want to say thank you for your inquiry regarding the current Conflict of Interest Policy of DEPT. K. [REDACTED]

As requested in your letter of August 9, 1990, and our meeting at your office, we have reviewed DEPT K Policy to determine whether it complies with the Governmental Ethics Ordinance.

I have enclosed for your convenience a draft of the proposed Conflict of Interest Policy which includes the suggested deletions and additions to the Department's current policy. All suggestions for changes are marked in yellow. I have done this so you may be aware of all suggested changes. Additionally, as requested, I have enclosed for your use and reference the Conflicts Policy as amended with relevant Ordinance sections noted. A copy of the Conflicts Policy as amended without the section numbers, which you may distribute to panelists and staff, is also enclosed.

For the purposes of our review, panelists are considered "appointed officials" and staff members are considered "employees." You will note when reviewing the relevant provisions of the Ordinance that different standards are applied to these two groups, or individuals.

In the proposed policy, we have attempted to preserve its original format. There are, however, some areas towards the end where it was necessary for us to include several additional paragraphs. The results of our review follow.

In paragraph 1. of the current DEPT-K Policy, reference is made to "immediate organization" in contrast to "affiliated organization," but the term is not defined. If there is no distinction, perhaps the parenthetical phrase "(or any member of his or her immediate organization)" could be dropped.



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Paragraph 3. of DEPT. K Policy correctly prohibits staff and panelists from presenting grant proposals on behalf of organizations with which they are affiliated. However, section 26.2-9 of the Ordinance, in addition to prohibiting staff members from directly representing others before the City, also prohibits them from having "an economic interest in the representation of any person other than the City" in any proceedings before any City agency. This means staff members may not have an economic interest in the representation of grant proposals submitted by organizations with which they are affiliated. As appointed officials, panelists are not covered by this restriction. Therefore, to address this further restriction on staff members, we have, in paragraph 3.d. of the proposed Policy, included language to that effect.

Additionally, the Ordinance limits both panelists and staff in the amount of financial benefit they may gain through a DEPT. K grant awarded to an organization with which they are affiliated. Section 26.2-11 of the Ordinance prohibits staff members from having a "financial interest" in any contract, work or business of the City. A grant funded by the City would be included under the term: contract, work or business of the City. The Ordinance defines financial interest as any interest which 1) entitles the owner to more than \$2,500 per year, 2) has a present value of \$5,000 or more, or 3) represents more than 10% of a corporation or any other legal entity organized for profit. Panelists, as appointed officials, are prohibited from having a financial interest in any contract, work or business of the City unless the matter is wholly unrelated to the official's City duties and responsibilities. (See section 26.2-11(c) of the Ordinance.) If a panelist is affiliated with an organization seeking a grant, and panelists vote on awarding grants, then the exercise of that panelist's duties as an appointed official cannot be wholly unrelated. Therefore, under the Ordinance, affiliated panelists would not be allowed to have a financial interest in a DEPT. K grant. Paragraph 3.f. has been added in the proposed policy to cover this restriction.

It is also important for your staff and panelists to recognize the implications of section 26.2-11. This same restriction applies to all City employees as well as all elected officials of the City who submit applications for grants. That is, no City employee or elected official may benefit from a DEPT. K grant, individually or through his or her organization, if that benefit would constitute a financial interest. The enclosed draft memo, if distributed to staff and panelists, might assist them when reviewing applications for grants submitted by City employees or officials of other departments, agencies or commissions.

Paragraph 4. of the DEPT. K Policy currently leaves open the

possibility of staff and panelists receiving outside remuneration for services rendered in connection to DEPT. K supported event. Under section 26.2-5 of the Ordinance, "No official or employee ... shall solicit or accept any money or other thing of value ... in return for advice or assistance on matters concerning the operation or the business of the City" unless the services are "wholly unrelated to the official's or employee's City duties and responsibilities." This section of the Ordinance prohibits a City official or employee from receiving outside remuneration for providing advice or assistance on any matters that are related to his or her City duties.

If the services referred to in paragraph 4. of the current policy are part of the panelists' and staff's City duties, then there is no reason for additional remuneration. Moreover, even if the services in question are not considered part of their City duties, panelists and staff still may not receive outside compensation since the activities in question are not wholly unrelated to their City duties. In either case, DEPT. K Policy should omit the possibility of outside remuneration in paragraph 4. For these reasons, we have deleted the relevant language.

Paragraph 5. of DEPT. K Policy currently only prohibits staff members from accepting gifts or any other personal benefits which would improperly influence them in their related duties or responsibilities. Under section 26.2-4 of the Ethics Ordinance, restrictions on the acceptance of gifts applies not only to City officials and employees, but also their spouses and minor children. Therefore, we set forth these restrictions in the proposed draft of the Policy. Please note the Ordinance presumes that a non-monetary gift having a value of less than \$50 does not involve any mutual understanding of influence.

In addition, this section of the Ordinance: (1) prohibits officials, employees and their immediate families from receiving anonymous gifts and (2) prohibits officials, employees, and their immediate families from accepting any gift of cash or its equivalent, regardless of value, or an item or service worth \$50.00 or more from persons who have an economic interest in a specific transaction with the City if the official or employee is in a position to substantially affect the transaction. Gifts from relatives are excluded. For example, DEPT. K panelists, staff members, and their immediate families may not receive any money, or gift worth more than \$50.00 from grant applicants if the panelist or staff member is in a position to influence the decision on that application. Paragraphs 5a., b., and c. in the proposed draft address these restrictions.

The gifts section of the Ordinance allows the receipt of hospitality gestures. However, for purposes of clarity, we have

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included the necessary criteria as stated in the Ethics Ordinance for acceptance of hospitality, such as free admissions charges to events or performances, in paragraph 5.d.

Finally, **DEPT. K** current policy regarding gifts contains no mention of the items covered in sections 26.2-4(e),(f), and (g) of the Ordinance. It might also be helpful to include them in the Department's Policy statement since they address specific situations. (See paragraph 5.e.,f. and g. in the draft.)

I hope you find this review of **DEPT. K** Policy helpful. Although our proposal meets the standards established by the Governmental Ethics Ordinance, **DEPT. K** may, if it so chooses, impose stricter standards on its employees and officials. As you requested, I have also redrafted your "Statement of Affiliation" for staff and panelists, which is enclosed with 20 copies of the Ordinance.

It was a pleasure meeting and working with you. If you have any questions about any of the recommendations or we can be of further assistance, please feel free to call.

Very Truly Yours,


Dorothy J. Eng
Deputy Director

enclosures
cc: Kelly Welsh
City of Chicago
Corporation Counsel

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