

ADVISORY OPINION
CASE NO. 90030.I
Conflict of Interest

March 11, 1992

On [REDACTED], 1990, the City of Chicago Board of Ethics was asked by the Department [REDACTED] to review a possible conflict of interest situation with regard to a [REDACTED] [REDACTED] City Department employee, Mr. A [REDACTED]. An investigation was conducted, and the facts presented below are based upon the results of that investigation.

Mr. A [REDACTED] entered into a private contract with [REDACTED] Mr. B's Company for [REDACTED] work on property that he owned. At the same time, Mr. B's Company [REDACTED] was a City contractor who regularly conducted business with the City [REDACTED]. A dispute arose between Mr. A [REDACTED] and Mr. B [REDACTED], the owner of Co. [REDACTED], regarding their private contract.

As a [REDACTED] City employee, Mr. A [REDACTED] was placed in the position of reviewing [REDACTED] Mr. B's Company's bids for [REDACTED] work under the [REDACTED] program. Mr. [REDACTED] B [REDACTED] complained to Dept. officials that Mr. A [REDACTED] was denying his bids for [REDACTED] contracts because of their dispute over the private contract. The investigation revealed that while Mr. A [REDACTED] had put approximately three of Mr. [REDACTED] B's bids on hold, it was because they did not comply with Dept. guidelines. Eventually, Mr. B [REDACTED] received the contracts when the bids were reduced.

LAW AND ANALYSIS: Two relevant sections of the Ethics Ordinance in this case are 2-156-030, Improper Influence, and 2-156-080, Conflicts of Interest.

Section 2-156-030 states:

No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally.

Section 2-156-080 states in relevant part:

(a) No Official or employee shall make or participate in the making of any governmental decision with respect to any matter in which he has any economic interest distinguishable from that of the general public.

In regard to these sections, two issues are raised: 1) whether Mr. A [REDACTED] violated these provisions by privately contracting with Mr. B [REDACTED] even though he regularly did

business with the City through A's department. [REDACTED], and 2) whether Mr. A [REDACTED] violated these provisions by reviewing Mr. [REDACTED] B's bids on City contracts despite their private contract.

The Ordinance provisions on improper influence and conflicts of interest regulate actions or decisions made during the course of one's City duties and in which one has an economic interest. The facts show that the contract between Mr. [REDACTED] A and Mr. [REDACTED] B is a private contract, and does not involve any governmental decision. Therefore, Mr. [REDACTED] A did not violate these provisions when he privately contracted with Mr. [REDACTED] B.

In addition, Mr. [REDACTED] A did not violate these provisions by reviewing Mr. [REDACTED] B's bids as part of his City duties. The facts show that Mr. [REDACTED] A did not have an economic interest in any of Mr. [REDACTED] B's bids that Mr. [REDACTED] A reviewed; Mr. [REDACTED] A's private contract with Mr. [REDACTED] B did not give Mr. [REDACTED] A an economic interest in Mr. [REDACTED] B's City bids.

Section 2-156-020, entitled Fiduciary Duty, is also relevant. It states:

Officials and employees shall at all times in the performance of their public duties owe a fiduciary duty to the City.

In regard to this provision, the issue is whether Mr. [REDACTED] A denied Mr. [REDACTED] B a City contract because of their personal dispute.

The fiduciary duty provision requires an employee to use his City position responsibly and in the best interest of the public. The employee must be able to exercise professional judgments free from outside influence. The investigation revealed no evidence that substantiates the allegation that Mr. [REDACTED] A denied Mr. [REDACTED] B a City contract in an effort to prevail over him in their private contract dispute. To the contrary, the investigation revealed that Mr. [REDACTED] B's bids were rejected because they did not meet Dept guidelines. In addition, Mr. [REDACTED] B's bids were accepted after the bids were lowered.

CONCLUSION: The Board determines that (1) Mr. [REDACTED] A did not violate the Governmental Ethics Ordinance when he privately contracted with Mr. B's Company [REDACTED], a company that had City contracts, (2) Mr. [REDACTED] A did not violate the Ordinance

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when he reviewed the bids of Mr. B's Company after he entered into a private contract with the company, and (3) the investigation results do not support an allegation that Mr. A placed the company's bids on hold because of his private dispute with the company's owner.

The determination in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented in this opinion are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other rules or laws may apply to this situation.

This advisory opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.



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Chair