

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 226

This is an advisory opinion in response to a request for advice from the Ethics Commission [Commission] as to whether an employee's non-City business activity conflicts with his contract employment with the City as a computer service representative.

The Commission understands the facts relative to your inquiry to be as follows:

The employee is a computer service representative working as a contract employee for the Wastewater Management Division [WMD] of the Department of Public Works. He began working for the City recently. His duties include evaluation and recommendation of hardware and software for WMD's geographic information system [GIS] and proposing computer solutions for WMD's needs.

The employee is also a partner in a company which is the sole Hawaii dealer for certain personal computer software which was adopted by both the City and the State as their GIS standard several years ago. The City has an open-ended contract to purchase this software directly from its developer on the mainland. Each time this personal computer software is purchased by someone in Hawaii from the manufacturer, the employee's company will be paid a substantial commission.

The ethical question presented is whether the employee's position as an officer of his company creates a conflict of interest with his employment as a computer service representative in support of the Wastewater Management Division of the Department of Public Works.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.), Section 11-102.3, which states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

Based on the evidence presented, the Commission finds that a conflict of interest does exist between the employee's position as an officer of his company and his present City employment.

Dated: May 6, 1993

BONIFACE K. AIU
Chair, Ethics Commission