

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 259

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether a conflict of interest would be created if you, as a City officer, were to serve on the review committee to select a proposal for the City's automated budget preparation process.

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

Your department has issued a request for proposals to automate the budget preparation process. Three proposals were received, one of which was from your former employer ("XYZ"). You were designated as a member of the review committee to evaluate and select a proposal.

On March 31, 1995, you resigned your partnership with XYZ to assume your City position. As of June 30, 1995, XYZ had paid you all monies owed to you at the time of your departure from the firm except your interest in unrealized receivables and ACRS, which represents the difference in depreciation methods that affects the calculation of the cash to be distributed to partners. Your interest in those two items has been determined to be \$18,946.28.

The ethical question presented is whether the funds still owed to you by XYZ constitute a financial interest in XYZ such that a conflict of interest would be created if you were to serve on the review committee to select a proposal where XYZ has offered a proposal.

The general rule in relation to your question is found in the Revised Ordinances of Honolulu 1990, Section 11-102(c), 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 a conflict of interest would be created if you were to serve on the review committee to select a proposal for the City while you continue to have a financial interest in XYZ, one of the three firms that has submitted proposals. Your conflict of interest in this matter will continue until XYZ no longer owes you any funds. The Ethics Commission believes that your present financial interest in XYZ could tend to impair your independence of judgment in selecting a proposal.

Dated: October 24, 1995

SAMUEL L. DOMINGO
Chair, Ethics Commission