

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 290

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether the City may award a competitively-bid contract to a business in which a City employee has a financial interest.

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

You are the Purchasing Administrator for the City's Department of Finance. In that capacity, you are in the process of awarding a new contract to maintain sidewalks and landscape along Kalakaua Avenue in Waik_k_.

A City employee has a financial interest of five percent in a business ("XYZ") which was previously awarded a contract for maintaining Kalakaua Avenue landscaping and sidewalks. At the present time, XYZ is the low bidder for the project.

The City employee's adult son owns ninety-five percent interest in XYZ and has been president of the firm since August 10, 1998. He will be the contact person for the City contract and will supervise the project. The City employee will not take an active role in administering the contract.

The ethical question presented is whether a company in which a City employee holds a small financial interest and the son owns the remaining interest can be awarded a competitively-bid City contract.

The general rule in relation to your question is found in the Revised Ordinances of Honolulu 1990, Section 3-8.2(e), which states in pertinent part:

No officer or employee of the city...shall [e]nter into any contract in behalf of the city with an officer or employee or with a business in which an officer or employee has a controlling or substantial financial interest, involving the furnishing of services...**unless the contract is made after competitive bidding...** (emphasis added).

Based on the evidence presented, the Commission finds that the City may award this competitively-bid contract to XYZ in which a City employee holds a small financial interest and the son holds the remaining interest, provided that the City employee does not use City time or resources to do any work related to this contract.

Dated: September 18, 1998

FAY M. UYEMA
Chair, Ethics Commission