

Advisory Opinion No. 92-26 Revised

The Conflicts of Interest Board (the "Board") has received a request for an opinion as to whether an individual who owns and operates a private firm which has two current City-related contracts and will seek others in the future may, consistent with the conflicts of interest provisions of Chapter 68, accept an appointment as a part time, high-level City employee.

The prospective appointee has advised the Board that in addition to working on two current City-related contracts, his firm intends to pursue other City contracts after he has been appointed to the agency in question. The City contracts his firm will be pursuing will in the normal course involve matters that will come before his agency.

Charter Section 2604(b)(6) provides that no public servant who is not a regular employee of the City shall represent private interests before his or her own agency or appear directly or indirectly on behalf of private interests in matters involving the agency.

It is the opinion of the Board that, if this individual is appointed, it would violate Chapter 68 for

him to continue to pursue other City contracts involving matters likely to come before his agency. The nature of his firm's role in future projects would preclude his being able to effectively insulate himself from these matters, and an appearance before his own agency, in violation of Chapter 68, would be unavoidable.

In view of this conclusion, it is not necessary for the Board to address the two current City-related contracts held by the prospective appointee's firm. The question of whether, and in what circumstances, a prospective appointee should be permitted to continue with current projects that are likely to come before this agency, is a complex matter requiring further analysis. Because of the agency's critical role in City government, any resolution requires the careful balancing of two competing interests: the need to insure that the agency can attract individuals of diverse backgrounds, representing the many constituencies it serves, and the need to insure that agency decision-making, which affects many aspects of City life, is not compromised by any suggestion of divided loyalty.

This Advisory Opinion modifies and supersedes the Board's original Advisory Opinion No. 92-26, dated October 13, 1992.

Sheldon Oliensis

Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: October 13, 1992