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**ADVISORY OPINION
CASE NO. 95027.A
EMPLOYMENT OF RELATIVES**

City of Chicago
Richard M. Daley, Mayor

To:

Date: September 27, 1995

Board of Ethics

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On August 28, 1995, you requested guidance from our office about how the Governmental Ethics Ordinance applies to your situation, in which your wife and her company are performing work for companies that have contracts with your department. This opinion presents an analysis of the relevant Ordinance provisions as they apply to the facts you have presented.

FACTS: You are employed as a _____ by the Department of _____, Bureau of _____. At any one time, you are assigned to a specific site, with a specific set of duties. Currently, you are the Position #1 _____ at the _____ site. It is your responsibility to supervise the on-site execution of the _____ contract, and to insure that the work is done in conformity with the contract specifications. You report to a supervisor _____, the person who prepared the contract specifications, evaluated the bids, and negotiated the contract terms. As Position #1 _____, you have discretion over small modifications to the project, and can make recommendations to the supervisor _____ for larger modifications, but any major revisions have to be approved in writing by the supervisor _____.

The prime contractor at your current site is _____. There are five subcontractors:

_____. In addition, _____ is a supplier for the project.

On October 1, 1995, your assignment will change to Position #2 _____ at the _____ site, covering _____

You will supervise the performance of the contract at the site, under the direction of the Position #1 _____. Unlike Position #1 _____, the Position #2 _____ has no discretion over any changes in the project.



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The prime contractor at the second site will be . You do not currently know what companies will be subcontracting at that site.

Your wife, , is a professional . From to , she worked in the Department of , and left her City job when . She does business both under her own name and under the name of a firm. Under her own name, your wife is currently employed as a consultant by Co. A . Co. A has a contract with a prime contractor , which has a consulting contract with the Department (your department) Bureau of for the . Your wife reports on behalf of Co. A to a Position #1 at , who in turn reports to the City.

Your wife also is the president of Co. B , a company. You have no ownership interest or participation in Co. B. Your wife is the only permanent employee of Co. B. Under the name of Co. B, she has a contract with Contractors, which has a contract with the City at the .

Neither your wife nor Co. B has any contracts with any of the contractors or subcontractors on your current project at , or with the contractor at the second site. None of the contracts she is currently performing or seeking, either under her own name or under the name of Co. B, involves either the project or the site that you will be supervising as of October 1.

LAW AND ANALYSIS: The relevant provision of the Ethics Ordinance is section 2-156-130, entitled "Employment of Relatives." Subsection (b) of this provision states:

No official or employee shall exercise contract management authority where any relative of the official or employee is employed by or has contracts with persons doing City work over which the City official or employee has or exercises contract management authority.

This subsection prohibits you from exercising contract management authority over City work performed by persons who employ or have contracts with your relatives, including your wife. "Contract management authority" is defined as:

personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance. (§2-156-010(g).)

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You explained that your duties both as Position #1 and as Position #2 include "supervision of performance" in the execution of City contracts. Therefore, you have in the past and will continue to exercise management authority over the City contracts on which you work as Position #1 or as Position #2.

According to the facts as you explained them to us, your wife, in her own name or in the name of G.B., neither is employed by nor has contracts with any of the contractors or subcontractors at your current assignment, where you exercise contract management authority. Likewise, she is neither employed by nor in contract with the prime contractor at your next assignment, where you will also exercise contract management authority. Therefore, it appears that your wife's work on these two City contracts does not place you in conflict with section 2-156-130(b) of the Governmental Ethics Ordinance.

Subsection (c) of the Employment of Relatives provision is also relevant to your situation. It states:

No official or employee shall use or permit the use of his position to assist any relative in securing employment or contracts with persons over whom the employee or official exercises contract management authority. The employment of or contracting with a relative of such a city official or employee by such a person within six months prior to, during the term of, or six months subsequent to the period of a City contract shall be evidence that said employment or contract was obtained in violation of this chapter.

This subsection prohibits officials and employees from using or permitting the use of their position with the City to help relatives in gaining employment or contracts with persons over whom the officials or employees exercise contract management authority. The facts indicate that you are in conformity with this provision: as stated above, your wife is neither employed by nor has any contracts with any of the contractors over whom you now exercise supervision, nor with the prime contractor over whom you will be exercising supervision as of October 1. But please take note that under this provision, if your wife is employed by or contracts with any persons, including any entities, over which you exercise contract management authority, for a period of time from six months before to six months after the duration of the City contract, that will be taken as evidence of a violation of the Ethics Ordinance.

You should also be aware that the Ethics Ordinance prohibits City employees from employing, or advocating for employment in their own agencies, persons who are relatives (Section 2-156-130(a)).

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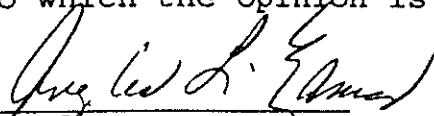
In addition, because you work for a department with which your wife is in a position to seek contracts, we emphasize that the Ordinance prohibits all current and former employees from revealing confidential information gained in the course of or by reason of his or her position or employment. "Confidential information" means any information that may not be obtained pursuant to the Illinois Freedom of Information Act. (Section 2-156-070.)

CONCLUSION: The Board of Ethics determines that nothing in the situation you described to us with respect to your work as Position #1 and your wife's contracts with Co. A and with Contractors is prohibited by section 2-156-130 of the Governmental Ethics Ordinance.

With respect to your relocation to the site on October 1 and future work, the Ethics Ordinance requires that you not exercise contract management authority over any City work if any persons doing that work employ or contract with your wife. (Section 2-156-130(b).) Further, the Ethics Ordinance prohibits you from using or permitting the use of your City position to assist your wife in obtaining employment or contracts with persons over whom you exercise contract management authority. (Section 2-156-130(c).) If any person over whom you exercise contract management authority in your City job hires or contracts with your wife in the period of time from six months before to six months after the duration of the City contract, that will be taken as evidence of a violation of the Ethics Ordinance. (Section 2-156-130(c).)

Our determinations in this case are based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board, as any change in the facts may alter our opinion. If you have any questions about situations as they arise, or need further guidance, call us. Please note that other laws or rules also may apply to this situation, and a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

RELIANCE: This 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.


Angeles L. Eames
Vice Chair