

# Continuing Ethics Education Series

City of Chicago  
Richard M. Daley, Mayor



Dorothy J. Eng, Executive Director Darryl L. DePriest, Chair

A City of Chicago Board of Ethics Publication

**SUBJECT: CONTRACTORS**

**9<sup>TH</sup> ISSUE (January 2004)**

## Executive Director's Column

In addition to regulating the conduct of City employees and officials, the City's Governmental Ethics and Campaign Financing Ordinances also contain a number of provisions that relate to City contractors. In order to avoid jeopardizing their City business, City contractors need to be aware of the laws that affect them, from the restrictions on the types of gifts they may give to City employees to

limitations on the amount they may contribute to candidates for City office. This edition of the *Continuing Ethics Education Series* takes a look at the way the City's Ethics and Campaign Financing Ordinances impact the manner in which City contractors conduct their City business. Please note, however, that City departments may have stricter rules than what is required under the Ethics Ordinance. Therefore, City employees, officials and contractors should also be aware of any departmental ethics rules or policies. Also, please note, that, if any City department would like the Board to conduct a class on the City's ethics rules relating to contractors, please free to call us to schedule a date and time for the class. I hope you find this information helpful, and, as always, invite you to contact the Board of Ethics if you have any questions or need guidance.

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Dorothy J. Eng



## Ethics Rules On Contractors



City law sets forth various prohibitions, restrictions and obligations for contractors. Contractors, as well as City employees and officials, should be aware of these rules because *any contract negotiated, entered into or performed in violation of the ethics rules subjects the contractor to fines, and is voidable as to the City.*

Also, please be note that individual City departments may have stricter rules than those set forth in the City's Ethics Ordinance. So, please make sure that you, as well as the contractors that have contracts with your department, are aware of your department's ethics rules and policies. A summary of the City's ethics rules relating to contractors follows.



### Gifts



*City law prohibits contractors from:*

- ✓ Giving any anonymous or cash gift to a City employee or official.
- ✓ Offering, giving or accepting a gift based on a mutual understanding that the gift will influence City decisions.
- ✓ Giving any item or service valued at \$50 or more to a City employee or official who can substantially affect that contractor's City business.

City law also prohibits City employees and officials from accepting such gifts.

### Employment of Relatives



- ✓ City employees or officials cannot supervise, manage or oversee a City contract if the person with that contract employs or has a contract with the City employee or official's relative.
- ✓ City employees or officials cannot use or permit the use of their positions to assist any relative in securing employment or contracts with any contractor whose City contract is supervised, managed or overseen by that City employee or official.

### Post-Employment

The Ethics Ordinance does not prohibit persons leaving City service from working for any particular new employer. But it does restrict those matters on which they may work for a new employer. Two of the key restrictions are:



- ✓ For one year after termination of City employment or term of office, former employees and officials shall not assist or represent any person in a business transaction involving the City if they participated personally and substantially in the subject matter of the transaction during their City service.
- ✓ Former employees and officials are barred permanently from assisting or representing any person as to a contract involving the City or any of its agencies if they exercised contract management authority with respect to that contract during City employment.

### **Financial Interest in City Business**



City employees and officials **CANNOT** have a financial interest\* in their own names or in the names of any other persons in any contracts, work or business with the City.

\* Financial interest is defined as any interest with a cost or present value of \$5,000 or more, or any interest of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year.



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### **Loans**

City employees or officials cannot apply for or receive a loan from any person doing or seeking to do business with the City, except for market rate loans from financial lending institutions made in the ordinary course of business.



### **Contract Inducements**

Subcontractors cannot make or offer payment or gratuity, or offer employment, to any prime contractor or higher-tier subcontractor or any person associated with them as an inducement for the award of a subcontract or order.

### **Campaign Contributions**



Contractors, as persons doing business with the City, are prohibited from making contributions of more than \$1,500 to:

1. any candidate for City office during a single candidacy
2. any elected official of the City during a reporting year (July 1 to June 30) of the official's term
3. any city official or employee seeking election to any other office

## Opinions on Contractors

The situations summarized below are examples of issues involving contractors that have been addressed by the Board. Anyone who would like an opinion should contact the Board at (312) 744-9660. Please note that only persons involved in the specific cases, or in situations that are not materially different from them, can rely on Board opinions.

Case Number	Issue(s)	Summary of Opinion
03002.Q	<p style="text-align: center;"><b><u>Gifts</u></b></p> <p>Can a City contractor take City employees to dinner if the invited employees are in a position to make decisions or take actions affecting its contract and ongoing City business?</p>	<p>The invited employees are each in a position to affect this contractor's City business. Thus, the Ordinance would permit the contractor to take these employees to dinner only if: 1) the value of the dinner to each employee comes to less than \$50; and 2) the dinner offer is not made or accepted based on any mutual understanding that the employees' City decisions or judgments concerning the contractor's City business would be affected by the offer.</p>
99044.A	<p style="text-align: center;"><b><u>Post-Employment</u></b></p> <p>A City employee leaves City service to take a full-time position with a contractor. However, the former employee is prohibited under the Ordinance's post-employment restrictions from working on a particular City contract because he has exercised management authority over it while a City employee. Is the contractor now prohibited from having that contract?</p>	<p>No, the contractor itself is not prohibited from having this contract—rather, the Ordinance's post-employment restrictions go to former City employees' or officials' conduct. These restrictions prohibit former City employees and officials from assisting or representing any person other than the City (for example, a new employer) in contracts over which they exercised management authority during their City employment. Thus, so long as this former employee does not assist or represent the contractor in any way with respect to this contract, then there will be full compliance with the Ordinance's post-employment restrictions. However, if the former employee does assist or represent the contractor in this contract, then the contractor risks the loss of that City contract.</p>
90060.A	<p style="text-align: center;"><b><u>Campaign Financing</u></b></p> <p>A City contractor is subject to the campaign contribution limitations because it "does business with the City." It has already contributed \$1,500 to a particular elected City official during the "reporting year." Can its three officers now each make \$2,000 contributions from their own personal funds to this elected official during the same "reporting year?"</p>	<p>If this contractor's employees, officers, directors or partners make campaign contributions for which they are reimbursed by the contractor, then they and the contractor will be considered the same "person" for purposes of the \$1,500 limitation—they would all then have their contributions added together. So, the Campaign Financing Ordinance would not prohibit these officers from making these additional contribution from their own personal funds as long as they are not reimbursed by the contractor, and they are not individually subject to the contribution limitations (for example as registered lobbyists or as City contractors in their own right).</p>

## Test Your Knowledge

### ■ ■ ■ ■ ■ . . . of the Rules on **Contractors**

Answer the following questions with either a YES or a NO, then check your answers.



Yes No

1. I am a City employee. I am also part-owner of an outside business. My business is considering bidding on a City contract. Are there limits on the amount of money my business may have in a City contract?

*Answer: City law prohibits City employees (as well as City elected officials) from having a “financial interest” in any contract, work or business of the City. Essentially, this means that you may not have an interest in any City contract, if that interest has a cost or present value of \$5,000 or more, or entitles you to receive more than \$2,500 per year. Therefore, the answer to Question #1 is “Yes, there are limits on the interest that you, as a City employee, may have in a City contract.” (See our July 2003 newsletter for a fuller discussion of the rules on outside employment and business activities; the newsletter includes information on how to calculate one’s interest in a proposed City contract.)*

2. I am considering retiring from City service and accepting a job offer from a City contractor. Am I, as a former City employee, prohibited from working for a City contractor?

*Answer: City law does not prohibit former City employees from accepting employment with City contractors; **however**, City law does restrict what former employees can do for their new employer in matters involving the City. As a former City employee, you would be: 1) prohibited for one year after leaving City service from assisting or representing a City contractor (or any other person) on any matter involving the City if, while with the City, you were personally and substantially involved in the same or similar matters; and 2) permanently prohibited from assisting or representing a City contractor (or any other person) on any City contract that you helped to formulate or supervise while in City service. Therefore, the answer to Question #2 is “No, you are not prohibited from working for City contractors, but you may be restricted from working on certain matters or contracts.” (See our September 2002 newsletter for a fuller discussion of the post-employment rules.)*

3. Can a violation of City ethics rules by a City contractor result in cancellation of its City contract?

*Answer: The City may cancel any contract negotiated, entered into or performed in violation of City ethics rules. Therefore, the answer to Question #3 is “Yes, a violation of City ethics rules by a City contractor can result in cancellation of its City contract.”*

#### **PLEASE NOTE**

The opinions and answers as stated in this publication are for general information only and are NOT intended to provide specific advice for any individual. For specific advice, contact the Board office at (312) 744-9660.

## WORDS, WORDS, WORDS

Match up the *contra*\* words in the first column to the closest definition in the second column. The answers are on the next page.

1. Contra	A. A reduction in business activity growth
2. Contract	B. Having or concerned with the power or property of contracting
3. Contractile	C. Opposite
4. Contraction	D. Of, relating to, or constituting a contract
5. Contractor	E. Antagonistic
6. Contractual	F. To make (a treatment or procedure) inadvisable
7. Contradiction	G. Against; in opposition or contrast to
8. Contradictious	H. Logical incongruity
9. Contraindicate	I. One that contracts to perform work or provide supplies
10. Contrarious	J. A binding agreement between 2 or more persons

## . . . AND THE FINAL WORD . . .

*“In this world everything changes except good deeds and bad deeds; these follow you as the shadow follows the body.”* Author Unknown



# Upcoming **Ethics Classes** For Employees Required By Law To Attend Training

**Regularly Scheduled Ethics Training Class Dates**

**January 7 and 21, February 4 and 18**  
**9 AM - 10:30 AM**  
**740 North Sedgwick, Suite 500**

If you have any questions or need additional information, you can contact us at:

City of Chicago Board of Ethics  
740 North Sedgwick, Suite 500  
Chicago, IL 60610  
Tel. (312) 744-9660  
TTY (312) 744-5996  
FAX (312) 744-2793  
[www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics)



To see past issues of *Continuing Ethics Education Series*, see the webpage(s) listed below:

<b><u>Issue Topic</u></b>	<b><u>Date</u></b>	<b><u>Webpage</u></b>
Post-Employment	September 2002	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.9.02.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.9.02.pdf</a>
Gifts	November 2002	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.11.02.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.11.02.pdf</a>
Political Fundraising	January 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.01.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.01.03.pdf</a>
Public Disclosures	March 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.03.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.03.03.pdf</a>
Lobbying	May 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.5.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.5.03.pdf</a>
Outside Employment and Business Activities	July 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.7.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.7.03.pdf</a>
Employment of Relatives	September 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.9.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.9.03.pdf</a>
Gifts	November 2003	<a href="http://www.cityofchicago.org/Ethics/pdf/Newsletter.11.03.pdf">www.cityofchicago.org/Ethics/pdf/Newsletter.11.03.pdf</a>



**Answers to Words, Words, Words: 1. G, 2. J, 3. B, 4. A, 5. I, 6. D, 7. H, 8. C, 9. F, 10. E**