

**From:** Ferguson, Boyd  
**Sent:** Monday, October 12, 2015 4:03 PM  
**To:** Draney, Holly  
**Cc:** Plane, Margaret; Oldroyd, Jaysen; Saumure, Vivian  
**Subject:** Conflict of interest inquiry regarding Melissa Hall and CDCIP Board

Holly,

On behalf of Melissa Hall, a member of the CDCIP Board, you asked if Melissa has a disqualifying conflict of interest in the following situation.

The CDCIP Board makes recommendations to the Mayor about which applicants should receive certain grant moneys the City controls. Melissa's husband works for a contractor (the "Contractor") who may be hired by a grant applicant (the "Applicant") if the Applicant gets a City grant for which the CDCIP will make a recommendation. You asked if Melissa must disqualify herself from voting on the recommendations the CDCIP will make regarding grant applications.

The answer is no. See below.

City Code Section 2.44.030A says:

"If the performance of a public servant or volunteer public servant constitutes any governmental action on a matter involving the public servant's or volunteer public servant's financial or professional interest and it is reasonably foreseeable that the decision will have an individualized material effect on such interest, distinguishable from its effect on the public generally, the public servant or volunteer public servant shall publicly disclose such matter. . . ."

Furthermore, if the interest is a financial interest, the public servant or volunteer public servant must also disqualify herself from voting on or participating in deliberations on the matter.

#### Financial Interest

"Financial interest" is defined to include (1) a "substantial interest" (which is defined as a 10% ownership in a business entity by a public servant or volunteer public servant, or her spouse or minor child) or (2) holding a position in a business entity as an officer, director, trustee, partner, or employee, or a management position.

In this case neither Melissa nor her husband has a financial interest in the Applicant. While Melissa's husband, as an employee, holds a financial interest in the Contractor, the

Contractor is not an applicant for grant funds, and the CDCIP only makes grants to applicants. We also believe any other benefit that the Contractor may anticipate in such a situation is speculative.

#### Professional Interest

We also conclude that Melissa has no professional interest in this situation, because, among other things, the professional interest provisions do not apply to a relative.

#### Corrupt Use of Official Position

Under Section 2.44.040A, Melissa may not corruptly use her Board position to (1) substantially further the financial or professional interests of herself or anyone else, or (2) secure special privileges for herself or others. We have always understood that 2.44.040A may be violated even if the employee's action would not "have an individualized material effect on the employee's financial interest, distinguishable from its effect on the public generally." In other words, even a less material self-benefit could violate the section if obtained corruptly. But the "corrupt" standard is a high bar that we have never seen violated. We have seen no evidence that this provision would apply to Melissa's situation.

Boyd Ferguson