



BOARD OF ETHICS  
CITY OF CHICAGO

MEMORANDUM

At its September 20, 2017 meeting the Board of Ethics discussed a recent proposal to amend the Governmental Ethics Ordinance by effectively narrowing the number of "independent contractors" hired by City Council members who would be subject to certain restrictions in the Ordinance in the same manner City employees are. The Board has authorized publication of its comments prior to the time the proposal is taken up by a City Council committee to foster public discussion of this proposal.

That proposal is numbered **O2017-6355**. It was transmitted to the City Council at its September 6, 2017 meeting.

Date: September 25, 2017

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**I. Summary of proposal:** *This proposal would effectively treat all or nearly all individuals hired by aldermen to provide them "legislative services" as "City contractors," not as "City employees," for purposes of the City's Governmental Ethics Ordinance. In particular, it would exempt all or nearly all of them from filing annual Statements of Financial Interests. As the proposal is drafted, the only such individuals who would be treated by the Ethics Ordinance as though they were City employees (thereby, among other Ethics Ordinance restrictions and obligations, be required to file annual Statements of Financial Interests) would be those paid more than \$100,000 per calendar year for such services, or who work more than 500 hours per calendar year in providing such services. This is a version of a proposal that was defeated in April by a majority of City Council members. Note: it is a "red herring" to argue that these individuals would in effect be converted to City employees just because they are or would be subject to some of the substantive provisions in the Ethics Ordinance to which employees are also subject. Their status as independent contractors (or, as per the criteria developed by the Internal Revenue Service, as employees) would not be affected by, for example, having them file Statements of Financial Interests, which are designed to disclose potential conflicts of interests, among other things. If City Council members or others continue to make that argument, they are obfuscating the real issue.*

*This proposal has two parts.*

*The first is amended §2-156-010(d-1). It would define which of these individuals would be treated as a City employee, and which as "independent contractors," according to criteria developed by the Internal Revenue Service. It would be up to the contracting alderman to determine whether an individual is an employee or independent contractor by applying these criteria.*



*The second is new §2-156-470, entitled “City contractors who provide legislative services.” This section would provide that only those individuals paid more than \$100,000 per calendar year to provide legislative services to one or more aldermen (regardless of the source of the funds), or who work more than 500 hours per calendar year in providing such services, would be subject to certain restrictions in the Ethics Ordinance in the same way as City employees. Because it’s likely that no or nearly none of these individuals is paid that much or works that much, the vast majority of them would be covered as City contractors, and thus not be subject to the Ordinance’s gift or conflict of interests provisions, or be required to file annual Statements of Financial Interests with the Board of Ethics.*

*This is a near complete-reversal of current law, which subjects them all to the provisions of the Ethics Ordinance as though they were employees, including requiring them to file annual Statements of Financial Interests.*

**II. Department position:** *The Board of Ethics emphatically opposes this proposal – it would obscure information as to potential conflicts of interests that individuals who are being paid with taxpayer money, or who have the ability to influence aldermanic decisions, may have. It is not good government. In §2-156-470, it sets a \$100,000/500 hour threshold for those individuals who would be subject to critical provisions in the Ethics Ordinance, and who would need to file annual Statements of Financial Interests. If any figures are going to be used at all, they should be much lower: realistically, how many individuals who provide legislative services to aldermen are paid this much money per year for such services, or work this many hours? It is a recipe for unhealthy secrecy, further public cynicism and legitimate mistrust of City Council and City government generally. It represents the very opposite of transparency. It is, in no uncertain terms, poor public policy.*

*The Board, of course, understands that the City Council is authorized to enact laws as it pleases; the Board will administer and enforce those laws as written. However, put bluntly, this proposal ends up exempting all or nearly all individuals paid by City Council members to provide them with “legislative services” from any meaningful provisions of the Governmental Ethics Ordinance, including having them file annual Statements of Financial Interests so that the public can see who their other clients are, in addition to aldermen.*

*However, the Board supports the inclusion of the definition of “legislative services,” as it excludes service providers-contractors such as painters. The Board would also support the other language of §2-156-470 with appropriate thresholds: specifically, that those individuals who do provide legislative services above a modest compensation level (for example, \$5,000 annually) or limited hourly threshold (for example, 50 hours annually) would be subject to key substantive provisions of the Ethics Ordinance, that is, that they could not represent private clients before the aldermen to whom they provide services (they could represent clients before other City departments or agencies as long as the matters on which they would represent these other clients would be wholly unrelated to their work for the aldermen), **and** would be required to file annual Statements of Financial Interests.*

*The Board also supports the amendment to §2-156-010(d-1).*

**III. Reasons for position:** *Explain the reasons for the department’s position. Address all four of the following areas in detail.*

**Overall impact on the City:** *The Board has, to date, identified 45 of these individuals. They have always been subject to the Governmental Ethics Ordinance, but until March 2016, were subject to it as contractors, not as if they were employees. This makes an important substantive difference, for several reasons: (i) contractors are not subject to many of the provisions to which City employees are subject, for example, “representation of other persons” – if this current proposal takes effect, there would be no prohibition on an individual hired as a contractor by one alderman from consulting with private clients who might have business with or before the City, or consulting with or representing a client on a project the client may have in another alderman’s ward; and (ii) if this proposal becomes effective, these individuals would not be required to file annual Statements of Financial Interests after 2017, so relationships like the ones mentioned above, and other potential conflicts of interests, would not be disclosed to the public.*

*This proposal would exempt possibly all of these 45 identified individuals from meaningful regulation under the Ethics Ordinance because the thresholds set are simply too high.*

**Policy Issues:** *This proposal would, if enacted, be perceived as, and in fact constitute, a weakening of ethics and oversight with respect to City Council personnel who could be in positions or have interests or relationships that the Ethics Ordinance otherwise prohibits, and that annual Statements of Financial Interests are designed to monitor and make public. This proposal represents poor governmental policy, undermines public trust in City government and allows a selected few to keep possible conflicts of interests from being disclosed.*

**Financial impact:** *There is none predicted.*

**Operation impact:** *None to the Board of Ethics—we would have approximately 45 fewer Statements of Financial Interest to process after this year, and 45 fewer individuals subject to annual mandatory ethics training on line.*