

## OPINION NO. 370

An individual who was employed by a state agency as an engineer indicated that he was in the process of securing a "B" general building contractor's license with plans to engage in constructing residential additions and remodeling existing structures. He asked the Commission to give him guidelines so that he would not violate the ethics code when conducting his contracting business.

The employee's question came within the purview of HRS §§84-14(b) and 84-13(4). HRS §84-14(b) states:

No employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

This meant that he might not become involved in any construction contract with any person or business which was or which he had reason to believe would be involved in any discretionary action he would take in his state position. As an example, his job description indicated that he reviewed construction plans and specifications for the establishment of particular types of systems constructed by private individuals and commercial firms. All privately constructed and maintained systems were required to meet certain specifications. We indicated that he might not enter into a construction contract with any person or business whose system he might have to review or inspect. In addition, he could not enter into a contract where he would have the responsibility of providing a private system, whether or not the actual work was done by a subcontractor. We stated, however, that he would not be precluded from entering into a contract with a person or business whose system was tied into a regular public system and with whom he would not be involved in his state capacity.

We pointed out that HRS §84-13(4) prohibits an employee from "soliciting, selling or otherwise engaging in a substantial financial transaction with a subordinate or a person whom he inspects or supervises in his official capacity." While our discussion of HRS §84-14(b) had already covered those people who were not connected with his department, we noted that this section also precluded him from entering into any construction contracts with persons he supervised in his state office.

Finally, we pointed out to him that HRS §84-13(3) prohibits an employee from using state time, equipment and facilities for private business purposes. We cautioned him that he should be careful not to conduct any portion of his contracting business during his state working hours and to avoid using facilities, such as the telephone, to conduct his business. He was advised that he should not use his state number in any business literature which he made available to potential clients.

We commended this employee for seeking these guidelines before beginning his contracting business.

Dated: Honolulu, Hawaii, March 19, 1979.

STATE ETHICS COMMISSION  
Gary B.K.T. Lee, Chairman  
Paul C.T. Loo, Vice Chairman  
Dorothy K. Ching, Commissioner

Note: Commissioner Audrey P. Bliss was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.