

Ask the City Ethicist
Prohibited Ownership Interests
by
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Question: *I am planning to accept a position with a City agency. Recently I inherited \$50,000 worth of Hewlett-Packard Company (“HP”) stock and \$8,000 worth of Google, Inc. stock. HP has a contract with the City agency at which I will work, but Google does not contract with any City agency. May I keep these investments when I become a City employee?*



Answer: As a general matter, the Conflicts of Interest Law prohibits City employees from having an ownership interest in a firm if that firm does business with any City agency. An ownership interest in a firm is defined as: 1) owning more than 5% of the firm (the firm’s assets or debt); 2) owning an investment worth \$40,000 or more in the firm (such as stock or bond ownership); or 3) operating the firm and having an ownership interest of any value. (If a City employee’s spouse, domestic partner, or unemancipated child is the owner, the law applies the same as if the City employee is the owner.) The law contains an exception that allows City employees to keep an ownership interest in a firm if that firm’s shares are publicly traded **and** the firm does no business with the City employee’s own agency.

Besides restricting what interests you may hold, the conflicts law also restricts what actions you may take in your official City capacity concerning your holdings (in your case, for example, the law will speak to whether you can handle HP contracts). Here’s how this works:

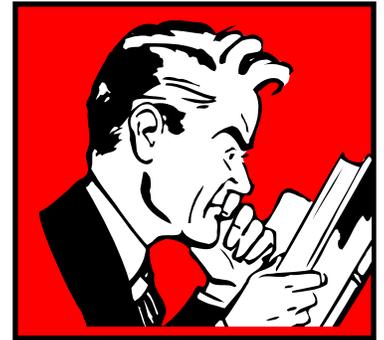
- A) If a City employee owns an investment worth less than \$10,000 in a firm and the firm does business with the City, the City employee may keep the interest and may work on matters involving the firm but must disclose the ownership interest to the Conflicts of Interest Board (“COIB”).
- B) If a City employee owns an investment worth more than \$10,000 but less than \$40,000 in a firm and the firm does business with the City, the City employee may keep the interest but must recuse (that is, have no involvement whatsoever) at his or her City job from any matters involving the firm.
- C) If a City employee owns more than 5% of a firm or owns an investment worth \$40,000 or more in a firm doing business with the City he or she should **contact COIB for confidential advice**. If the City employee has an ownership interest in a firm doing business with the City, the City employee must, within ten days, sell, give away, or put into a blind trust the ownership interest; or disclose the ownership interest to COIB and comply with COIB’s Order. With agency head approval, City employees can request an Order from COIB to allow them to keep

an ownership interest in a firm. COIB will review each request for an Order and determine whether keeping the ownership interest would conflict with the proper discharge of the City employee's official duties. If City employees are permitted to keep such ownership interests they will almost certainly be required to recuse themselves from matters involving the firm.

So, getting back to your question, because HP is doing business with the City agency at which you will work and because you own more than \$40,000 worth of HP stock, you must sell, give away, or put into a blind trust your HP ownership interest or obtain your agency head's approval and request an Order from COIB. COIB will take into account the nature of your proposed position's official duties, whether and how any action by the City may affect your HP ownership interest, the appearance of a conflict of interest to the public, and the financial burden of any decision on you. Your interest in Google does not raise any conflicts of interest issues because Google is not engaged in business dealings with any City agency.

Question: *What if I have any more questions about ownership interests?*

Answer: If you have any doubt at all about whether you may keep or acquire an ownership interest or participate in matters involving certain firms, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also e-mail us through our website (<http://www.nyc.gov/ethics>) by clicking on "Contact COIB." All calls and e-mails are confidential, and you may contact us anonymously.



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"Ask the City Ethicist" is written monthly by the staff of the New York City Conflicts of Interest Board and appears originally in The Chief Leader. "Ask the City Ethicist" is provided as general information, and should not replace the text of Charter Chapter 68. For legal advice on City ethics matters, please call the Board at 212-442-1400. All calls are confidential. You may call anonymously if you wish.
<http://nyc.gov/ethics>.