

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

**FILE FOR RECORD
8:00 AM**

MAR 24 2006

Barbara R. Hightman
County Clerk, Harris County, Texas

V19

(H)

Dr

1 Name of person doing business with local governmental entity.
*Allied Waste Landfill Holdings, L.P.; and/or BFI Waste Services of Texas, L.P.;
and/or BFI Waste Systems of N.A., Inc / Raymond Franks, Mkt Dev Manager*

2 Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money.

See attachment to Conflict of Interest Questionnaire

4 Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.

See attachment to Conflict of Interest Questionnaire

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UNOFFICIAL COPY

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5 Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.)

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?

Yes No

B. Is the filer of the questionnaire receiving or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local governmental entity?

Yes No

C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes No

D. Describe each affiliation or business relationship.

6 Describe any other affiliation or business relationship that might cause a conflict of interest.

See attachment to Conflict of Interest Questionnaire

7 Allied Waste Landfill Holdings, L.P; and/or
BFI Waste Services of Texas, L.P; and/or
BFI Waste Systems of NA, Inc.


Signature of person doing business with the governmental entity

3/22/06
Date



RECEIVED
FEB 17 2006
OPINION COMMITTEE

FILE # ML-44629-06
I.D. # 44629

TEXAS HOUSE OF REPRESENTATIVES
BEVERLY WOOLLEY
COMMITTEE ON CALENDARS - CHAIRMAN
CIVIL PRACTICES AND WAYS & MEANS

February 13, 2006

RECEIVED
FEB 17 2006

VIA U.S. CERTIFIED MAIL
The Honorable Greg Abbott
Office of the Attorney General
Opinion Committee
Post Office Box 12548
Austin, TX 78711

OPEN RECORDS DIVISION

RQ-0451-GA

Re: Opinion Request Concerning Chapter 176 of the Texas Local Government Code

Dear General Abbott:

Please accept this letter as a request pursuant to Texas Government Code Section 402.042 for an opinion from your office for clarification on the interpretation of House Bill 914, 79th Legislature, Regular Session, codified as Chapter 176 of the Texas Local Government Code ("Chapter 176"). Chapter 176 creates conflicts of interest disclosure requirements for "local government officers" and persons who contract or seek to contract with "local governmental entities" for the sale or purchase of property, goods, or services.¹ The statute's disclosure requirements became effective on January 1, 2006, and the statute carries criminal penalties for persons who fail to comply with the disclosure requirements.²

¹ Chapter 176 defines a "local government officer" as

- ... (A) a member of the governing body of a local governmental entity; or
- (B) a director, superintendent, administrator, president or other person designated as the executive officer of the local governmental entity.

TEX. LOC. GOV'T CODE ANN. § 176.001(4) (Vernon Supp. 2005). Chapter 176 defines a "local governmental entity" as

- ... a county, municipality, school district, junior college district, or other political subdivision of this state or a local government corporation, board, commission, district or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality or the governing body of a municipality. ...

TEX. LOC. GOV'T CODE ANN. § 176.001(3).

² See TEX. LOC. GOV'T CODE ANN. § 176.003(c) (Vernon Supp. 2005) (stating that it is a Class C misdemeanor if a local government officer knowingly violates the section); TEX. LOC. GOV'T CODE ANN. § 176.004(3) (stating that a local government officer must acknowledge the conflicts disclosure statement under oath under penalty of perjury); TEX. LOC. GOV'T CODE ANN. § 176.006(f) (stating that it is a Class C misdemeanor if a person who contracts or seeks to contract with a local governmental entity violates the section).

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2200 POST OAK BLVD, STE. 625
HOUSTON, TEXAS 77056
713-629-6313
713-629-7206 (FAX)

HOUSTON
DISTRICT 136

CAPITOL OFFICE:
P.O. Box 2910
AUSTIN, TEXAS 78768-2910
512-463-0696
512-463-9333 (FAX)

The Texas Ethics Commission has promulgated a form conflicts disclosure statement for use by local government officers and a form conflict of interest questionnaire for use by persons who contract or seek to contract with local governmental entities as required by Chapter 176. However, we understand that the Ethics Commission has taken the position that it does not have jurisdiction to interpret Chapter 176. Therefore, we respectfully request an opinion clarifying the following issues:

1. What is the appropriate definition of the term "business relationship,"³ a term used in Chapter 176 to trigger disclosure requirements for local government officers? Does this term include personal or business interest bearing savings accounts which generate taxable interest for the local government officer or a family member?
2. What are the appropriate definitions of "affiliation"⁴ and "business relationships,"⁵ terms used in Chapter 176 to trigger disclosure requirements for persons who contract or seek to contract with local governmental entities? Do these terms include personal or business loans which generate taxable interest for certain vendors; such as financial institutions?
3. What does the phrase "any other affiliation or business relationship that might cause a conflict of interest,"⁶ a phrase used in Chapter 176 to trigger disclosure requirements for persons who contract or seek to contract with local governmental entities, encompass?
4. Whether Chapter 176 applies to professional services providers.
5. How long should a local governmental entity retain the conflicts disclosure statements and conflicts of interest questionnaires under Chapter 176? How long should such documents remain available on a local governmental entity's website?
6. Whether the disclosure requirements of Chapter 176, as applicable to a partnership or corporation which seeks to contract or contracts with a local governmental entity, apply solely to the partnership or corporation as a whole, or whether the disclosure requirements apply to some or all of the individual partners and/or employees of the entity contracting or seeking to contract with a local governmental entity who may be working on a contract.
7. Would a person seeking to contract with a local governmental entity comply with the requirements of Chapter 176 if the person discloses affiliations and business relationships with all business entities disclosed by the local

³ TEX. LOC. GOV'T CODE ANN. §176.003

⁴ TEX. LOC. GOV'T CODE ANN. §176.006

⁵ TEX. LOC. GOV'T CODE ANN. §176.006

⁶ TEX. LOC. GOV'T CODE ANN. §176.006(e)(7)

governmental entity to the person as having a triggering relationship with a local government officer and discloses affiliations and business relationships with all employees and outside contractors disclosed by the local governmental entity to the person as making recommendations concerning the proposed contract, even if that disclosure proves to be incomplete or the local governmental entity fails to make any such disclosure despite the person's request, absent actual knowledge of the person to the contrary?

8. What does the phrase "contracts or seeks to contract for the sale or purchase of property, goods or services with a local governmental entity,"⁷ a phrase triggering disclosure requirements under Chapter 176, encompass? Does Chapter 176 apply to small or routine purchases?

9. Whether local governmental entities have a responsibility to require persons who contract or seek to contract with local governmental entities to comply with Chapter 176 prior to entering into a contract with the local governmental entity? Would the failure of a contractor to comply with the requirements of Chapter 176 have any impact on the validity of a contract between the local governmental entity and the contractor?

10. Whether Chapter 176 requires a person who contracts or seeks to contract with a local governmental entity to file a disclosure questionnaire if the person has no business or financial relationships or affiliations to disclose.

The legislative intent of H.B. 914, which added Chapter 176, is to increase transparency and accountability of government by requiring the disclosure of certain business and financial relationships that local government officials may have with persons contracting with the local government. H.B. 914 provides local government officials and taxpayers access to information concerning these business or financial relationships or affiliations and thus provides a more accurate account of the allocation of tax dollars.

Thank you for your consideration of these issues. If we can be of any assistance, please let us know. We look forward to your reply.

Kind regards,



Beverly Woolley
State Representative, District 136
Chairman, House Committee on Calendars



John Smithee
State Representative, District 86
Chairman, House Committee on Insurance

⁷ TEX. LOC. GOV'T CODE ANN. §176.002(a)(1)

Attachment to Conflict of Interest Questionnaire:

This completed questionnaire is being submitted on behalf of the Allied Waste Industries, Inc. subsidiary or affiliate listed in #1 of this questionnaire and the authorized employees who act on its behalf ("Allied"). Allied is a solid waste management service provider to the local governmental entity with whom this document is being submitted, in connection with existing and proposed solid waste management contracts. The filing of this document is intended to affirm that neither the Allied entity (the 'person doing business with the local government agency') nor any of the employees who are acting on its behalf have any "affiliations or business relationships" with any local governmental officials as those terms are used in Chapter 176 of the Local Government Code of the State of Texas, House Ethics Commission.

From time to time certain authorized employees of the company have business or social contacts with local governmental officials in connection with pending or proposed solid waste management services; and may serve on economic development boards or work with charitable institutions where local governmental officials are also serving or working. None of these contacts involve providing gifts to local governmental officials and do not appear likely to create a conflict of interest.

There is a pending written request for clarification of Chapter 176 filed with the Texas Attorney General, on February 17, 2006 (copy attached as Exhibit A). Allied reserves the right to amend this response once the Texas Attorney General's opinion is issued.

For further information, contact Raymond Franks, Market Development, Allied Waste Services of Tx., L.P. at 713 996-2007.

Exhibit A: Opinion Request Concerning Chapter 176 of the Texas Local Government Code Filed on February 13, 2006 by Representative Beverly Wooley, sponsor of House Bill 914, 79th Legislature, codified as Chapter 176 of the Texas Local Government Code

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.