



CITY OF HAGERSTOWN, MARYLAND

Office of the City Clerk
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THE ETHICS COMMISSION FOR THE CITY OF HAGERSTOWN, MARYLAND

c/o City Clerk, 1 East Franklin Street, Room 200, Hagerstown, MD 21740

REQUEST FOR ADVISORY OPINION

Requestor's Name: WILLIAM MCINTIRE
Requestor's Department: _____
Requestor's Title/Position: MAYOR
Requestor's Mailing Address: 919 OAK HILL AVE
HAGERSTOWN, MD 21742

1. Description of the facts and circumstances in question (Continue on the back of this form if additional space is needed). Please attach any relevant supported documentation.

MY COMPANY (MCINTIRE HVAC) BID ON THE HVAC
RENOVATIONS FOR THE FIRST FLOOR OF HAGERSTOWN
CITY HALL WITH GRC CONTRACTORS BEFORE THE
ELECTION AND WAS INFORMED THAT MCINTIRE HVAC WILL
BE DOING THE WORK. WE WANT TO INFORM THE CITY FOR REVIEW

2. Summary of the ethics issue requested to be determined (continue on back of this form if necessary): _____

The undersigned Requestor, a person subject to the City of Hagerstown Code of Ethics, hereby requests an advisory opinion of The Ethics Commission for the City of Hagerstown pursuant to §33-3(b) of the City Code, as outlined above.

Signature: William McIntire

Date: 11/20/24



CITY OF HAGERSTOWN, MARYLAND

CITY ETHICS COMMISSION

March 3, 2025

The Honorable William McIntire
City of Hagerstown
1 E. Franklin Street, Room 202
Hagerstown, MD 21740

RE: ADVISORY OPINION 2024-001

Dear Mayor McIntire

Upon your request, an advisory opinion regarding the question of whether a conflict of interest would occur if your company, McIntire HVAC, is awarded the subcontractor contract as part of a current City project.

A meeting of the City Ethics Commission was held on December 16, 2024 to discuss your request, which you attended to provide information regarding the request.

I. AUTHORITY

Pursuant to section 33-3, *Ethics Commission*, of the Code of the City of Hagerstown, this Commission is authorized "[t]o provide published advisory opinions to persons subject to this Chapter and Chapter 33, *Ethics, Code of*, as to the applicability of the provision of these chapters to them." Upon your request, this commission has met and discussed the applicability of the Ethics Code to your subcontractor status. As the Mayor of Hagerstown, you are subject to the rules and restrictions outlined in Chapter 33 of the City Code. As such, the Ethics Commission finds that it has the authority to publish the requested advisory opinion.

II. BACKGROUND

- A. **Factual Background.** You are the owner of McIntire HVAC. The City of Hagerstown awarded a contract to GRC General Contractor, Inc. for the renovation of the first floor at City Hall on October 22, 2024. As part of the bid submitted by GRC, McIntire HVAC is a sub-contractor for the HVAC work. Under this bid, there are multiple subcontractors.

You have asked if the City's Ethics Code prohibits McIntire HVAC from bidding on City of Hagerstown projects, as a subcontractor.

- B. **The Code of Ethics.** The Code of Ethics for the City of Hagerstown is found in Chapter 33. The code's purpose is to ensure that impartiality and independent judgment of public officials and employees is maintained. The Code of Ethics also requires compliance with Maryland law.



Section 33-3. Prohibited Acts. A) Participation Prohibitions: states that except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to certain financial matters are prohibited. These prohibitions include business entities in which a city official has direct financial interests as an employee, officer, director, trustee, or partner.

III. ANALYSIS

The Ethics Commission finds that the primary issue raised is whether Mayor McIntire, in his role as Mayor, is inherently or uniquely positioned to affect the disposition or decision of the award of a competitively bid project, which follows the guidelines established in the City of Hagerstown Procurement Policy.

IV. CONCLUSION

The Commission's advisory opinion is as follows:

1. The City of Hagerstown Ethics Code does not expressly prohibit Mayor McIntire, acting on behalf of McIntire HVAC, from being a subcontractor under GRC for the City of Hagerstown first floor renovation project. As it pertains to the matter brought before the Commission by Mayor McIntire, the Commission does not find a conflict of interest.
2. The bid was put forth and decided on prior to Mayor McIntire securing the office of Mayor.
3. Moving forward, there is an expectation for Mayor McIntire to recuse himself from any discussions for change orders or similar aspects of this contract.
4. If by chance, there are other proposals that McIntire HVAC would bid on, the Commission would expect Mayor McIntire to seek an additional opinion from the Commission.
5. No violation of the City's Ethics Code is found in the proposed action of being a subcontractor under a properly bid and awarded contract for the City Hall renovation project.

Respectfully submitted,

**ETHICS COMMISSION FOR THE
CITY OF HAGERSTOWN, MARYLAND**

BY: _____

Joseph Jefferson, Chairman

cc – Scott Nicewarner, City Administrator
Ethics Commission Members