

**OFFICE OF THE
ATTORNEY GENERAL**

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STATE OF ALABAMA

APR 27 1990

90-00245

This opinion has been modified by an opinion issued to Valerie Bullard, Internal Auditor, City of Dothan, dated 12-4-2000, A.G. No. 2001-042.

Honorable Bill Dukes
Mayor, City of Decatur
P. O. Box 488
402 Lee Street, N. E.
Decatur, AL 35602

**Municipalities - Competitive
Bid Law - Employees, Employers,
Employment - Conflicts of
Interest**

**Where spouse of municipal
employee owns less than
majority of stock of corpora-
tion, Code of Alabama 1975,
§ 11-43-12 does not prohibit
municipality from doing
business with that corporation.**

Dear Mayor Dukes:

**This opinion is issued in response to your request for an
opinion from the Attorney General.**

QUESTION

**Can the City of Decatur purchase sporting
good items for its Parks and Recreation
Department through competitive bid from a
company whose president and minority
stockholder is the spouse of the Decatur
Community Affairs Coordinator?**

FACTS AND ANALYSIS

In the opinion request you state the following:

Dorothy Montgomery has been an employee of the City of Decatur for approximately seventeen (17) years. She was appointed to the position of Community Affairs Coordinator approximately four years ago. In her position, she has no control over the Purchasing Department or the seeking of quotes and bids on behalf of the city by that department. Her husband, H. G. Montgomery, opened a retail sporting goods store in the City of Decatur over two years ago. Originally, he was the sole stockholder in the corporation which operated the store. However, recently his ownership interest became less than fifteen percent of the corporation. He is the president of the corporation.

Mrs. Montgomery is neither a stockholder, officer nor director of the corporation which owns the sporting goods store. Her salary at the City is such that she is self-sufficient in earning that income apart from her husband's earnings. My question is, "Can the City purchase items for its various departments from a business which is a corporation and in which the spouse of the City of Decatur Community Affairs Coordinator owns less than fifteen percent of the business?"

Your office issued an opinion to me on April 26, 1988, stating the City could not purchase from this business when the spouse of the employee was the sole stockholder. We now wonder whether the reduction in ownership by the spouse to less than fifteen percent makes a difference. Certainly, Mrs. Montgomery does not wish to be in violation of Section 11-43-12 of the Code of Alabama 1975.

In our opinion to Honorable William C. Brewer, III, under date of March 9, 1988, this office held that Code of Alabama 1975, § 11-43-12, would not prohibit a municipality from doing business with a corporation owned by a member of the town council where neither the councilmember nor his family owns the majority of stock in the corporation.

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If neither Mrs. Montgomery nor her husband owns the majority of stock in the corporation in question, it is the opinion of this office that § 11-43-12 does not prohibit the city from doing business with that corporation.

CONCLUSION

Where the spouse of a municipal employee owns less than a majority of the stock of a corporation, Code of Alabama 1975, § 11-43-12 does not prohibit a municipality from doing business with that corporation.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:



JEAN WILLIAMS BROWN
Assistant Attorney General

DS/JWB/jho

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