

January 3, 1989

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Suite 530  
105 West Randolph Street  
Chicago, Illinois 60606  
(312) 744-9660

[REDACTED]

*at emp*

Case Number 88148.Q

**CONFIDENTIAL**

Dear [REDACTED]

This letter will confirm the staff response to your inquiry regarding acceptance of outside employment. As stated during our conversation, all employees considering outside employment must comply with the City personnel guidelines. Further, employees should be aware of the Ethics Ordinance provisions relevant to acceptance of outside employment.

**FACTS:** [REDACTED] Corporation, a [REDACTED] City vendor offered you a consultant contract. The contract requires you to prepare the company's MBE certification documents. Corporation is presently certified with the City of Chicago and performs as a subcontractor on the [REDACTED] project. You would prepare documents for government agencies, other than the City of Chicago (i.e. State, County and Federal). You are employed with the City [REDACTED]

[REDACTED] You maintain no contract management authority over Corporation's present City Contract and are not in a position to influence any possible future City contracts.

**DISCUSSION:** First, Section 26.2-2 entitled Fiduciary duty states:

"Officials and employees at all times in the performance of their public duties owe a fiduciary duty to the City".



Page Two

The Board interprets this section to mean that your outside employment should not effect the performance of your duties and responsibilities as an employee of the City of Chicago. If your outside employment contract with *Corporation* conflicts with your public duties as a City employee your first responsibility must be to the City.

Second, Section 26.2-5 entitled, Solicitation or receipt of money for advice or assistance states:

"No official or employee, or the spouse or minor child of any of them, shall solicit or accept any money or other thing of value including, but not limited to , gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation of business of the City; provided, however, that nothing in this section shall prevent an official or employee or the spouse of an official or employee from accepting compensation for services wholly unrelated to the official's employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession".

Third, Section 26.2-5, entitled "Use or Disclosure of Confidential Information" states:

"No official or employee may engage in or permit the unauthorized use of City-owned property."

This section prohibits City employees from receiving outside compensation or anything of value for performing their City duties and responsibilities. Specifically you cannot receive compensation from *Corporation* for performing pursuant to your City responsibilities. However, you alleged that your proposed work for *Corporation* is in no way related to your City position. This section prohibits City employees and officials from disclosing or using confidential information they may have obtained during the course of their City work. This section would prohibit you from using in your work with *Corporation* any knowledge about City operations not available to the general public.

Fourth, Section 26.2-9(a) of the Ethics Ordinance states:

No elected official or employee may represent, or have an economic interest in the representation of, any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's

action or non-actions of a non-ministerial nature; provided that nothing in this subsection shall preclude any employee from performing the duties of his employment, or any elected official from appearing without compensation before any city agency on behalf of his constituents in the course of his duties as an elected official.

The term "representation" used in this section covers any of a broad range of activities in which one person acts as the spokesperson for another person or group. Included among such activities would be making appearances before City agencies on behalf of non-City parties, contacting City officials by phone or by letter on behalf of other persons, and signing proposals which are submitted to City agencies for review. As a City employee, this section of the Ordinance would prohibit you from engaging in any of these activities on behalf of the [REDACTED] Corporation. Specifically, you would be prohibited from contacting City officials or employees, either in person, in writing, or by phone and to promote the interests of Unisource.

Finally, Section 26.2-11 prohibits a City employee from having a financial interest in City business. A "financial interest" is defined in Section 26.2-1(k) as meaning, "any interest as a result of which the owner currently receives or is entitled to receive \$2500 per year..." You stated that your consultant contract with *Corporation* would not entitle you to receive annual compensation in excess of the financial interest limitation. Therefore, though *Corporation* is a subcontractor on the [REDACTED] project your consultant contract should not violate this provision.

In summary, based on the information you have provided, the staff concludes that the Ethic Ordinance would allow you to accept outside employment as a consultant for the [REDACTED] Corporation, to assist in preparation of their MBE forms for agencies outside the City of Chicago. However, pursuant to your fact situation and the previous decisions of the Board, the specific activities you should avoid include:

- 1) appearing before any City agency or department on behalf of [REDACTED] Corporation;
- 2) Any work with the existing Corporation City subcontract;
- 3) Contacting any City official or employee on behalf of [REDACTED] Corporation;

Page Four

- 4) using your City relationship to in any way influence City decisions affecting [REDACTED]
- 5) using any knowledge of City operations not available to the general public to assist Corporation in obtaining City contracts or special benefits on their existing City subcontract;
- 6) receiving in excess of \$2500 per year from Corporation during the period they receive funds as subcontractor.

We appreciate your inquiry and hope that we sufficiently addressed your questions. If you have any further questions, please contact the Board at 744-9660.

Sincerely

  
Ertharin Cousin  
Deputy Director

EC/pb/[REDACTED]