

CONFIDENTIAL

February 7, 2008

[John Doe]

Chicago, IL 606

Re: Case No. 08004.Q, Post-employment

Dear Mr. [Doe]:

On January 30, 2008, you asked our office to address how the post-employment provisions of the City's Governmental Ethics Ordinance would affect you in your post-City employment with the Chicago office of [L]

. At this time, you have not identified specific projects or transactions on which [L] may ask you to assist it. However, you believe that some of your projects will involve the City, but do not know the departments or subject matter. Board staff has reviewed the facts you presented, and relevant law and Board precedent. We conclude that, while the Ordinance does not prohibit you from accepting employment with [L], it does restrict you, for one year after you leave City employment (i.e. until February , 2009), from assisting or representing [L] in any matters or transactions (including but not limited to [L]'s consulting contract with the City that expires December 31, 20 , discussed below) if those matters involve: i) the design and management of staff training and development for the Departments of [N] and [S]; or ii) management of performance measures and data for both departments; or iii) management of human resources for the Department of [S]; or iv) management of the budget for both departments; or v) management or improvement of the procurement and contracting process for the Department of [S]'s construction, professional services and supply contracts; or vi) management or improvement of the operating information technology systems for both departments; or vii) marketing programs at both airports. And, although you do not believe that [L] would request that you work on or advise it with respect to any ongoing City contracts involving either of your former departments, we nonetheless caution you that the Ordinance permanently prohibits you from assisting or representing [L] (or any other person) with respect to any City contract over which you exercised contract management authority during your City employment, or any person other than the City with respect to any judicial or administrative proceeding in which you participated personally and substantially.

You began your City career on October , 2005, as the Deputy Commissioner in the Department of [S], and held that position through August 2007. In September 2007, you moved to the Department of [N], where you served initially as Deputy Commissioner, and then, when the department merged , you

became the Deputy Commissioner. Your last day of City employment will be February , 2008. While at the Department of [s] , you said, you directly supervised its procurement, human resources, information technology and marketing functions. This involved directly overseeing the Deputy and Assistant Commissioners for each of these four functions; this included oversight of approximately 200 contracts for construction, professional services and supplies at the [facilities]. You said that you were also involved in the development of some contract specifications. However, you did not serve as a member of any evaluation committee for any [S] contracts. Your functions in the Department of [S] also included managing its hiring, payroll, and worker's compensation programs, and developing marketing strategies to attract new air carriers. Additionally, you managed the "Performance Management" efforts for both departments, which included gathering meaningful statistics on how well each department was meeting its goals and assisting in the review and revamping of business processes for both departments in order to improve customer service and ensure more efficient operations. You were not, you said, involved in any contracting matters for the Department of [N] .

Effective at the close of business on February 13, 2008, you will leave your City employment to assume a position with [L] in its Chicago office. You are not yet clear on which projects or matters what the firm will assign you to work. You pointed out that [L] has one consulting contract with the City, awarded in May 2007 (the "[L] Consulting Contract"). This contract, for up to \$23 million, has a term expiring on December 31, 20 . It is primarily with the Departments of [Z] and [G] .

As you are aware, § 2-156-100 of the Ordinance, entitled "Post-Employment Restrictions," states:

(a) No former official or employee shall assist or represent any person other than the City in any judicial or administrative proceeding involving the City or any of its agencies, if the official or employee was counsel of record or participated personally and substantially in the proceeding during his term of office or employment.

(b) No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the City or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.

Under this section, you will be, as a former City employee, prohibited for one year after leaving City service from assisting or representing any person in a business transaction involving the City if, during your City service, you participated personally and substantially in the subject matter of that transaction. Also, you will be permanently prohibited from assisting or representing: i) any person

in a contract if, during City service, you exercised “contract management authority”¹ with respect to that contract; or ii) any person other than the City in a judicial or administrative proceeding involving the City if you were counsel of record or participated personally and substantially in it.²

Permanent Prohibitions. Based on staff’s review of both your City responsibilities and those you would expect to perform for [L] , staff concludes that neither of the two permanent prohibitions in §100 of the Ordinance will *per se* restrict you from assisting or representing [L] in the consulting work it might do for the City under the [L] Consulting Contract. However, our review of your City employment indicates that you probably did exercise contract management authority with respect to some City contracts through the Department of [S] . While it is unlikely that your work for [L] would involve those contracts, we caution you that, if your duties with [L] (or any other person) will involve assisting it with respect to any of these contracts, you should seek specific guidance from our office, because the Ordinance’s one-year prohibition does, and its permanent prohibition may well, restrict you from performing those duties.

One-year Prohibitions. Our review of your City responsibilities indicates that you were personally and substantially involved in the following subject matters: design and management of staff training and development for the Departments of [N] and [S] ; performance measures for both departments; management of human resources for both departments; management of the budget for both departments; management of the procurement and contracting process of the Department of [S] ’s construction, professional services and supply contracts; management of the Department of [S] ’s operating information technology systems; and marketing programs at both airports. Therefore, we advise you that, for one year after your last date of City service (i.e., until February , 2009), the Ordinance prohibits you from assisting or representing [I] , or any other person, in any business transaction with respect to any of these subject matters. While this is not a *per se* one-year prohibition with respect to the [L] Consulting Contract, you would be prohibited, until February , 2009, from assisting it as to any work under that contract which involves these subject matters (and, as stated in the preceding paragraph, may well be subject to the Ordinance’s permanent prohibition as to certain Department of [S] contracts).

We also point out that, while you personally are prohibited from assisting or representing [L] with respect to these transactions or contracts, [L] itself is not subject to these restrictions, provided that you are completely screened from rendering any advice or assistance to or otherwise doing any work on behalf of [L] with respect to those matters. See Case nos. 93048.A; 04068.CNS; 05070.CNS.

Last, staff reminds you that Section 2-156-070, “Use or Disclosure of Confidential Information,” permanently prohibits you from using or revealing confidential information acquired through your City employment. Confidential information, for purposes of this section, means information that may not be obtained under the Illinois Freedom of Information Act, as amended.

1. “Contract management authority,” defined in § 2-156-010(g), means personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

2. You explained to staff that you are a named defendant in your official capacity as a City employee in two ongoing lawsuits. Nothing in this provision is intended to impede your ability to defend yourself or assist the City in defending itself and you in these proceedings.

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Staff's conclusions are based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. Other City rules or policies may also apply. If the facts stated are incorrect or incomplete, please notify us immediately, as any change may alter those conclusions. On behalf of the Board, we wish you best in the future, and express our sincere appreciation for your willingness to abide by the standards embodied in the Ordinance. Please contact us with any questions.

Very truly yours,

Steven I. Berlin
Acting Executive Director

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