

EMUK



April 29, 1998

CONFIDENTIAL

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[Redacted]

out emp

Re: Case No. 98018.Q

Dear [Redacted]

You are a [Redacted] for a City agency. On April 16, 1998 you asked this office for written guidance on whether the City's Governmental Ethics Ordinance would prohibit you from participating in a [Redacted] systems inspection project in country X, or from being compensated for your services in this project. The project is sponsored and funded by the [Redacted] Agency ("A"). Based on the facts you presented, Board of Ethics staff concludes that the Ethics Ordinance does not prohibit your participation in or compensation for this project; however, it does place certain restrictions on you. This letter provides our analysis of the facts and summarizes these restrictions.

You indicated that you have been awarded a "[Redacted] Grant" from A's Bureau of [Redacted]. This grant will fund a [Redacted] systems inspection project in X from [Redacted] through [Redacted] of this year. As stated in a letter to you from A, the grant will cover your transportation, food and lodging, as well as miscellaneous expenses such as educational materials. In addition, the letter states, you will receive a "modest honorarium" of \$100 per day for the duration of the project. The monies paid to you by A will be reported to the IRS on Form 1099.

You stated that neither A nor the systems you will be inspecting have any projects before or contracts with your department.

You also told staff that you have received approval from your department for participating in this project, pending decisions from other City governmental bodies, such as the Board of Ethics. In addition, you stated that you do not intend to use City time during your stay in X.

Based on Board precedent and on the facts of the case, staff concludes that the Ordinance does not prohibit your participation in and acceptance of the grant offered for this project. However, the Ordinance does impose certain restrictions on City employees who also engage in outside



EMUS

Case No. 98018.Q
April 29, 1998
Page 2

employment. The remainder of this letter discusses the restrictions relevant to your situation.

First, section 2-156-020, "Fiduciary Duty," establishes an obligation that City officials and employees use their City positions responsibly and in the best interest of the public. It also precludes the use of City time and City resources to obtain a personal benefit or to promote a purely private interest. This section would thus require you to make appropriate arrangements with your department regarding accounting for your time during this project.

Second, sections 2-156-060 and 2-156-070, entitled respectively "City-Owned Property" and "Use or Disclosure of Confidential Information," prohibit you from engaging in or permitting the unauthorized use of City property, and from revealing any confidential information you may have acquired during the course of your City employment.¹

Our conclusions in this case are based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If those facts are incorrect or incomplete, please notify the Board, as any change may alter our conclusions.

We also note that any City department, such as yours, may impose restrictions that are more stringent than those imposed by the Ethics Ordinance. In addition, please be advised that other rules or laws may also apply to this situation, such as Personnel Rule XX, Section 3, Personnel Rule XXIX, Sections 2 and 4, and Personnel Rule XVIII, Section 1, nos. 43 and 53.

¹ Section 2-156-050 of the Ethics Ordinance, entitled "Solicitation or Receipt of Money for Advice or Assistance," prohibits a City employee or official from accepting money in return for advice or assistance on matters concerning the City's operation or business. Consistent with Board precedent, however, the facts you have presented indicate that, although you could be called upon to provide either A or the X authorities with information about the operation of your department (e.g., regarding what systems it has found effective), your work would not constitute "advice or assistance on matters concerning the operation or business of the City" within the intent of the Ordinance, because 1) this information would not give either of these entities an unfair advantage over others in any dealing with the City, and 2) in your City employment, you do not make decisions that have an effect on either entity in regard to City matters. See Case No. 91103.A.

EMUS

Case No. 98018.Q
April 29, 1998
Page 3

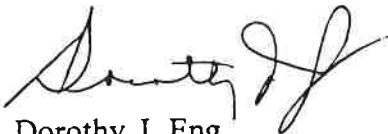
We appreciate your contacting us about this matter, and your willingness to abide by the standards of the City's Governmental Ethics Ordinance. Please contact us if you have any further questions.

Very truly yours,



Steven I. Berlin
Deputy Director

approved:



Dorothy J. Eng
Executive Director

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