

December 29, 1988

PERSONAL AND CONFIDENTIAL

[REDACTED]

Case Number 88167.Q

Dear [REDACTED]

This letter responds to your December 23, 1988 query, submitted on behalf of [REDACTED]. Referring to the definition of "city contractor" in Section 26.2-1 of the Governmental Ethics Ordinance and to Section 26.3-4 of the Campaign Financing Ordinance, you asked:

"If a defined city contractor has donated \$1,500 to [REDACTED] Campaign after July 1, 1988, is he permitted to donate another \$1,500 to the [REDACTED] Campaign prior to June 30, 1989?"

Section 26.3-4 of the Campaign Financing Ordinance limits certain contributions to elected officials and candidates for City office. It provides in pertinent part:

"No person who has had a financial interest in or has been awarded any City contract within the preceding four years shall make contributions in an aggregate amount exceeding \$1,500 (i) to any candidate for City office during a single candidacy; or (ii) to an elected official of the government of the City during any reporting year of his term;.... [C]andidacy in primary and general elections shall be considered separate and distinct candidacies.... The combined effect of these provisions is intended to permit total contributions up to but not exceeding \$3,000 in a reporting year in which a candidacy occurs. A reporting year is from July 1 to June 30...."

Under this section the total permissible contributions in a reporting year from a City contractor to an elected official who is also a



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



candidate for City office in that reporting year may be as little as \$1500 but must not exceed \$3000. In no case may a City contractor contribute more than \$3000 in a reporting year to an elected City official who is a candidate for City office.

A. THE CAMPAIGN FINANCING ORDINANCE APPLIES TO ALL PERSONS WITH A FINANCIAL INTEREST IN CITY BUSINESS.

The Campaign Financing Ordinance and the Governmental Ethics Ordinance are separate and distinct chapters of the Municipal Code. Although the Campaign Financing Ordinance has expressly adopted certain definitions in the Governmental Ethics Ordinance, it has not adopted the definition of "City contractor" from the Ethics Ordinance, nor does the phrase "City contractor" appear anywhere in the Campaign Financing Ordinance.

As previously stated, Section 26.3-4 of the Campaign Financing Ordinance limits contributions from persons who "had a financial interest in or... [have] been awarded a City contract within the preceding four years...." This restriction applies to but is not limited to contributions from persons defined under the Governmental Ethics Ordinance section 26.2-1(d) as "City contractors." As interpreted by the Board this section also applies to contributions from any person who has an agreement with the City to receive funds administered by the City in exchange for services, goods, property or the leasing of property; and it applies to any person who has a financial interest in such an agreement.

B. TIMING OF CONTRIBUTIONS IN RELATION TO ELECTED OFFICIAL'S CANDIDACY AND THE EFFECT OF TIMING ON THE PERMISSIBILITY OF CONTRIBUTIONS.

In your question, a City contractor made two contributions of \$1500 each to [REDACTED] between July 1, 1988 and June 30, 1989. The first contribution, no matter when it was made in the reporting year, is permissible, since a City contractor may contribute \$1500 to an elected City official at any time during the reporting year. In order to determine the permissibility of the second contribution, we have to examine its relationship to the [REDACTED] candidacy.

elected official's
official
Pursuant to Section 26.3-4, during the primary or general candidacy of the [REDACTED] the contractor would be permitted to make a second contribution of up to \$1500. But as provided in the Ordinance, under no circumstances may the total contribution exceed \$3000.

Thus, the SECOND \$1500 CONTRIBUTION, if made:

- (1) Pre-candidacy would not be permissible, since the

City contractor would be prohibited from contributing more than \$1500 to an elected City official in a reporting year;

(2) During the candidacy would be permissible, since a City contractor may contribute to an elected City official who is also a candidate for City office (as long as his aggregate contribution does not exceed \$3000);

(3) Post-candidacy would be impermissible, since there would no longer be any basis for the City contractor to contribute more than \$1500 to an elected City official in a reporting year.


In conclusion, the Board interprets a City contractor to include not only those persons as defined in Section 26.2-1(d) of the Governmental Ethics Ordinance but also any person who has a financial interest in any agreement with the City to receive funds administered by the City in exchange for services, goods, property or the leasing of property.

As interpreted by the Board, a City contractor may contribute \$1500 to an elected City official during a reporting year. If that City official is also a candidate for public election the contractor may contribute an additional \$1500 during the primary campaign or \$1500 during the general election. But under no circumstances may his total contributions exceed \$3000 in a reporting year.

If a contractor donated \$1500 to [REDACTED] an elected official after July 1, 1988, the contractor would be permitted to donate up to but no more than \$1500 in support of [REDACTED] the candidacy prior to June 30, 1989.

We hope that this letter adequately answers your query. Please be advised that the opinion expressed in this letter is that of the Board's legal staff. At your request this matter can be submitted to the Board for a formal advisory opinion. If you have additional questions regarding this matter, please call the Board at 744-9660.

Very truly yours,


Ertharin Cousin
Deputy Director