



City of Chicago
Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng
Executive Director

Darryl L. DePriest
Chair

Eileen T. Corcoran
Michael F. Quirk
Mary Beth S. Robinson
Miguel A. Ruiz

Suite 500
740 North Sedgwick Street
Chicago, Illinois 60610
(312) 744-9660
(312) 744-2793 (FAX)
(312) 744-5996 (TTY)

<http://www.cityofchicago.org>

JM

March 15, 2002

[Mary], []
Department []
[]
Chicago, IL 606[]

Case No. 02009.Q

Dear [Mary]:

On March 1, 2002, you asked the Board of Ethics for a staff opinion on what restrictions, if any, the Governmental Ethics Ordinance would place on your ability to accept travel expenses to a convention from a company with which your Department is currently negotiating a maintenance services contract. You are the [] of the Department []. [Company Alpha], a vendor of [device] technology, is a major exhibitor at [Convention] 2002, an annual exhibition for [device] design, management, and [device] maintenance. This year's exhibition will be held in Amsterdam April 15-18. The company traditionally invites representatives of major cities around the word to attend the event as its guests, and has extended such an invitation to you. [Alpha] has offered to pay for your airfare, hotel, transportation, and meals. You stated that while you have attended similar exhibitions in the past as a representative of the City, you had not planned to attend [Convention] 2002. If you attend the exhibition, you will not serve on any panels, committees, or in any way have an official role. You will be attending solely to review the products offered by vendors and to meet with vendors and similarly-situated customers.

In 1999 the City purchased 22 [devices] from [Alpha.] Several [devices] have been installed in City owned parking lots over the past few years, and in January 2002, the City installed 11 boxes on Taylor street. While the City has no current contracts with [Alpha], discussions are under way to enter into a maintenance contract with the company. In addition, you stated that the Department of Revenue is likely to issue an RFP for more [devices] in the near future, and that [Alpha] is likely to respond to that RFP.

Based on the application of the law to the facts you have presented, Board staff concludes that, if you are in a position to substantially affect [Alpha]'s business with the City, Sec. 2-156-040 of the Governmental Ethics Ordinance prohibits you from accepting the offer. The relevant provision and staff's analysis are reviewed below.



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2-156-040 of the Ethics Ordinance (Offering, Receiving and Soliciting Gifts or Favors) states, in relevant part, that:

(c) No person who has an economic interest in a specific City business, service or regulatory transaction shall give, directly or indirectly, to any City official or employee whose decision or action may substantially affect such transaction, or to the spouse or minor child of such official or employee, and none of them shall accept, any gift of (i) cash or its equivalent regardless of value, or (ii) an item or service other than an occasional one of nominal value (less than \$50.00) provided, however, nothing herein shall be construed to prohibit such person from accepting gifts from relatives.

(d) Except as prohibited in subsections (a) and (b), nothing in this Section 2-156-040 shall prohibit any person from giving or receiving: (i) an award publicly presented in recognition of public service; (ii) commercially reasonable loans made in the ordinary course of the lender's business; (iii) political contributions, provided they are reported to the extent required by law; (iv) reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official City business, if furnished by the sponsor of such public event.

[Alpha] has an economic interest in City business by virtue of the ongoing negotiations regarding a maintenance contract. Therefore, under subsection (c), if you, by virtue of your City position, can substantially affect that interest, the company is prohibited from giving, and you are prohibited from accepting, any item or service over \$50.00. While subsection (d) allows the acceptance of reasonable travel expenses so long as certain prerequisites are met, in this instance, because [Alpha] is only an exhibitor and not the sponsor of the convention, the travel expenses in question are not allowable under subsection (d).

Staff's conclusions are not necessarily dispositive of all issues relevant to this situation, but are based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts stated are incorrect or incomplete, please notify us immediately, as any change may alter our conclusions. Other laws or rules also may apply to this situation.

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We hope you find this helpful and appreciate your inquiry and your concern to abide by the standards embodied in the Ethics Ordinance.. If you have any further questions, please do not hesitate to contact us.

Very truly yours,
[Signature]

John H. Mathews
Legal Counsel

Approved by:
[Signature]

Dorothy J. Eng
Executive Director

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