

MEH



City of Chicago
Harold Washington, Mayor

June 12, 1987

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CONFIDENTIAL



Dear [REDACTED] CASE NUMBER 87035.A

The Board of Ethics has reviewed your request for an advisory opinion to determine what limits the ethics laws place on City employees who wish to apply for Department of Economic Development (DED) programs. You have informed the Board that the Department of Economic Development refused to accept an application for the Facade Rebate Program submitted by [REDACTED] a Chicago Policeman.

The refusal to accept [REDACTED] application was based on a provision in the DED's Program Guidelines that state:

"No member, official or employee of the City of Chicago shall have any personal interest, direct or indirect in this program."

It is our understanding that the DED believed that this provision was required for the DED to be in compliance with the Mayor's Executive Order and the Ethics Ordinance which becomes effective July 1, 1987.

The Board has reviewed the restrictions contained in the ethics laws which are relevant to employees and City officials who wish to apply for grant programs sponsored by City agencies. These restrictions are contained in Section 12 of Executive Order 86-1 and Section 26.2-11 of the Ethics Ordinance. Although these restrictions place some limitations on City employees and officials applying for grant programs administered by City agencies, the limitations are not absolute.



Section 12 states that no employee shall have a financial interest in any contract, work or business of the City whenever the expense, price or consideration is paid either from the City treasury or authorized by any ordinance. This Section is applicable only to the following types of financial interests defined under Section 2(i):

- (1) an interest as a result of which the owner is entitled to receive in the future more than \$2,500 per year;
- (2) an interest with a cost or present value of more than \$5,000;
- (3) an interest which results from ownership of 10% of a legal entity organized for profit.

It is the opinion of the Board that the first type of financial interest pertains only to sources of income which produce a repetitive income stream (e.g. dividends or annual rental incomes). The third type of financial interest applies to the ownership of stock. Therefore we conclude that the second type of financial interest articulated above is the proper measure of a one time payment such as a grant.

With this in mind, we conclude that Section 12 of the Executive Order 86-1 prohibits City employees from applying for and/or receiving grants administered by the City, only if the amount of the grant exceeds \$5,000. Therefore it is our opinion that the ethics laws do not prohibit [redacted] from applying for and/or receiving a \$5,000 grant from the Facade Rebate program.

The same limitation on the receipt of grant funds which applies to City employees is also applicable to appointed officials who apply for grant programs that are somehow related to their official duties and responsibilities. However, an appointed official who applies for a grant program that is "wholly unrelated" to his official duties is eligible to apply for and receive funds from such programs regardless of the monetary value of the grant.

For example, an appointed official who serves on the Economic Development Commission would be eligible to apply for and receive only \$5,000 in grants from programs sponsored by the Department of Economic Development. However, the same appointed official would be eligible to receive unlimited grants from the Chicago Office of Fine Arts so long as the grant did not relate to the official's City duties.

Page 3
June 12, 1987

The policies expressed in the Ethics Ordinance in (Section 26.2-11) are equivalent to the restrictions in the Executive Order except that the Ordinance extends the standard which applies to City employees to the conduct of elected officials. Thus, as of July 1, 1987 elected officials will be prohibited from receiving more than \$5,000 in grants from any City sponsored program.

The Department of Economic Development's policy of prohibiting City employees and officials from applying for and/or receiving grants from DED programs is more stringent than the ethical standards expressed in the Ethics Order and Ordinance. However, such action is explicitly permitted under Section 26.2-44 of the Ordinance.

This section states that:

"The procedures and penalties provided in this chapter are supplemental and do not limit ... the power of ... any other City agency to ... adopt more restrictive rules."

Please note that the interpretation of the ethics laws expressed in this letter pertain only to GRANT programs. The Board has not yet considered how or whether these restrictions are applicable to loan programs.

Sincerely,

Robert C. Howard

Robert C. Howard
Chairman

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