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Advisory Opinion  
Case No. 93001.A, Post-Employment

[REDACTED]

Date: February 25, 1993

On January 7, 1993, we received your written request for an advisory opinion regarding your post-employment with [REDACTED], a firm specializing in [REDACTED] advising and [REDACTED] consulting. You asked whether, under the Ethics Ordinance, your employment with [REDACTED] in any way restricts the firm's ability to continue its involvement in two proposed contracts it has pending before the [REDACTED] Department. You also requested general guidelines from the Board about the restrictions the Ethics Ordinance imposes on your post-City employment activities.

It is the Board's opinion, based on the facts presented by you and your former City supervisor, [REDACTED], [REDACTED] in the Department of [REDACTED], that under the Ethics Ordinance, your co. is not restricted by your employment with the firm from its involvement in the two proposed City contracts. Our analysis of your situation under the provisions of the Ethics Ordinance follows. We also include general guidelines for applying the Ordinance to your post-City employment.

**FACTS:** You were employed by the Chicago Department of [REDACTED] from [REDACTED] until your resignation on [REDACTED]. During that time, you worked in two positions, as Director of [REDACTED] until [REDACTED] and then as Senior Director of [REDACTED].

As Director of [REDACTED], you were responsible for monitoring and collecting accounts due to the City from [REDACTED]. You supervised a staff of analysts, auditors, and accountants, who did the actual collections [REDACTED], and developed computerized financial systems to monitor the [REDACTED] accounts.



While in this position, you also participated in the evaluation process for two contract proposals. One was the original Request for Proposals ("RFP") for concession operations in the [REDACTED]. You told us that this proposal did not work out and eventually was dropped. Since then, the City has issued a new RFP for concessions [REDACTED], in which you had no involvement. The other evaluation in which you participated was a [REDACTED] Concession proposal, on which a contract was awarded one year ago.

In your second position, as Senior Director of [REDACTED], you were responsible primarily for establishing "rates and charges" for [REDACTED] which is a system of using forecasts, projections and calculations to determine the prices to be paid by the [REDACTED] to the City for operations [REDACTED], including such things as [REDACTED] fees and use of the [REDACTED]. Your responsibilities included meeting with the [REDACTED] representatives when necessary to explain any changes made in the rates charged to [REDACTED]. You were also involved with various other analytical projects to be used within your department, such as developing database programs that the Department of [REDACTED] can use to project future operating costs [REDACTED].

In this position, you were involved in the evaluation process and the selection of the winning bidder for a [REDACTED] Department contract for statistics software. The contract was awarded to [REDACTED], a company for which your co. was a subconsultant. Because you were involved in this contract on behalf of the [REDACTED] Department, your co. withdrew as a member of the selected team in order to avoid the post-employment conflict that appeared to arise once you began working for [REDACTED]. We received a letter from [REDACTED], President of [REDACTED], confirming her company's withdrawal from this contract.

You said that in neither of your positions with the City were you exposed to any information that was not publicly available.

On [REDACTED], you began working with [REDACTED], a certified Woman-Owned Business Enterprise ("WBE") specializing in financial advising, [REDACTED] consulting, and marketing a variety of informational and telecommunications systems. You are employed as the firm's [REDACTED] and are responsible primarily for bringing in and developing new accounts. You said most of the firm's clients are outside the Chicago area and many are outside the state. Your duties also

include consulting in the areas of operations finance, financial modeling, and various types of finance forecasting.

You have an undergraduate degree and a Master of Science degree in Finance.

There are two [REDACTED] Department projects in which [REDACTED] wants to participate. The first is a proposal to provide computer upgrades and maintenance services to the [REDACTED] electronic [REDACTED] system. [REDACTED] is listed as a WBE subconsultant to [REDACTED], the primary consultant who has submitted a bid for the contract. You were not involved in any stage of this proposal while employed with the City, including the project planning or development, or the evaluation of proposals. Further, you explained that [REDACTED]'s involvement in this project would be limited to installing computer hardware and software, which is an area completely outside of your expertise and, therefore, you will not be involved in [REDACTED]'s work on this project.

The second project is the [REDACTED] system, which involves proposed research for equipping the City with its own [REDACTED] system. You said that, like the previous project, this one also would consist of installing electronic equipment, and because this is not something about which you are knowledgeable, you are not involved in this project for [REDACTED]. You also had no involvement in this project during your City tenure.

You told us that [REDACTED] has no other business pending that involves the City. You said you are concerned to avoid working on any projects on which you may be restricted by the Ethics Ordinance, and said you also could decline to participate in any project that [REDACTED] might pursue with the City.

You asked the Board to address whether, under the Ordinance, your employment with [REDACTED] in any way restricts [REDACTED]'s involvement in the two projects it has pending before the City. You also requested that the Board provide you with general guidance for applying the Ordinance to your employment with FAST.

**LAW:** The two relevant sections are 2-156-100(b) of the provision governing "Post-employment Restrictions," and 2-156-070, entitled "Use or Disclosure of Confidential Information."

Section 2-156-100(b), "Post-employment Restrictions," states:

(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.

Section 2-156-010(g) defines "contract management authority:"

"Contract management authority" 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.

Section 2-156-070 of the Ordinance, entitled "Use or Disclosure of Confidential Information," states:

No current or former official or employee shall use or disclose other than in the performance of his official duties and responsibilities, or as may be required by law, confidential information gained in the course of or by reason of his position or employment.

**ANALYSIS:**

██████████'s participation in the ██████████ proposal and the ██████████ system proposal

You asked whether the post-employment prohibition restricts ██████████ from being involved in the two proposals it has pending before the ██████████ Department because of your employment with ██████████. You told us that you are not involved in any way either in ██████████'s proposal to provide computer services to the ██████████ electronic ██████████ system (under ██████████) or in ██████████'s proposed ██████████ project. You explained that both these projects entail skills that are



completely different from your area of expertise because they involve property management rather than finance management. In addition, you had no involvement in either project while employed with the City.

You stated you were not involved in either of these projects during your City tenure. You also stated you are not engaged in assisting or representing <sup>your co.</sup> on these projects. Either of these reasons is sufficient for the Board to reach its conclusion that the post-employment provisions do not restrict <sup>your co.'s</sup> involvement with these two City contracts.

#### Post-employment guidelines

You also asked for some general guidelines about how the Ethics Ordinance affects your post-City employment.

According to the post-employment provisions (§ 2-156-100(b)), a former City official or employee is subject to two restrictions on employment after leaving City service: a one-year prohibition and a permanent prohibition. A former City official or employee is prohibited for one year after leaving City service from assisting or representing any person in a business transaction involving the City if while a City employee he or she participated personally and substantially in the subject matter of that transaction. As it relates to your particular circumstances, this generally means that if, while employed by the City, you participated substantially in a particular project, you may not assist or represent anyone in that project for a year after leaving City employment.

According to the Board's interpretation, "assisting" and "representing" a person in business transactions involving the City encompasses helping a person to seek a contract as well as helping a person to perform a contract. (See Case No. 89119.A.)

Under the permanent prohibition, a former City employee is permanently prohibited from assisting or representing any person in a particular contract involving the City if while a City employee, he or she exercised "contract management authority" (as defined in § 2-156-010(g)) with respect to that contract. (See case number 92010.A, p. 3.) Therefore, if during your employment with the City, you had direct personal involvement in or direct supervisory responsibility for the formulation of a City contract--including the planning, development, or evaluation of proposals, or the selection of vendors--or the execution of a City contract, you are

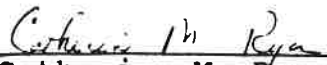
permanently prohibited from working on that contract after leaving City service.

In addition to the post-employment provisions, Section 2-156-070 prohibits former officials and employees from revealing confidential information they may have acquired during the course of their City job. You told us you would not be in a position to use any confidential information from your City job because in neither of your City positions were you exposed to any information that was not publicly available. Therefore, this provision of the Ordinance does not restrict your activities in your new employment.

**CONCLUSION:** It is the Board's opinion, based on the facts presented, that under the Ethics Ordinance, [REDACTED] is not restricted by your employment with the firm from its involvement with the two City contracts currently pending, the [REDACTED] project and the [REDACTED] project. We recommend that you seek the Board's assistance if, at any time in the future, you are uncertain about the applicability of the Ordinance to your work on any other project involving the City.

Our determination in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion.

**RELIANCE:** This opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

  
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Catherine M. Ryan  
Chair