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ADVISORY OPINION
CASE NO. 94024.A
INTEREST IN CITY BUSINESS

TO:

Date: August 23, 1994

On _____, 1994, you called the Board of Ethics and asked whether the Governmental Ethics Ordinance prohibits you from receiving a loan of approximately \$80,000 from the Department of Housing.

FACTS: You are a _____ for the Department "D" and are compensated by voucher for your City service. Your written Voucher Services Agreement with D makes it clear that you are not an "employee" of the City. Section 2 of the agreement states, in relevant part: "VSP [Voucher Services Provider] understands and acknowledges that he/she is not an employee of the City of Chicago. VSP understands that he/she is being paid by voucher for performing services for the City and that persons paid by voucher are not employees of the City. VSP is a contractor and is not entitled to any benefits given to City employees, including but not limited to vacation, sick leave or insurance."

You are paid by the hour pursuant to a series of written contracts, the first of which you entered with D in December 19____, just prior to the date you began your work. The term of your employment is _____ years; the contract is renewable each year. You work approximately 35 hours per week, for about 44 weeks per year, and are paid just over \$20.00 per hour. You submit an invoice to the City each month. In addition, you pay your own self-employment taxes, receive no pension, health, or other insurance benefits through the City, and are ineligible for continuous service credit under the annual Salary Resolution. Your position is not listed in Schedule A of that Resolution, which is a list of those positions recognized by the Department of Personnel.

You explained that you wish to apply for a loan from the Joint Lenders Program of the Department of Housing. When you contacted the Department of Housing about the loan,



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in the Unit of the Department, asked that you contact the Board of Ethics for guidance. You have signed a contract for a house, and wish to receive a loan of approximately \$80,000.

DISCUSSION: According to your contract, you are compensated by voucher, and are considered a City contractor. Accordingly, we address your status under the Ethics Ordinance.

The Board has held that employees are prohibited by §2-156-110 of the Ethics Ordinance from having a financial interest in City business, for example, from receiving \$5,000 or more in loans or grants paid with funds belonging to or administered by the City. However, in Case No. 90056.A, the Board held that, under the Municipal Code of Chicago, certain vouchered personnel are considered City contractors, not City employees. The Board concluded that the relationship between the City and vouchered personnel is in the form of a personal contract for those personnel who do not hold appointments or titles associated with their City service and who do not receive employee benefits. Thus, they are not employees, but are contractors, and are not subject to the provisions governing City employees in the Ethics Ordinance.

In this case, you not only have an agreement stating that you are a City contractor, not an employee, but you also meet the criteria recognized by the Board in Case No. 90056.A. Because you are a City contractor, not a City employee, you are not subject to the provisions of the Ethics Ordinance governing City employees, including §2-156-110.

However, while you are not subject to the provisions of the Ethics and Campaign Finance Ordinances governing City employees, you are, for purposes of these Ordinances, a City contractor, as that term is defined in §2-156-010(e) of the Ethics Ordinance. Moreover, because you have a contract with a City agency in an amount over \$10,000 in a consecutive twelve month period, you are considered a person "doing business" with the City as that term is defined in §2-156-010(h) of the Ethics Ordinance. Thus, the Board reminds you that you are subject to certain provisions of both Ordinances, including those in the Campaign Financing Ordinance covering the making of campaign contributions (§2-164-020, -030, and -040), and those in the Ethics Ordinance governing the offer and receipt of gifts (§2-156-040).

CONCLUSION: It is the Board's position that persons compensated by voucher who meet the criteria set forth in this opinion and in Case No. 90056.A are considered City

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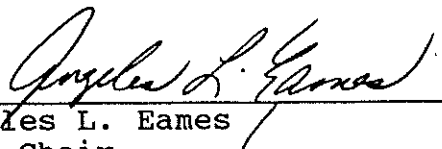
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contractors, not employees, for the purposes of the Ethics Ordinance. Because you meet these criteria, and your contract states clearly that you are not an employee of the City, it is our opinion that you are not subject to the provisions in the Ethics Ordinance that govern the conduct of City employees. Therefore, you are not prohibited from applying for, and receiving, the Department of Housing loan you have described.

However, as a City contractor, and a person doing business with the City, you are subject to certain provisions of the Ethics and Campaign Finance Ordinances. Because your inquiry does not involve these other provisions, the Board has addressed them only generally. If you have specific questions or seek further guidance about these provisions, the Board advises you to contact us for specific guidance.

Our determination in this case is based upon the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

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.



Angeles L. Eames
Vice Chair