

CONFIDENTIAL

February 3, 2004

[James Jones]
Director, Department of [E]
Suite
Chicago, IL 60604

Re: Case No. 04003.1.Q

Dear Ms. [Jones]:

You are the Director in the Accounts Receivable Division of the City's Department of [E]. On January 22, 2004 you asked whether the City's Governmental Ethics Ordinance prohibits you from accepting an offer from [DDD] Services, Inc. (DDD) to pay airfare and lodging expenses for you to visit Philadelphia (along with 2 employees from the [U] Department) on February 25-27 in order to observe and evaluate the [service provider] and billing system that [DDD] has developed and operates for the Philadelphia [U] Department. This letter confirms the advice Board staff gave you on January 23, namely, that in staff's opinion, based on the facts presented and on prior Board cases, the Ordinance does not prohibit acceptance of this offer.

You and Assistant Commissioner [Henry Smith] explained that it is important to both of your departments that the current system by which the City dispatches and invoices customers and insurance companies for [services] be replaced by a system with greater "interoperability." That is, you said, the capacity to collect and compile dispatch data and track and invoice insurers for these services immediately or within a short period after the City provides them, thereby increasing collections and improving the process by which these services are delivered. The current system, developed by [HHH] (the City's present vendor), is unable to accomplish these tasks to either department's satisfaction. Consequently, [HHH'S] contract (which has been extended to June 30, 2005, when it expires), will be re-bid. In the interim, you, [Mr. Smith] and [Mr. Thomas], the [U] Department's Assistant Director for Information Services, wish to evaluate systems used by other municipal providers of services in order to formulate a Request for Proposals (RFP) for these services. You believe that this RFP would likely be issued in the late summer or fall of 2004. Based on specifications and other company information [DDD] has provided, you said, [DDD] appears to be one of possibly two or three firms that may be able to develop and support a system that would satisfactorily integrate hardware, software and billing components for the City's dispatches. [DDD] currently has no City contracts, and, of course, has not bid on any RFP that may be formulated and issued for these services. You said that you, and Msrs. Smith and Thomas would work on formulating and drafting the RFP.

[Mr. Smith] told staff that, about 18 months ago, [DDD] representatives approached him about the company's capabilities at a conference in Nashville, Tennessee, at which he was speaking, and he was favorably impressed by a prototype of its product, which, he believed, could provide an integrated system of billing, hand-held hardware and software, and might be integrated with the [U] Department's current dispatch system. At that time, however, your department decided to extend the current billing contract until 2005, so the City did not pursue the [DDD] prototype further. In the fall of 2003,

[Mr. Smith] said, he was speaking at a conference when he again saw a representative of [DDD] and informed him that the City's [U] and [E] Departments might be interested in looking further at [DDD]'s product. He then approached you (you had recently assumed the post of of the Accounts Receivable Division)

Case No. 04003.1.Q

February 3, 2004

Page 2

and sent you promotional and technical materials provided by [DDD] to see if the Department of [E] had any renewed interest in pursuing the project. After you reviewed the materials and discussed them with the [E] Commissioner, you confirmed your department's interest.

You said that [DDD] has offered to pay travel expenses for you, [Mr. Smith and Mr. Thomas] to visit Philadelphia to observe and evaluate one of its working systems, and meet with the Philadelphia [U] Department officials involved with it. Both you and [Mr. Smith] have said that your respective departmental superiors (in your case, your Commissioner) view this project as very important, and have directed you to fully evaluate the various firms' products. Accordingly, you and the two [U] Department personnel would fly to Philadelphia late morning on Wednesday, February 25 and return late Friday afternoon, February 27. [DDD]'s offer includes air and ground transportation (including a special van that can accommodate a wheelchair), two nights' lodging, and dinner on Thursday, February 26. You will spend Thursday evaluating Philadelphia's system.

Based on these facts and on previous Board cases, Board staff concludes that nothing in the Ordinance prohibits you or the two other employees from accepting [DDD]'s offer, so long as the expenses are reasonable and limited directly to the business purpose of the trip, serve to benefit the City rather than any of you personally, and not offered or accepted based on a mutual understanding between the company and the traveling City employees that City decisions concerning [DDD] would be influenced by the offer to pay travel expenses. Given your and [Mr. Smith's] statements, these conditions are satisfied. See Case Nos. 03020.Q, 01002.Q; 98039.Q; 98040.Q; 97014.Q; 95002.Q. Staff reminds you that § 040(c) of the Ordinance explicitly prohibits any employee whose City decisions can substantially affect any of [DDD]'s City business from accepting any gift or item valued at \$50 or more from it (this prohibition does not include the travel expenses listed above). Although this travel offer is not prohibited under the Ordinance, other factors warrant your department's consideration, such as the appearance of impropriety that may result if this or other similar offers are accepted, and whether, as a matter of City policy, it is appropriate for your department to accept such travel offers from potential vendors.

Staff's conclusion is based solely on the application of the City's Governmental Ethics Ordinance to facts presented; other laws, rules, regulations or policies may apply. If any of the facts in this letter are incomplete or inaccurate, please inform us, as any change could alter the conclusion. We sincerely appreciate your sensitivity to the standards contained in the Governmental Ethics Ordinance, and willingness to comply with them. Please contact us with any further questions.

Yours very truly,

Steven I. Berlin
Deputy Director

Approved:

Dorothy J. Eng,
Executive Director

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