

EMJ



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[REDACTED]

C O N F I D E N T I A L

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Case No. 93006.Q
POST-CITY EMPLOYMENT

Dear Ms. [REDACTED]:

On [REDACTED], you telephoned the Board of Ethics Office with a question about the post-employment provisions of the Governmental Ethics Ordinance. You asked if the Ordinance would prohibit your department from contracting with a former employee to perform tasks she previously performed as an employee.

The former employee held the position of [REDACTED] until early [REDACTED], when she left City employment. In that position her primary responsibility was to translate literature received from various City departments into Spanish for bilingual publication and distribution to the public. As time permitted, she performed other duties such as entering documents into the computer and proofreading documents in both English and Spanish. You stated that this former employee is highly trained in Spanish, as well as other languages, and that you believe she holds several degrees in Spanish.

Rather than hiring someone to replace the former employee, you would like to contract with her solely for Spanish translations. You stated that translation work in your department is somewhat sporadic and that it would be more cost-effective to contract with the former employee to translate documents as needed.

The post-employment section of the Governmental Ethics Ordinance, 2-156-100, states in relevant part:

(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.

According to this section, a former City employee is subject to two provisions that may restrict her or his employment after leaving City service: a one-year prohibition and a permanent prohibition. A former City 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. The permanent post-employment prohibition does not apply in this case since the former employee's duties did not involve contracts.

As a [REDACTED], the former employee's primary responsibility was to translate literature received from various City departments into Spanish for bilingual publication and distribution to the public. This is also the task for which you wish to contract with her. The skills required to translate the documents into Spanish are the occupational skills of the former employee's profession, gained through her education and training as a specialist in the Spanish language. The former employee did not need any special knowledge of the subject matters of the documents she translated. Therefore, her performing this same task as a contractor does not fall within the intended meaning of the one-year post-employment provision, and contracting with the former employee to do translations as needed would not violate that provision of the Ordinance. See case no. 91098.A.

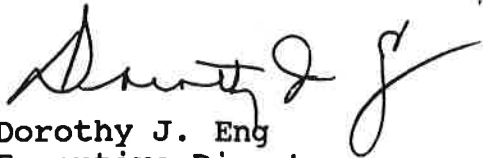
Our opinion in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts presented are incorrect or incomplete, please notify us immediately, as any change in the facts may alter our opinion. Please be advised that other laws or rules may apply to this situation.

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[REDACTED]
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We appreciate your bringing this matter to our attention and your department's willingness to uphold the ethical standards embodied in the Governmental Ethics Ordinance. If you have any further questions, please feel free to contact this office.

Very truly yours,



Dorothy J. Eng
Executive Director

cc: Kelly Welsh, Corporation Counsel

93006.L