

**ADVISORY OPINION**  
**CASE NO. 98049.A**  
**Post-Employment**

To:

Date: October 21, 1998

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You were Special Projects Coordinator in [ Department 1 ] until you left City employment in June 1998. You now work for [ Alpha Company], a management consulting firm in Chicago. In a letter of September 25, 1998, you asked the Board of Ethics for an advisory opinion on whether the Governmental Ethics Ordinance would allow you to participate in a project [Alpha Company] may undertake with [Department 1].

This advisory opinion contains the facts you presented, as well as our analysis and determinations.

**FACTS: Background. City positions.** You were employed by the City of Chicago for almost four years. From September 1994 to March 1997 you were a [staffer] in the City's [Department 2 ]. You worked in almost every division of this [Dept.] and became familiar with the operations of many City departments as a result. You eventually became a [senior staffer ] with [Department 2]. You said [Department 1's] Commissioner then offered you the position of Special Projects Coordinator in [Department 1's] Commissioner's Office, which you held from March 1997 through June 1998. As Special Projects Coordinator, you reported directly to the Commissioner and were what you called a "troubleshooter" for [the Commissioner] on projects within the Department. For example, you coordinated meetings between [Department 1] senior staff and other City agencies or private entities as the need arose with respect to department projects.

**Your current position.** In June 1998 you left your City job and started working for [Alpha Company ] a Chicago-based consulting firm that provides consulting advice to private companies and governments, including, you said, Fortune 500 companies and the federal government. You said [Alpha Company ] specializes in consulting on strategic planning, minority business development, venture capital, and diversity in the workplace.

The RFP for the [Bureau of X ] project. [Alpha Company ] has become aware that [ Department 1 ] may be seeking a private firm to write a request for proposals ("RFP") for a project in the department's [Bureau of X ]. The RFP, you said, would seek proposals from private consultants to conduct a "competitive assessment" of the [Bureau

of X ] to determine how effectively the bureau is performing. You said the consultant chosen to conduct the competitive assessment would analyze employee efficiency, labor management, purchasing practices, and technological needs within the Bureau and recommend changes to increase the department's efficiency and cost-effectiveness.

The RFP [Alpha Company ] may write, you said, would contain the following: a detailed description of the project to be performed, including a description of the issues within the bureau the assessment should focus on, project deadlines, what kind of reports are expected from the vendor, and follow-up requirements; relevant information about the [Bureau of X ] (e.g., the size, function, and hierarchical structure of the Bureau and the divisions within it); and a list of qualifications that the vendor on this project must have. The RFP will also contain information about how to submit proposals and the forms necessary for doing so.

If [Alpha Company ] is chosen to write the RFP, you said, it will conduct the necessary research on the [Bureau of X ] and write the RFP, and then advise the department on selecting a vendor. You said that [Alpha Company ] itself could not be chosen to conduct the competitive assessment in the [Bureau of X ] because City rules bar the writer of an RFP from being selected as vendor for the project. After the vendor for the [Bureau of X ] project is selected, you said, [Alpha Company ] would not participate further in the project.

Your work on previous [Department 1 ] RFP's. You said you worked in connection with two RFP's for [Department 1 ] while you were employed by the City.

The first of these, which you participated in while employed by [Department 2 ] was an RFP that sought proposals from consultants for a project to determine which functions in the [Bureau of Y ] should continue to be performed by the Bureau itself and which should be given to outside vendors. The [Bureau of Y ], you said, is responsible for maintaining [certain equipment ] in Chicago. In this project, you said you were on a team that analyzed the responses to the RFP and selected the vendor for the project, [Beta Company ]. Following the selection process, you were a leader in negotiating the contract between [Beta Company ] and [Department 1 ]. During the project, you said, you reviewed this firm's billing statements and advised [Dept. 1's] Commissioner whether they were accurate and should be forwarded for payment. You said you also worked with [Department 1 ] to resolve problems resulting from laying off union employees in the process of privatizing some of the [Bureau of Y's] functions.

The second RFP you worked on in [Department 1 ], this time while you were Special Projects Coordinator in [Department 1 ], sought a private firm to help the [ ] Collection Division in the [Bureau of Z ] develop a new computerized collection system. The RFP for this project was written by the consulting firm [Gamma Company ], in conjunction with the [

] Collection Division and a team from [City Department 3]. You said you attended meetings between [Gamma Company], the [ ] Collection Division, and the [Dept. 3] team in order to monitor progress on writing the RFP and reported your assessments directly to the [Dept. 1] Commissioner. The [Dept. 3] team you said, had primary responsibility for selecting the vendor for the project, [Delta Company], a computer company that specializes in computer systems for water providers.

**LAW AND ANALYSIS:** Section 2-156-100 (b) of the Ethics Ordinance, "Post-Employment Restrictions," states:

**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.**

To "assist" or "represent" 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. 92035.A. The Ordinance defines "contract management authority" as:

**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. (§2-156-010[g])**

Section 2-156-100 of the Ordinance imposes both a one-year and a permanent prohibition on former City employees' post-employment activities. The one-year prohibition begins on the date one's City employment ends, not on the date one stops participating in specific projects or transactions.

Since the transaction between [Alpha Company] and [Department 1], as you described it, does not involve a contract over which you may have exercised contract management authority while you were a City employee, no analysis of the permanent prohibition is necessary. The Board's analysis of how the one-year prohibition applies to your situation follows.

The One-Year Prohibition. Under the Ordinance, former City employees are prohibited for one year from the date they leave City employment from assisting or representing any person or entity in a business transaction with the City if, while they were employed by the City, they participated personally and substantially in the subject matter of the transaction. The transaction contemplated is [Alpha Company's ] possible contract to write an RFP and to help select a vendor for the "competitive assessment" project in [Department 1's ] [Bureau of X].

As a City employee you evaluated proposals and helped select the vendor with respect to the RFP for the [Bureau of Y ] project. You also attended meetings with the RFP writers for the [ ] Collections project and evaluated their performance so you could report to [Dept. 1's] Commissioner. By virtue of your work in connection with these two RFP's, you have acquired a special, personal knowledge of [Department 1 ]'s procedures and criteria for evaluating and selecting vendors. In addition, your close work with [Dept. 1's] Commissioner on the [ ] Collections RFP indicates that your knowledge of these procedures and criteria is not limited to a particular bureau or division of the department, but spans the department as a whole.

In a previous opinion, Case No. 94011.A, the Board found that a former City employee's experience with "the categories and criteria used in [his department's] bid evaluation and program renewal process" was personal and substantial, and thus the employee was prohibited for one year after leaving City work from assisting or representing his new employer in a contract with his former department because doing so would require him to use the special knowledge he gained of these criteria. Case No. 94011.A, pp. 9-10. The Board stated that the employee's knowledge of these criteria "might give [him] an advantage over other contractors in preparing program evaluations and funding proposals that are submitted to [his former City department]. The post-employment provision of the Ordinance is designed to prohibit this sort of advantage." Case No. 94011.A, p.10.

Knowledge of a given department's procedures and criteria for selecting vendors is a key element in formulating an RFP for that department and evaluating the proposals received in response to the RFP. Based on the facts of the case and on Board precedent, it is the Board's opinion that assisting [Alpha Company ] in writing the RFP for the [Bureau of X ] and evaluating proposals received in connection with it would necessarily involve you in a subject matter in which you participated personally and substantially during your City employment—the procedures and criteria for evaluating and selecting vendors in [Department 1 ]. It is thus the Board's opinion that the Ordinance prohibits you for one year from the date you left City employment from assisting or representing [Alpha Company ] in its effort to secure the contract to write the RFP at issue, and, in the event [Alpha Company ] receives this contract, from working on this project, including writing the RFP and advising on the selection of a vendor.

The Board has previously noted that "post-employment provisions are intended to limit former employees' ability to obtain benefits for themselves or those whom they serve by using their influence with the government agencies and personnel they worked with while in public service....

By preventing both the actual abuse of influence as well as its appearance, the restrictions promote public confidence in the fairness of governmental decisions." Case No. 94014.A, p. 21; see also Case No. 89119.A, p. 8. The determination in this case serves these purposes.

**DETERMINATION:** The Board determines that the Ordinance's provision on post-employment restrictions prohibits you for one year from the date you left City employment from assisting or representing [Alpha Company ] in its effort to secure the contract to write an RFP for the "competitive assessment" project in [Department 1's ] [Bureau of X ], and, in the event [Alpha Company ] receives this contract, from working on this project, including writing the RFP and advising on the selection of a vendor.

We also advise you that Section 2-156-070 of the Ordinance, "Use or Disclosure of Confidential Information," prohibits all current and former employees from using or disclosing any confidential information gained in the course of their City employment. "Confidential information" is defined as any information that may not be obtained pursuant to the Illinois Freedom of Information Act, as amended.

Our determination in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts stated are incorrect or incomplete, please notify the Board immediately, as any change may alter our determinations. Other laws or rules may also apply to this situation.

**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 indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

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Darryl L. DePriest  
Chair