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August 13, 2002

CONFIDENTIAL

[John]
[Address 1]
[Address 2]

**Re: Case No. 02026.Q
Post-Employment**

Dear [John]:

On August 1, 2002, you asked the Board of Ethics for an opinion on whether you, a former City employee, would be prohibited under the City's Governmental Ethics Ordinance from accepting employment with City contractor [XZ, Inc.], performing clerical tasks for [XZ] in support of its work on the City's [Project]. Following a review of the relevant law and Board precedent, staff has concluded that the Ordinance does not prohibit you from accepting the position.

FACTS

On July 1, 2002, you were laid off by the City from your position as a Clerk III in the City's [Department 1 (D1)], [Bureau 1]. On August 1, 2002, during a meeting with Board staff, you reviewed your employment history with the City.

From June 1, 2001 until July 2002, you worked at the Bureau's [Avenue Z] site as a [Clerk]. (You entered City service in January 2001 and initially worked for the City's [Department 2].) You stated that your job responsibilities as a [Clerk] in [D1] consisted of the following: collecting and filing assorted Bureau documents (e.g., daily lists of Bureau work sites and assigned personnel); faxing documents to other City departments and vendors; processing and inputting purchase orders submitted by various Bureau tradespeople for materials and supplies and invoices from vendors and payment vouchers; verifying unit prices, totals and available funding; and preparing statistical and other monthly reports pertaining to the above, utilizing Bureau software. You stated that, although you were responsible for checking and reconciling invoices and purchase orders, you had no signatory authority. You also stated that you had no role in the selection of Bureau vendors or in the negotiation of vendor contracts.

You stated that you do not recall ever processing invoices, purchase orders or payment vouchers relating to the [Project], or to [XZ, Inc.] You also stated that you learned of the employment opportunity at [XZ] through a



former supervisor who suggested that you contact Board staff for advice regarding your possible employment with [XZ]. As of the date you requested this opinion, you had had no contact with [XZ] regarding the position.

RELEVANT LAW AND ANALYSIS

Section 2-156-100(b) of the City's Ethics Ordinance, entitled Post-Employment Restrictions," states in relevant part:

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.

This section of the Ordinance imposes both a one-year and a permanent prohibition on former City employees post-employment activities. Under these sections, you, as a former City employee are 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 you participated personally and substantially in the subject matter of that transaction. Additionally, you are permanently prohibited from assisting or representing any person in a contract if while a City employee, you exercised "contract management authority" with respect to that contract.¹

The issue presented in this case is what restrictions the one-year prohibition in Sec. 2-156-100(b) imposes on your employment with [XZ]. You stated that your employment duties with [XZ] would consist of performing clerical tasks in support of its work on the City's [Project]. While these tasks are related to a business transaction involving the City (the [Project]), it is not a business transaction in whose subject matter you participated "personally and substantially" while in City service, as the facts you have presented indicate that your City duties involved neither the [project] nor [XZ]. Staff therefore concludes that Sec. 2-156-100(b) does not prohibit you from accepting the position with [XZ], as the position does not involve assisting or representing [XZ] in a business transaction involving the City in which you personally and substantially participated in while employed by the City of Chicago. Our conclusion is supported by the opinion issued by the Board in Case No. 90079.A, where the Board determined that a former City employee was not prohibited by Sec. 2-156-100 from assisting and representing a company that had business transactions with his former City

¹The permanent prohibition is not at issue in this case, as the facts you have presented do not indicate that you ever exercised contract management authority with respect to any contract that [XZ] has with the City.

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department, as he would be assisting the company only with work with which he had no involvement during his City employment. Our conclusion is further supported by the Board's decision in Case No. 91036.A, where the Board determined that a former City employee's provision of technical assistance to human service agencies seeking City funding involved skills and knowledge that were not dependent on his City position, but that were common to his trade. Likewise, in your case, while your responsibilities with [XZ] may involve some of the same skills and techniques that you used while employed by the City (i.e., processing documents, preparing reports, etc.), such skills and techniques are common to all clerical work, acquired through education and job experience, and your knowledge in this area is not contingent on your City position.

Based on the facts as you have presented them, Board staff concludes that the one-year prohibition in Sec. 2-156-100(b) does not prohibit you from accepting the position with [XZ], as you did not participate personally and substantially in the [Project] or in its subject matter, or in any other transaction involving [XZ] while employed by the City.

Staff's opinion is based solely 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 us immediately, as any change may alter our opinion. If you have any further questions, please do not hesitate to contact us.

Very truly yours,

[Signature]
John H. Mathews
Legal Counsel

Approved by:

[Signature]
Dorothy J. Eng
Executive Director