

Legal Opinion: GMP-0018

Index: 6.631
Subject: Outside Legal Employment
FOIA Exemption 6: Names Withheld

November 8, 1991

MEMORANDUM FOR:

FROM: Carole W. Wilson, Associate General Counsel for Equal
Opportunity and Administrative Law, GM

SUBJECT: Outside Legal Employment

This is in response to your request to engage in the outside practice of law. Specifically, you would like permission to assist the _____ obtain tax-exempt status with the Internal Revenue Service. Such assistance would require approximately 10-20 hours of work that would be conducted during your off duty time. After reviewing your request, I have determined that I cannot give you permission to assist the _____ in the preparation of an application for tax-exempt status.

Section 205 (a)(2) of title 18, United States Code, prohibits officers and employees of the Department, with or without compensation, from acting as "agent or attorney for anyone before any department or agency. . .in connection with any covered matter in which the United States is a party or has a direct and substantial interest. . ." Subsection (h) defines the term "covered matter" to include any "application" or "other particular matter."

It is my opinion that an application for tax-exempt status is a covered matter under the statute in which the United States has a direct and substantial interest. I recognize that this may seem like an inequitable result, particularly in light of the little time required to prepare an application for tax-exempt status. Nevertheless, activities that raise the specter of criminality must be avoided.

Please contact me if you have any questions regarding this matter.