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January 30, 2001

RQ-0344-JC

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OPINION COMMITTEE

FILE # ML-41868-01
I.D. # 41868

The Honorable John Cornyn
Attorney General of Texas
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: *Registration of Lockheed Martin Corporation under Section 17 of the Texas Engineering Practice Act and a related question.*

Dear General Cornyn:

This is to request a written opinion from your office as to whether Lockheed Martin Corporation (LMC) is required to register with the Texas Board of Professional Engineers (the Board) under section 17 of the Texas Engineering Practice Act, Article 3271a, Tex. Rev. Civ. Stat. Ann. (Vernon Supp. 2001).

Section 17 provides in part as follows:

- (a) A sole proprietorship, firm, co-partnership, corporation, or joint stock association may engage in the practice of professional engineering in this state, provided:
 - (1) the entity is registered with the Board; and
 - (2) such practice is carried on only by professional engineers licensed in this state.

LMC claims that it is not subject to the registration requirements of section 17 because part of its operations are located on a federal enclave and it primarily provides products and services to the federal government under various defense contracts. Correspondence from LMC's attorneys dated November 29, 2000, sets out in detail the reasons why LMC does not consider itself subject to section 17 and such correspondence is incorporated by this reference. LMC's November 29, 2000, correspondence does not dispute the fact that its business engages in various aspects of the practice of engineering. It is the Board's position that LMC must comply with the various provisions of the Board's Act including section 17.

Specifically, the board's questions are as follows:

1. Is LMC required to register with the Board pursuant to section 17 of the Act?

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2. Do the registration requirements of section 17 extend to Lockheed Martin Aeronautics Company (LM Aero), an unincorporated division of LMC, doing business in Texas since 1943 on a federal enclave?
3. Would the registration requirements of section 17 extend to LM Aero if it was an incorporated subsidiary of LMC doing business on a federal enclave or an incorporated subsidiary doing strictly defense contracting business for the federal government off the enclave.

Further, the Board is requesting a determination as to whether the Act applies to non-licensed engineers who are working as independent contractors for LMC at its facility on the federal enclave. Are non-licensed contract engineers, who are not full time employees of LMC, subject to the Board's Act when providing engineering services to LMC on a federal enclave? The Board's position is that section 20(a)(2) does not provide an exemption for non-licensed contract engineers and that such individuals are subject to the Board's Act even when working on a federal enclave.

The Board is enclosing a copy of its file, including the November 29, 2000, correspondence, concerning this matter. Should you need additional information, please contact Walter May, P.E., D. Min., Director of Licensing, at 512/440-3054.

Thank you for your consideration of this request.

Sincerely,



Victoria J.L. Hsu, P.E.
Executive Director

VH:FK:jsb