



THE PRINCE GEORGE'S COUNTY GOVERNMENT BOARD OF ETHICS

Rushern L. Baker
County Executive

Robin Barnes-Shell
Executive Director

The Honorable Covette Rooney, Chair
Cassandra Burckhalter, Member
Anne Magner, Esq., Member
Addie Martin, Member
Norris Sydnor, Member

OPINION

March 19, 2014

[REDACTED]
[REDACTED]
[REDACTED]

RE: Conflict of Interest

[REDACTED]:

This letter is in response to your inquiry regarding your possible post-retirement employment with [REDACTED] a current awardee of a Prince George's County, Maryland (the "County") contract. As we understand, you are an Associate Director of [REDACTED] and will retire in the near future. You stated that you are currently in discussions with [REDACTED] regarding possible employment after you retire. You also explained that while you did not participate in the procurement/selection process for [REDACTED] and other similar firms, you do participate in the administration of [REDACTED] County contract, including the approval of [REDACTED] work proposals and authorization of [REDACTED] payments. You inquired as to your interactions with [REDACTED] given these circumstances.

As explained in detail below, the Board finds that the County Code of Ethics (the "Ethics Code") prohibits your participation in any matter regarding [REDACTED] because you are in employment discussions with that firm. However, if you are the only person authorized to perform your duties that involve [REDACTED], you may continue to perform such duties provided you disclose the nature and circumstances of the conflict. The Ethics Code does not state to whom such disclosure should be made. However, the Board opines that your disclosure to this Board and the Director of [REDACTED] would constitute compliance with the disclosure requirement.

The Board also advises that should you obtain employment with EBA after you retire, you may not participate in any matter you significantly participated in while employed by the County. This would preclude you from performing work on EBA's present contract with the County.

March 18, 2014

Page 2

Our detailed analysis follows.

Analysis

County employees are subject to the following relevant participation restrictions set forth in Section 2-293(a) of the Ethics Code:

Sec. 2-293. Prohibited conduct and interests.

...

Except as permitted by Board regulations or opinion, an official or employee may not participate in:

...

(2) Any matter, when any of the following is a party thereto:

(C) Any business entity with which he . . . is negotiating or has any arrangement concerning prospective employment;

...

The Board equates your “discussions” with [REDACTED] with “negotiating” as used in the foregoing provisions. Accordingly, while you are employed with the County, the Ethics Code prohibits your participation in any matter when [REDACTED] is a party. This would include authorizing payments to [REDACTED], approving [REDACTED] work orders, participating in meetings regarding the [REDACTED] contract, [REDACTED] contract administration and any other matters where [REDACTED] is the subject (or one of the subjects).

Notwithstanding the foregoing, Section 2-293(a)(3) of the Ethics Code provides that if you are the only person authorized to perform your duties as they pertain to [REDACTED], you are required to disclose the nature and circumstances of the conflict and may then participate or act. Thus, if you are the only County employee who can authorize [REDACTED] payments, approve [REDACTED] work proposals, administer [REDACTED] contracts, etc., you are authorized to do so provided you disclose that you are in employment negotiations with [REDACTED]. As stated above, the Board opines that your disclosure of this fact to this Board and the Director of [REDACTED] will constitute compliance with the disclosure requirement. However, if there is anyone else that can perform your [REDACTED] related duties, your participation in [REDACTED] matters is prohibited.

Also be advised that should you obtain employment with [REDACTED] post-retirement, you must comply with Section 2-293(b)(2)(A) of the Ethics Code, which provides in relevant part as follows:

Sec. 2-293. Prohibited conduct and interests.

...

(b) Employment Restrictions.

...

(2) Post-employment limitations and restrictions.

████████████████████
March 18, 2014

Page 3

(A) With the exception of former members of the County Council, a former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which he significantly participated as an official or employee.

Pursuant to these provisions, upon obtaining employment with ██████ you are prohibited from working on the ██████ contract or any other matter involving ██████ that you worked on while employed by the County.

Sincerely,

/s/ Covette Rooney
Covette Rooney
Board Chair