



**THE PRINCE GEORGE'S COUNTY GOVERNMENT
BOARD OF ETHICS**

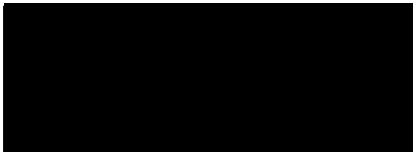
Rushern L. Baker
County Executive

Robin Barnes-Shell
Acting Executive Director

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

OPINION

March 6, 2014



RE: Conflict of Interest

Dear [REDACTED],

You have requested an opinion from the Prince George's County, Maryland (the "County") Board of Ethics (the Board) on whether a conflict of interest arises from your role as Chair of the Board of Directors for the [REDACTED] of Prince George's County, Maryland (the [REDACTED]) and your business' conduct of competing for and/or obtaining development contracts with the Washington Metropolitan Area Transit Authority ("WMATA") and the Redevelopment Authority of Prince George's County (the "RA").

In sum, the Board of Ethics finds that the County's Code of Ethics does not prohibit your business from competing for contracts with the RA. The Board further finds that the Code of Ethics does not prohibit your business from competing for contracts with WMATA. Our detailed analysis follows.

Background

As we understand, you own a development company named [REDACTED] which intends to compete for development contracts with WMATA and the RA. You informed the Board that WMATA plans to advertise a solicitation for the development of three METRO stations in Prince George's County. As WMATA has required proposers to complete the County's "Vendor's Oath and Certification" in previous solicitations, you suspect that requirement will be present in the upcoming WMATA solicitations. You inquired as to whether [REDACTED] may bid on WMATA solicitations while you are the Board Chairman of the [REDACTED] without violating the County's Code of Ethics (the "Ethics Code").

You also informed the Board that the RA recently issued solicitations for the redevelopment of Glenarden Apartments. You similarly inquired as to whether [REDACTED] may bid on RA solicitations while you are the Board Chairman of the [REDACTED] without violating the Ethics Code.

Analysis

The Ethics Code subjects all County officials to its provisions. Section 2-291 of the Ethics Code defines the word “official” as any person elected to, appointed to, “or employed by the County or any County agency, board, commission, or similar entity whether or not paid in whole or in part with County funds and whether or not compensated.” Under these provisions, the chairpersons of local housing authorities are unquestionably subject to local ethics laws.

County officials are subject to the following procurement restrictions set forth in Section 2-293(i)(1) of the Ethics Code.¹

“An individual or a person that employs an individual who assists a County agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.”

The foregoing provisions do not prohibit your firm from submitting proposals for WMATA procurements because WMATA is not a County agency. Further, we cannot opine on WMATA’s use of the County’s “Vendor’s Oath and Certification” as we do not know WMATA’s reasons/policies for such use and the Ethics Code makes no reference to the use of County certification documents by others.

Unlike WMATA, the RA is a County agency within the meaning of the Ethics Code. However, as the Board has no facts indicating that you or anyone within your employ will assist the RA in any manner with procurements, the foregoing Ethics Code provisions do not prohibit your firm from submitting proposals to RA procurements.

With respect to the general participation restrictions in the Ethics Code, we interpret those provisions as applying only to matters you would participate in as an official or employee of the County rather than as a business entity bidding on County contracts. Consequently, there are no provisions within the Ethics Code that expressly prohibit your firm from competing for RA contracts.

Finally, we do not consider the [REDACTED] Executive Director’s ex-officio membership on RA’s Board as presenting a conflict of interest for you or your business. We assume that to the extent the RA Executive Director himself is presented with a potential conflict of interest, he will comply with the Ethics Code and/or seek the opinion of this Board.

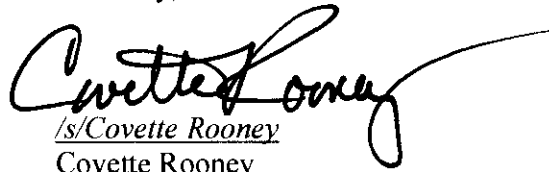
¹ Some of the participation prohibitions are omitted as inapplicable to the subject facts.

Please be advised that County law makes this Board the advisory body responsible for interpreting Division 17 of Subtitle 2 (Administration) of the County Code. The County Charter and Procurement laws provide further guidance in the circumstances set forth herein but are beyond the scope of authority of the Board of Ethics. This opinion, therefore, is limited to the application of Division 17 as required by Section 2-292(b) and (h). We recommend that you seek an Opinion from the County Office of Law regarding the application of the provisions of County Charter Section 1002 to the issue of your business bidding on any RA County contracts.

Conclusion

For the foregoing reasons, we opine that the County's Code of Ethics does not prohibit your business from competing for contracts with the RA. In reaching this decision, the Board of Ethics has relied upon the facts as presented. However, we recommend that you seek an opinion from this Board if at any time you determine that a conflict of interest, an appearance of a conflict of interest, or violation of the Code of Ethics may occur.

Sincerely,

A handwritten signature in black ink, appearing to read "Covette Rooney", with a long, sweeping horizontal line extending to the right.

/s/Covette Rooney
Covette Rooney
Board Chair