

BOARD OF ETHICS  
WASHINGTON SUBURBAN SANITARY COMMISSION

**ADVISORY OPINION # A-12-04**

SUBJECT: CODE OF ETHICS § 3-3 EMPLOYMENT RESTRICTION-FORMER COMMISSIONERS AND EMPLOYEES

By request dated April 23, 2012, a former WSSC employee (Requestor) has asked the Board of Ethics (Board) to issue an advisory opinion as to whether the WSSC Code of Ethics (Code) prohibits the former employee employed as a Senior Civil Engineer, from consideration and acceptance of employment with a civil engineering consultant subcontractor to a WSSC contractor within the Washington Suburban Sanitary District (WSSD).

The Requestor separated from WSSC employment on August 26, 2011. The Requestor is considering working for a civil engineering consultant firm (firm) that serves as a subcontractor on one of the Consent Decree Driven Sewer Rehabilitation Basic Ordering Agreement contracts. As a prior WSSC Senior Civil Engineer, the Requestor never directly worked with the civil engineering consultant contractor. The Requestor also provided that the firm plans to pursue projects as a prime contractor with WSSC in the near future. As noted in the Requestor's Request for Advisory Opinion, the firm desires the Requestor to work as a project manager/client contact for the sewer rehabilitation contract.

Code of Ethics Section 3-3(b) prohibits a former WSSC employee from acting "as an agent or representative of any person or entity in a business transaction with WSSC within 12 months or their separation from WSSC." While Section 3-3(b) does not prohibit former employees from generally working on the WSSC contracts for the initial 12 months of their employment separation from WSSC, it does prohibit former employees from acting as agents or representatives of any person or entity on WSSC matters. Requestor shall not serve as an agent or representative for the civil engineering consultant firm within twelve months of Requestor's employment separation from WSSC.

The Board notes that Code of Ethics § 3-3(a) also addresses post-employment restrictions. This section, unlike § 3-3(b), has no time restrictions. It prohibits former WSSC employees from assisting or representing "a party in a case, contract or other specific matter for compensation involving WSSC *if the former employee participated significantly in the matter as an employee.*" (Emphasis added) Requestor has stated that during her tenure at WSSC, she did not participate significantly on a case, contract or other specific matter involving the firm. However, if the firm should bid on a WSSC contract that involves a matter on which she did "participate significantly," as that phrase is defined in the Code, then Section 3-3(a) would prohibit her from ever "assisting or representing" the firm on that WSSC project.

In conclusion, based on the facts presented, the Board holds that the Code prohibits the Requestor from accepting employment as an agent or representative with a civil engineering

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consultant subcontractor to a WSSC prime contractor within the WSSD within 12 months of her employment separation. The Board encourages Requestor to fully educate herself about all post employment restrictions as prescribed by the WSSC Code of Ethics as she endeavors into future new career opportunities. Should circumstances change or additional concerns arise, Requestor should seek further guidance from the Board.

On motion by Steve Hausman, seconded by George Pruden, II, the Board agreed at its meeting held on **July 12, 2012**, to adopt the foregoing advisory opinion.

  
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Robert Moore, Chair

  
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Date