

**BEFORE THE WASHINGTON SUBURBAN SANITARY COMMISSION
BOARD OF ETHICS**

COMPLAINT NO. C-20-04

SUMMARY OF SETTLEMENT AGREEMENT

On March 23, 2020, the General Manager of the Washington Suburban Sanitary Commission (“WSSC”) filed a Complaint with the WSSC Board of Ethics (the “Board”) pursuant to Section 1.65.070(a)(1) and 1.70.080(a) of the WSSC Code of Ethics (the “Code”) against the Company (“The Company”) and a former WSSC Employee (“The Former Employee”).

The Complaint alleged that the Company violated the Code at Section 1.70.200, which essentially prohibits any entity from encouraging, aiding or abetting a WSSC employee to violate the Code of Ethics. The Company is also alleged to have violated Ethics Code provision 1.70.260 with respect to its dealings with the Former Employee, from August 2019 to March 2020. Finally, the Company is alleged to have violated 1.70.270 by employing the Former Employee as a consultant, while at the same time being part of the AMI proposal submitted by the Bidding Company as a potential subcontractor.

The Complaint was investigated by WSSC Designated Staff Counsel (“Staff Counsel”). Staff Counsel, following discussions with counsel for the Company, recommended that the Board accept a Stipulation of Settlement Agreement (Agreement) between the Company and Staff Counsel, subject to acceptance of its terms by the Board.

Having reviewed and discussed the proposed Agreement at its August 2020 meeting, the Board issued an Order accepting the terms of the proposed Agreement. As part of the Agreement, the Board issued this Summary for posting on the Board's internet page on the WSSC website.

SUMMARY OF FACTS

1. This Agreement was entered into pursuant to WSSC Board of Ethics Rules of Procedure Code Section 1.65.070(f).
2. On March 23, 2020, the General Manager of the Washington Suburban Sanitary Commission (“WSSC”) filed a Complaint with the WSSC Board of Ethics (the “Board”) pursuant to Section 1.65.070(a)(1) and 1.70.080(a) of the WSSC Code of Ethics (the “Code”).
3. Beginning in mid-2018 and all during 2019, WSSC was engaged in developing a solicitation to obtain an Advanced Metering Infrastructure (“AMI”) solution.
4. The Former Employee was employed by WSSC as a Strategic Coordinator in WSSC’s Meter Services Division until August 1, 2019.
5. WSSC created a team to review options and make recommendations regarding AMI. The Former Employee was a member of the “AMI Functional Core Team” and the “AMI Metering Subcommittee,” which was a subcommittee to the overall AMI Project.
6. In this role, the Former Employee attended meetings, provided comments, reviewed early vendor responses to the AMI Request for Information (“RFI”), and discussed requirements for what would become WSSC’s AMI Solicitation.
7. In that light, the Former Employee participated in the drafting of the AMI RFP.
8. The Former Employee is considered an expert in the subject matter of water meter technology. He has served as a Chair on the American Water Works Association (AWWA) Standards Committee on Water Meters.
9. The Former Employee was not a member of the WSSC Evaluation Team formed to review the Proposals received in response to the AMI RFP issued in September 2019.
10. The Company as early as May 6, 2019, directly contacted the Bidding Contractor via email about collaborating with them on the AMI RFP.
11. The Former Employee retired from the WSSC on July 31, 2019.
12. Company Executive #1 is a Strategic Coordinator for the Company, an IT Applications company from Baltimore, Maryland, and a current WSSC vendor. Company Executive #1 previously served as a Commissioner of the WSSC.

13. On July 17, 2019, the Former Employee was recognized as one of the WSSC Retirees for the month of July 2019. Company Executive #1 attended the meeting. The following day, Company Executive #1 emailed the Former Employee and asked the Former Employee to call Company Executive #1 about “an opportunity.”
14. Between July 20 and July 31, 2020, while the Former Employee was still a WSSC employee, the Former Employee and the Company (through Company Executive #1) negotiated the terms of a consulting agreement to engage the Former Employee as a consultant in utility meter evaluation, installation, and management.
15. The Company (while an active WSSC contractor, albeit on a contract unrelated to the AMI RFP) negotiated with the Former Employee for a personal services contract while the Former Employee was still a WSSC employee.
16. On August 1, 2019, his first day of retirement, the Former Employee signed a Consulting Agreement and Non-Disclosure Agreement with the Company to act as a consultant in utility meter evaluation, installation, and management.
17. On September 25, 2019, the Former Employee returned to the WSSC as a temporary employee with a six-month contract of employment. Upon returning to WSSC, the Former Employee did not formally inform anyone at WSSC of his contractual arrangement with the Company.
18. The Former Employee never informed anyone at the Company that he had returned to the WSSC as a temporary employee.
19. The Former Employee resumed participating for the WSSC in the AMI RFP.
20. By late October 2019, the Former Employee was still engaged as a consultant to the Company, and the Company had begun actively exploring the possibility of acting as a potential MBE subcontractor on the AMI RFP.
21. Company Executive #1 called the Former Employee on November 4, 2019 and spoke to him for 35 minutes soon after making contact with another vendor about potentially collaborating with it or another contractor on the AMI RFP.
22. The Former Employee later reported that Company Executive #1 asked about WSSC meters and WSSC meter technology specifically in the call.

23. The evidence shows that Company Executive #1 wanted to gain knowledge of water meter technology for his interaction with a potential prime contractor or others. The Company paid the Former Employee to educate itself for that purpose.
24. The Former Employee subsequently reported to Staff Counsel that he revealed only public information. The Former Employee assisted a potential subcontractor in the AMI RFP and received compensation from the Company for that assistance.
25. Thereafter, the Company provided only an Excel spreadsheet containing the Company's proposed labor rates and categories to the Bidding Contractor for a proposal in response to the AMI RFP, and was listed as an MBE subcontractor in a proposal submitted by the Bidding Company to WSSC in December 2019.
26. According to the Ethics Code, a former employee may not assist or represent 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.
27. On November 19, 2019 the Former Employee billed the Company for one (1) hour of consulting time for prep and the call on November 4, 2019 (\$125). The Company paid the Former Employee for this consultation. According to both the Former Employee and the Company, this was the only consulting work that the Former Employee provided to the Company. The Company officially terminated its contractual relationship with the Former Employee on July 13, 2020.
28. Also at some point in November 2019, the Former Employee informed a WSSC Procurement official that he was contractually engaged with a potential subcontractor to one of the proposers to the AMI RFP. The Former Employee did not mention the Company by name in his disclosure.
29. When asked by the procurement official, the Former Employee confirmed that he had been paid.
30. The Procurement official informed the Former Employee that he could not participate any further with the AMI RFP.
31. Notwithstanding this prohibition, the Former Employee continued to be involved with the AMI RFP as part of the Metering Subcommittee.
32. The Former Employee attended the Bidding Company's demonstration meeting at WSSC on January 29, 2020.

33. The Bidding Contractor listed the Company as a proposed minority business enterprise (“MBE”) subcontractor at the demonstration.
34. The Former Employee was present but said nothing about his affiliation with the Company at the demonstration meeting.
35. Procurement officials took note of the Former Employee’s attendance at the demonstration and began an informal inquiry into the Former Employee’s role in the AMI RFP and his potential conflicts.
36. On 28 February 2020, the Former Employee’s six-month employment with WSSC was rescinded.
37. The Company was a documented proposed subcontractor as of December 9, 2019, when the Bidding Contractor submitted its proposal which listed the Company as a proposed subcontractor for over \$350,000 worth of work.

SUMMARY OF SETTLEMENT AGREEMENT

1. The foregoing Findings of Fact are regarded by the Parties as true and correct and were expressly incorporated into the Agreement, subject to the understanding that, with respect to Findings of Fact 6, 9, 17, 19, 22, 24, 28, 29, 30, 31, 32, 34, 35 and 36, the Company had no knowledge of the facts described therein at the time of their occurrence, and only learned of such facts after the filing of the Complaint and the commencement of the investigation.

2. The Company acknowledged that Staff Counsel has evidence that, if presented at a hearing before the Board, could lead to a finding by a preponderance of the evidence that the Company violated Sections 1.70.200(f), 1.70.260(a)(1), and 1.70.270(a)(2) of the WSSC Code of Ethics.

3. The Company acknowledged it should have used better judgment when it offered employment to the Former Employee. The Company acknowledged that it should have done a better job of enforcing its policy of not discussing WSSC RFP 16215, "Advanced Metering Infrastructure Implementation Project," with the Former Employee at any time, and of ensuring that the Former Employee understood that his work for, and discussions with, the Company were to concern only other opportunities that had no connection with WSSC RFP 16215. The Company also acknowledged it could have sought the guidance of WSSC's Ethics Officer prior to the engagement of the Former Employee.

4. The Company acknowledges that it is bound by Section 1.70.270(a) of the WSSC Code of Ethics and has agreed that it will neither submit a bid or proposal nor assist another person, directly or indirectly to submit a proposal, for the next iteration, if any, of RFP 16125 or any other solicitation regarding Advanced Metering Infrastructure at the WSSC that is within the general

scope of RFP 16125, that may be issued within three years of the date of the Company's receipt of notice of this Ethics Complaint, C-20-04.

5. The Company acknowledged that the Former Employee is bound by Code of Ethics 1.70.190(a) and agreed that the Former Employee cannot assist in any in which the Former Employee participated in as Strategic Coordinator while at WSSC. The Company acknowledged that 1.70.190(a) is not time limited and the Former Employee's compliance responsibilities do not cease after the Former Employee's twelve-month separation from the WSSC has ended.

6. The Board accepted the Agreement as a compromise of the allegations made in the Complaint and that the execution of the Agreement is not to be construed as an admission by the Company that it violated any provisions of the WSSC Code of Ethics, including Sections 1.70.200(f), 1.70.260(a)(1), and 1.70.270(a)(2).

7. The Board agreed that it will not impose any sanctions, penalties, or take other actions against the Company, other than what is set forth in Paragraph 4 above.

8. The Company waived any formal proceedings and hearing in this matter.

9. The Company and Staff Counsel entered into the Agreement for the sole purpose of resolving the matters that arose under the Complaint and for no other purpose.

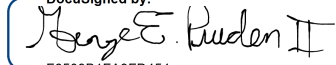
10. The Company voluntarily entered into the Agreement to resolve the Complaint pending against the Company without a hearing before the Board.

11. The Company warranted and represented that the Agreement was signed only after due consideration and after due consultation with its attorneys, and that the Company was not fraudulently induced, coerced or intimidated to sign the Agreement.

12. The Company was represented during the proceedings by counsel, Ira E. Hoffman, Esq. and Daniel R. Ackerman, Esq. of Butzel Long P.C., as indicated by their signatures on the Agreement.

13. The Agreement constituted the entire agreement and understanding between and among the Parties concerning the matters set forth therein. No other communications (written or oral) or documents, including correspondence between counsel, shall be construed or interpreted as a part of the Agreement.

On this 9th day of October 2020, the Board approved the foregoing Summary of Settlement Agreement in the above-captioned Complaint for posting on the WSSC Board of Ethics internet page.

DocuSigned by:

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Board Chair