

WASHINGTON SUBURBAN SANITARY COMMISSION
BEFORE THE ETHICS BOARD

IN RE: STACEY CHISHOLM

COMPLAINT C-20-07

Respondent

DECISION AND ORDER

This matter, a Complaint filed pursuant to the Washington Suburban Sanitary Commission (WSSC) Code of Ethics, was heard over the course of four days, February 9 and 12, April 25 and 27, 2022 before the WSSC Board of Ethics. The Hearing Officer was George E. Pruden II, Board of Ethics Chairman. The other members of the Board of Ethics who heard this matter were Steven Hausman, and Jeffrey Hysen regular members, and alternate member Chandria Slaughter. Mr. Steve Wrobel, Esq. appointed Staff Counsel in this matter pursuant to WSSC Code of Regulations § 1.70.080(c)¹, presented the case on behalf of WSSC. Respondent Stacey Chisholm was represented at the hearing by Mr. Mark Sobo Esq.

The proceedings were conducted pursuant to Code §§ 1.65.070(d)(e), 1.70.080(g), and WSSC's "Procedure for Adjudicatory Hearings", Code Chapter 2.35. The proceedings were stenographically recorded.

¹ Hereinafter the "Code"

SUMMARY

On or about July 8, 2020, the Board received a Complaint filed by the General Manager/CEO, Carla Reid, alleging that the Respondent had violated the WSSC Code of Ethics. The Complaint alleged, among other things, that Ms. Chisholm violated the Code by instructing vendors under a Basic Ordering Agreement (BOA)² to submit the resumes of certain friends and acquaintances of hers for consideration as contractors on Project Cornerstone.

At its meeting held on August 12, 2020, the Board found reasonable cause, based on the Complaint, to believe that Ms. Chisholm had violated the Code of Ethics — specifically Sections 1.70.020(a) and 1.70.200(a). In accordance with Code § 1.70.080(c), the Board then referred the Complaint to the General Counsel’s Office to assign Staff Counsel to investigate. Steven Wrobel, Esq. was retained to serve as Staff Counsel. The evidence gathered by Mr. Wrobel was presented to the Board at its December 9, 2020 meeting. After considering the evidence, the Board decided to proceed to a hearing on the Complaint.

FINDING OF FACTS

The Board makes the following findings of facts:

1. In January of 2019, the Office of the Inspector General issued a report on an audit entitled “IT Basic Ordering Agreement (BOA) Compliance” (hereinafter “audit”). It covers the period of July 1, 2016 through September 30, 2017. The report itself describes the scope of the audit as “focused on the BOA bidding process, overall

² A BOA is a contracting vehicle which allows WSSC to prequalify multiple vendors to supply it with contractors to do certain tasks. A BOA is exercised by the issuance of a task order which triggers the submission of potential contractors by the vendors. Presumably, WSSC managers will evaluate the submissions and award the task order to the vendor who submitted the most qualified contractor. At the times relevant to this matter there were three vendors available under the BOA.

management and reporting of BOA activity. In addition, we examined the hiring procedures for IT consultants.”

2. In addressing procedures used to award BOA task orders, the audit found that there were inconsistencies in selection processes, and a failure to properly document these processes. The audit recommended that IT use standard WSSC Human Resources processes for task order awards. This would include using three person panels for applicant interviews; having each panel member sign conflict of interest statements, and having the panel write a memo explaining the hiring selection. The audit concluded that “[i]f IT managers do not implement these procedures; *the process of hiring IT consultants may be susceptible to bias and favoritism.*” (emphasis added)
3. Management responded to this audit finding. In its response, management noted that as of September 27, 2018 it had implemented the use of HR hiring processes “to gauge qualifications and to ensure there is no chance for bias or favoritism.”
4. The processes set out in management’s response to the audit finding were as follows:
 - Three-member interview panel
 - List of interview questions asked for each interview
 - An objective scoring system
 - Interview summary by each panel member
 - Signed consensus by each panel member on selected candidate
 - Conflict of interest form signed by each panel member and/or supervisor, as applicable

5. The primary authors of management's response to the audit finding were Vernard Wright, then CIO and Rosa Wilson the IT Contract Administrator in charge of BOAs.
6. Both Ms. Wilson and Mr. Wright worked together to implement this process.
7. Ms. Wilson authored an August 3, 2017 email sent out under Mr. Wright's signature reminding all potential BOA hiring managers that all communication with the BOA vendors should go through the Contract Administrator, Ms. Wilson.
8. Ms. Wilson sent a September 27, 2017 email outlining the HR hiring process which was referenced in Management's audit response. It requires that all process required documents (e.g., conflict of interest forms, interview scoring sheets, written explanation of the selection) should be submitted with the task order award. Ms. Wilson attached to this email the conflict of interest form and IT's "Consultant Evaluation and Interview Guidelines."
9. The Respondent was hired by WSSC's IT Department in January of 2019. She was hired as the Chief Governance Officer, tasked with setting up the Program Management Office.
10. Shortly after her hire, Respondent attended WSSC's mandatory orientation. As part of this orientation she received training on WSSC's Code of Ethics taught by WSSC's Ethics Officer.
11. On March 14, of 2019, in the course of an email chain, Rosa Wilson informed Respondent of the task order award processes agreed to in management's audit response.³

³ Although appeared to be waived during closing arguments, the Respondent made allegations that the March 14th email was a fraud. The claim was based upon a copy that she had received that did not have the date on the email. Whether waived in closing or not, the Board finds that there is no evidence to support this claim. Mr. Wrobel demonstrated to the Board's satisfaction that depending on how the document was printed, as a PDF or as an Outlook file, the date can get cut off. Given this demonstration and the unchallenged affidavit of Ian Shaffer an IT Security

12. That email stated:

Due to IT BOA's having been under Internal Audit review, it is imperative that task order processes are followed based on their recommendations and feedback provided by the CIO. I am working within the guidelines to get the resources onboard as quickly as possible within contract compliance and IT guidelines (2017 CIO directive 1st attachment). Also, please ensure the evaluation/interview process is being followed based on the 2nd attachment

13. Ms. Wilson attached to this email the August 30, 2017 Wright email and the September 27, 2017 Wilson email and its attachments.

14. Respondent admitted to recommending the following individuals to the BOA vendors for consideration for open task orders. She knew these people from previous jobs, socially and through her sorority.

- Toni Smith
- Pauline Johnson
- Cheryl Galloway-Fenner
- Alexia Barber
- Prabu Kurakula
- Gerald Searles⁴

Analyst for WSSC that this email as well as other are duplicates of emails taken from WSSC's network, the Board has no doubt as to the veracity of Ms. Wilson's testimony on this issue. Overall, the Board found Ms. Wilson's testimony to be truthful and valuable to its understanding of the issues in this matter.

⁴ Hereinafter collectively referred to as "Subject Contractors."

15. Toni Smith was hired as a replacement for a contractor who served in the role of a Senior Management Consultant. The hiring of replacement contractors did not require the same process used to hire a new consultant.
16. The Respondent told Mr. Michael Vernon, WSSC Section Manager in IT Governance and a direct report of the Respondent, that she thought Ms. Smith was a good candidate for the open position. He reviewed her resume and did a phone screening with her.
17. On March 8, 2019 at 1:30, Mr. Ash Kapur, the contact person at Advance Digital Systems, a BOA vendor, emailed Ms. Smith's resume to Respondent. By 1:59, Ms. Wilson emailed him asking him to initiate a background investigation. Background investigations only get ordered after a hiring decision is made.
18. The respondent and Ms. Smith are sorority sisters and worked together in "public service."
19. The Respondent did not disclose this relationship to Ms. Wilson during the hiring process.
20. Ms. Smith's resume reflects twenty years of experience as the Executive Director of a non-profit. She has a Master's degree in Management for Organizational Effectiveness and a B.S. in Clothing and Textiles.
21. The process of hiring Ms. Johnson began on May 23, 2019 when Mr. Kapur emailed Respondent stating that Ms. Johnson had passed her background check and asking if he should submit her resume.
22. No one informed Ms. Wilson that Ms. Johnson had been selected or when her start date would be. She only found out about Ms. Johnson's hire and June 10th start when

she received a July 11th email from Mr. Kapur asking for the PO number to process payment for the month.

23. Because Ms. Johnson started work before the issuance of a PO, a contract ratification had to be done.
24. When Ms. Wilson reached out to Respondent and Mr. Vernon on July 11th to start this process, she did not get the information she needed until July 26th.
25. There was no evidence presented that Ms. Johnson was interviewed prior to her hiring.
26. Respondent knew Ms. Johnson as they worked together, briefly, at Fannie Mae.
27. Ms. Johnson was hired as a Project Manager and Senior Business Improvement Consultant. Her work history prior to her time at WSSC included nearly ten years at Fannie Mae in procurement and three years as President of the Hollis B. Johnson Scholarship Foundation.
28. On August 20th, Respondent emailed Mr. Kapur wondering why Ms. Johnson's hourly rate (\$141) was so high, stating that she could not approve a rate that high. Mr. Kapur lowered the rate to \$119 the same day.
29. The hiring process for Ms. Galloway-Fenner began when Mr. Kapur emailed Respondent on March 22, 2019 noting that he had submitted Ms. Galloway-Fenner's resume to Ms. Wilson for a project manager position.
30. Three days after submitting the resume to Ms. Wilson, Mr. Kapur emailed Respondent, copying Mr. Vernon, stating "[j]ust an update we've submitted Cheryl's BI⁵ application to the Inquiries (3rd party). Could you please ping Rosa for the process?"

⁵ Background Investigation

31. On April 1st Mr. Kapur emailed Respondent, copying Mr. Vernon and Ms. Wilson, saying that Ms. Galloway-Fenner had cleared the BI process and proposing a start date of April 15th.
32. At this point, Ms. Wilson did not know that a hiring decision had been made. Considering this, she emailed asking if a decision had been made regarding Ms. Galloway-Fenner's hire. She received an email response from Respondent – "My apologies Rosa we would like to move forward with Cheryl."
33. Mr. Kapur and Respondent determined Ms. Galloway-Fenner's start date.
34. The establishment of start dates without Ms. Wilson's input creates problems with ensuring that both a BI had been completed and a PO released.
35. Respondent knew Ms. Galloway-Fenner as they both worked together at Fannie Mae. She was hired as a Project Manager and Senior Business Improvement Consultant.
36. During two employment stints, Ms. Galloway-Fenner spent nearly thirteen years at Fannie Mae. There she worked in Operations Management Services; as a Senior Business Analyst; a Senior Business Consultant; a Senior Specialist and an Application Development Manager.
37. In between Fannie Mae stints, she served as a Workforce Development Consultant (2 years) and as Membership Director for the National Association of Black Accountants.
38. At the time she was hired, she was serving as a Personal Effectiveness Coach for Frandellarose Consulting.

39. Ms. Barber sent her resume to Respondent, who then shared it with Demlock (the CATS vendor)⁶ telling them that she wanted to hire her.
40. Winston DeLattibourdere, the owner of Demlock, emailed Respondent confirming Ms. Barber's start date of September 23, 2019.
41. Ms. Wilson did not learn of Ms. Barber's onboarding until after the fact.
42. Under the CATS contracting vehicle, a PO did not have to be generated for each hire, as the PO was not tied to any one consultant.
43. Although the age of Respondent's daughter, both Respondent and Ms. Barber are sorority sisters. Ms. Barber and Respondent's daughter graduated from Hampton University where they were close friends.
44. Ms. Barber had a B.A. in political science from Hampton University in 2014. She spent two and a half years after college working at three law firms as a paralegal/legal data specialist. She also spent three years as a Customer Service Representative for MAC Cosmetics
45. On March 7, 2019, Respondent met with Khalil Zebdi from Advance Software Systems, Inc. ("ASSYST") another BOA vendor. The meeting took place in Respondent's office.
46. The next day, Friday, March 8th, both Mr. Kurakula and Mr. Searles emailed their resumes to Mr. Zebdi. Mr. Kurakula noted he was sending it for the "Senior Business Process Consultant at Laurel, MD location." Mr. Searles sent it "for the business process improvement consultant position."

⁶ CATS stands for Consulting and Technical Services. It is another contracting vehicle through which WSSC can obtain contractors to fill certain consulting roles. Demlock is a vendor under the CATS vehicle.

47. The following Monday Mr. Zebdi forwarded the resumes to Ms. Wilson. The email was sent at 12:41 P.M. The next afternoon Mr. Vernon emailed Ms. Wilson saying both had been selected for the Senior Business Improvement Consultant.
48. The Board finds that the potential employment of both Mr. Searles and Kurakula were discussed at the March 7th meeting with Mr. Zebdi and the Respondent.
49. The Respondent claimed to know Mr. Searles “faintly.” She knew Mr. Kurakula from when they worked together for the D.C. Government.
50. Mr. Karakula had twenty-one years of experience in the IT world. He also had a Bachelor of Science in engineering.
51. Mr. Searles had four years of work experience and a Master’s in Business Management and Leadership.
52. The job description for the Senior Business Process Improvement Consultant required eight years of relevant experience.
53. Based on the lack of work experience, Mr. Searles was not qualified for the position.
54. Except for Ms. Johnson, no Subject Contractor was interviewed by WSSC personnel.
55. No Subject Contractor was vetted by three-member interview panels, asking each candidate the same predetermined questions, with an objective scoring system, as promised in management’s response to the audit finding.
56. Respondent did not sign a conflict of interest form as to the hiring of any Subject Contractor.

CODE OF ETHICS PROVISIONS

The Code of Ethics sections at issue in this Complaint are Sections 1.70.020(a) and 1.70.200(a), reproduced below:

Section 1.7.020 Policy

(a) The Commissioners and employees of the WSSC are responsible to all of the ratepayers of the Sanitary District and not to any favored segment or group. The business of the WSSC must be conducted in such an impartial manner that all persons understand that a WSSC Commissioner or employee cannot be improperly influenced. WSSC Commissioners and employees must avoid all situations where bias or the opportunity for personal gain could influence their decisions. Commissioners and employees must also avoid circumstances which suggest that favoritism or personal gain is a motivating factor in the performance of their official duties.

Section 1.70.200 Misuse of prestige of office – Harassment – Improper influence

a) An employee must not use the prestige of office for private gain or the gain of another, or create the appearance that the employee is utilizing the prestige of office for private gain or the gain of another. Performing usual and customary ratepayer or customer services, without additional compensation, is not prohibited by this subsection.

CONCLUSIONS OF LAW

1. A stated purpose of WSSC's Code of Ethics is to help employees "avoid activities which might result in the use and/or the appearance of use of their public employment for private gain or for providing favored treatment to any person, group, or organization and to maintain the highest level of public confidence in the integrity of WSSC."
2. The failure of the Respondent to follow the recommended hiring practices set out in the audit, is not itself a violation of the Code of Ethics. The Board could envision

- a hiring process different than the one prescribed by the audit in which hiring was done without favoritism or the misuse of one's prestige of office.
3. The audit report did set up guardrails assisting a hiring manager under the BOA in complying with their ethical obligations.
 4. It is beyond dispute that the Respondent provided the names of all Subject Contractors to various BOA and CAT vendors; who then, in turn, submitted them to WSSC in response to task orders.
 5. Based on the testimony of Khalil Zebdi of Advanced Software Systems Inc, the Board concludes that a contract manager for a BOA vendor would feel compelled to submit a resume provided to them by the Chief Governance Officer of WSSC's IT Department, regardless of that candidate's qualifications.
 6. WSSC hired these BOA vendors to provide it with qualified contractors to fulfill task orders. Respondent's feeding these vendors resumes of people she wanted to hire defeated the purpose of this procurement. In doing so, WSSC could have lost qualified individuals that were already known to the BOA vendor.
 7. This loss is proven by the fact that not all the Respondent's hand-picked applicants were qualified for the jobs they were hired into.
 8. The first such example of this was Gerald Searles. Mr. Searles was hired as a Senior Business Process Improvement Consultant. The job description for that position required eight years of relevant job experience. Mr. Searles only had four years of relevant experience. The fact that he was paid less than the bottom of the range for this position does not change the fact that he was not qualified for the job.
 9. The next example is Alexia Barber. She was hired as a Project Coordinator. At the time of her hire she had been out of school for about five years. During that time,

she spent a total of two and a half years working at three law firms in a paralegal/legal data specialist capacity. She also spent three years as a Customer Service Representative for MAC Cosmetics.

10. In addition to the questionable qualifications of Ms. Barber, there is an abundance of evidence that there was favoritism involved in her hire. Ms. Barber and the Respondent were members of the same sorority. Ms. Barber was a close friend of the Respondent's daughter, the two of them attending Hampton University together. Finally, the Respondent testified more than once that Ms. Barber wanted to relocate from her current home because of the recent murders of her father and uncle. By obtaining this job for Ms. Barber, Respondent facilitated that desire. Achieving this for Ms. Barber was completely unrelated to the ethical duties Respondent owed to WSSC.
11. Another hire that the Board finds particularly concerning is that of Ms. Pauline Johnson. The Board is troubled because the communication concerning her hiring was between the Respondent and Mr. Kapur, in violation of the prescription that all communications concerning task orders with the vendor go through Ms. Wilson.
12. Additionally, the background check for Ms. Johnson occurred before her resume was even submitted in response to a task order. This was not the normal process, as background checks were only to occur after the task order had been awarded and the asset was hired.
13. One more troubling fact about the hiring of Ms. Johnson is that merely three months after her hire, the Respondent expressed concerns about her hourly rate being too high. Within the same day, Mr. Kapur cut Ms. Johnson's rate of pay by more than fifteen percent. This raises additional concerns about her initial qualifications.

14. Finally, the fact that no one, including the Respondent, informed Ms. Wilson about Ms. Johnson's hire or start date leads the Board to conclude that there was something irregular about this hire. It was as if Ms. Wilson was intentionally excluded from the process of hiring Ms. Johnson.
15. Additional examples of the Respondent keeping Ms. Wilson out of the hiring processes can be found in both the hiring of Ms. Galloway-Fenner and Ms. Barber.
16. The Respondent's reliance on the directions of Vernard Wright when hiring the Subject Contractors does nothing to exonerate her actions. First, there are three versions of Mr. Wright's directives in evidence. The first is management's audit response in which he agreed to use HR hiring practices in onboarding BOA assets. Then there is his December 18, 2019 letter written at the request of the Respondent in which he stated, "I explained it was fine to hire people that she knew, *as long as they were qualified and went through the same competitive process as everyone else.*" Finally, there was his testimony in this matter in which he repeatedly stated that the only important factor was to get people on board quickly and that he "implied" although never directly stated that there was no need to follow any competitive process. Given the variations in his story over time, and his clear animus against the Commission, there is no credible determination of what Mr. Wright communicated to the Respondent about the hiring process.
17. Moreover, the Board finds that Mr. Wright's instructions or implications to the Respondent, whatever they may have been, have no bearing on its final decision. Mr. Wright did not have the authority to waive the Respondent's ethical obligations under the Code. Moreover, there are not two Codes of Ethics, one to be followed during "normal" times and another to be followed during exigencies created by an

important undertaking such as Project Cornerstone. In “standing up” that project, the Respondent had an ethical obligation not to show favoritism or use the authority of her office to the benefit of individuals she knew. Based upon the evidence presented to the Board she failed to live up to these obligations in hiring the Subject Contractors.

18. Accordingly, the Board finds that the evidence supports a determination that the Respondent has violated both Sections 1.70.020(a) and 1.70.200(a) of the Code by recommending to various BOA vendors that the Subject Contractors be submitted to WSSC in response to certain task orders. The Board further finds that these actions could very well undermine the level of public confidence in the integrity of the Commission if widely known. The Board further holds that not only did these actions benefit the Subject Contractors, they benefitted the various BOA vendors, who received compensation for these placements without having to do the work that they were hired to do – find and provide WSSC with qualified contractors.

SANCTIONS

Section 1.70.090(c)(3) of the Code provides that when the Board finds that there has been a violation of the code it may “[r]ecommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal if that discipline is authorized by the WSSC Personnel Policy and Benefits Programs Manual or other WSSC regulations or procedures.” Section 9.040.040(c)(1) of WSSC’s Manual of Standard Procedures states that “Suspensions are issued by a supervisor in response to an employee’s behavior or acts, or violations of WSSC rules, values, policies or procedures of a serious nature, including but not limited to acts that . . . otherwise undermine WSSC’s reputation or public image.” One example of conduct that could merit a suspension or termination is a “serious violation of the Commission’s

Code of Ethics (WSSC Chapter 1.70), i.e., violation which causes or threatens to cause serious damage to the WSSC's reputation." Id. § 9.040.040 (d)(1)(vii).

There can be no dispute that Respondent's actions at a minimum threaten to cause serious reputational damage to WSSC. A paramount component of the public's trust in a government agency is the knowledge that public funds are being spent fairly. The award of jobs to a government employee's friends and acquaintances, who may or may not be qualified for those positions threatens to undermine that trust. That is exactly what happen here, thus warranting a suspension.

In evaluating what an appropriate suspension would be, the Board notes that these ethical standards were violated on at least six different occasions. Moreover, not once, throughout the life of this matter, did the Respondent accept any personal responsibility for her actions, nor did she demonstrate any remorse. In light of this and the entire record in this matter the Board recommends that Respondent be suspended for fifteen days without pay.

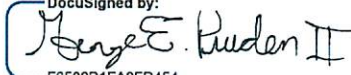
ORDER

Upon consideration of the evidence presented in this case and for the reasons expressed above, it is this 14th day of June, 2022, by the Washington Suburban Sanitary Commission,

ORDERED, that the allegation in the Complaint that Stacey Chisholm violated Section 1.70.020(a) is hereby SUSTAINED, and it is hereby,

ORDERED, that the allegation in the Complaint that Stacey Chisholm violated Section 1.70.200(a) is hereby SUSTAINED; and it is hereby,

ORDERED, that the Board recommends a suspension of fifteen days as sanctions for these Code Violations.

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George E. Pruden, II
Chair, WSSC Board of Ethics

NOTICE OF RIGHT OF FURTHER APPEAL

Pursuant to Maryland Annotated Code, Public Utilities Article, Section 19-107 and Section 1.70.100(a) of the Code of Ethics, if the respondent is aggrieved by a final order of this Board, the respondent may seek judicial review under the Maryland Annotated Code, State Government Article, Section 10- 222.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2022 a copy of the foregoing Final

Decision was served electronically and by first-class mail, postage pre-paid on:

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