

**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 Former Employee violated the Code at Section 1.70.170, which prohibits a WSSC employee from participating in any WSSC matter if the WSSC employee is also employed by an entity with an interest in the matter. The Former Employee is also alleged to have violated Ethics Code provision 1.70.180(a) and (b), which similarly restricts WSSC employees from engaging in other employment that does or could create a conflict of interest with the WSSC. The Former Employee is also alleged to have violated Ethics Code provision 1.70.190, which mandates that 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.”

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

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

SUMMARY STIPULATION 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 July 31, 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. Based on his involvement, the Former Employee participated significantly 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.
18. Upon returning to WSSC, the Former Employee did not formally inform anyone at WSSC of his contractual arrangement with the Company.
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 with the Former Employee 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. The Former Employee subsequently reported to Staff Counsel that he revealed only public information.
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 assisted a potential subcontractor in the AMI RFP and received compensation from the Company for that assistance.
25. Thereafter, the Company provided information and assistance 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 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 in a telephone conversation that he was contractually engaged with a potential subcontractor to one of the proposers to the AMI RFP. The Former Employee did not however, mention the Company by name in his disclosure, and the Procurement official did not request the Company name.
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. The Former Employee continued to be involved with the AMI RFP as part of the Metering Subcommittee and the AMI Functional Core Team .
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. At the conclusion of the presentation, Former Employee left the demonstration area, and the Evaluation Committee went into deliberations without seeking comment or input from Former Employee.
36. After the Evaluation Committee engaged in its deliberations, the Bidding Contractor's employee encountered Former Employee in the parking lot and asked Former Employee what he thought of the presentation. Former Employee replied that he thought it was “pretty good,” and that he was impressed with their data analysis capabilities. Former Employee had no other conversations with others related to the presentation.
37. 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.
38. On 28 February 2020, the Former Employee’s six-month employment with WSSC was rescinded based upon the informal inquiry’s finding that the Former Employee had violated the WSSC Code of Ethics.
39. 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. The Former Employee was still engaged as a consultant to the Company at that time. Although the only active consulting work the Former Employee performed for the Company was the 35 minute phone call in November, 2019, the Former Employee was engaged in a contract to provide consultant services to the Company, if requested, from August 1, 2019 until the consulting contract was formally terminated on July 13, 2020.

SUMMARY OF SETTLEMENT AGREEMENT

1. The foregoing Summary Stipulation of Fact are regarded by the Parties as true and correct and were expressly incorporated into the Agreement.

2. The Former Employee 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 Former Employee violated Sections 1.70.170, 1.70.180(a) and (b), and 1.70.190 of the WSSC Code of Ethics.

3. The Former Employee acknowledged that the termination of his WSSC employment in March 2020 was proper, based on the Former Employee's conduct as set forth in the Summary of Facts. The Former Employee acknowledged he should have exercised better due diligence when offered employment by the Company. The Former Employee acknowledged that he should have not discussed WSSC metering technology or WSSC RFP 16215, "Advanced Metering Infrastructure Implementation Project," with the Company at any time, and have done a better job of ensuring that the Company understood that the Former Employee's work for, and discussions with, the Company were to concern only other opportunities that had no connection with WSSC RFP 16215. The Former Employee also acknowledged he could have sought the guidance of WSSC's Ethics Officer prior to his engagement with the Company, but failed to do so.

4. The Former Employee acknowledges that he is bound by Section 1.70.190(a) of the WSSC Code of Ethics and that he 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. The Former Employee further acknowledges that he participated significantly in the AMI RFP, also referred to as RFP 16215. The Former Employee has agreed that he will not assist or represent another person/company/entity, directly or

indirectly in submitting 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 in the future.

5. The Former Employee 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 Former Employee that it violated any provisions of the WSSC Code of Ethics, including Sections 1.70.170, 1.70.180, and 1.70.190. Specifically as part of this Agreement, and as consideration for the Board accepting this Agreement, the Former Employee does admit that the early termination of his contract as a temporary employee in March 2020 was proper and with just cause. The Former Employee also agrees to a limited waiver of the Board's confidentiality provisions so that the Board can convey the Summary Stipulation of Facts and Summary of Settlement Agreement to appropriate offices at the WSSC for purposes of compliance and enforcement of the Summary of Settlement Agreement.

7. Specifically as part of this Agreement, and as consideration for the Respondent accepting this Agreement, the Board agreed that it will not impose any sanctions, penalties, or take other actions against the Former Employee, other than what is set forth in Paragraphs 3 through 6 above.

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

9. The Former Employee 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 Former Employee voluntarily entered into the Agreement to resolve the Complaint pending against him without a hearing before the Board.

11. The Former Employee warranted and represented that the Agreement was signed only after due consideration and after due consultation with his attorney, and that the Former Employee was not fraudulently induced, coerced or intimidated to sign the Agreement.

12. The Former Employee was represented during the settlement proceedings by counsel, as indicated by his signature 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 the 9 th day of December 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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George E. Pruden, II
Board Chair