

2007 Decisions

Decisions

The Commission issues decisions related to disciplinary cases filed by one of the Executive Inspectors General and decisions related to petitions to waive the revolving door prohibition.

The revolving door prohibition provides that State officers and employees who, within the year prior to termination of State service:

1. participated personally and substantially in a decision to award contracts with a cumulative value of over \$25,000 to a prospective employer, or its parent or subsidiary; or
2. made a regulatory or licensing decision that directly applied to the prospective employer, or its parent or subsidiary

may not accept employment or receive compensation from that prospective employer, or its parent or subsidiary for one year following the officer's or employee's termination of State service. Their spouses and immediate family members living at home may not accept such employment or compensation, either. 5 ILCS 430/5-45.

2007 Decisions

07-EEC-001

Requestor was a division chief for a State agency. His division was responsible for awarding certain grants to different entities, including his prospective employer. Based upon statements from the Requestor and his ethics officer, the Commission determined that Requestor was not personally and substantially involved in the actual decision to award the grants. Furthermore, the amount of the grants the division made was determined by a formula set out in administrative rules.

The Commission also examined whether Requestor made licensing or regulatory decisions that could directly affect his prospective employer in the year prior to his leaving state government.

The level of Requestor's involvement and the decisions he made appeared to be routine and minor. Requestor's ethics officer completed an extensive review of the facts surrounding his involvement in these decisions and found no reason that the Commission should not grant the waiver.

Based upon the statements of the Requestor, and letters from the ethics officer and prospective employer, the Commission concluded that there was no evidence that Requestor's future employment affected any regulatory or licensing decision made in the year prior to leaving State service and waived the revolving door prohibition.

07-EEC-002

Requestor was employed by a State entity that reviewed and recommended appointees to serve on various State boards and commissions.

Based upon her statements and those of her Ethics Officer, Requestor appeared to have had no involvement in decisions to award contracts to her future employer. The Commission asked for further information about any involvement Requestor may have had in appointing employees or officers of her prospective employer to State boards or commissions.

The Ethics Officer reviewed a list of employees and officers from the prospective employer's web site and determined that none of the officers or employees were contained in the State entity's database. The Commission concluded that Requestor did not make any licensing or regulatory decisions that would directly or indirectly affect her future employer.

For these reasons, the Commission concluded that Requestor did not require a waiver of the revolving door prohibition and dismissed her petition.

07-EEC-004

Requestor was the head of a State agency that awarded two contracts to his prospective employer eight to eleven months prior to his termination of State service. As head of the agency, Requestor gave final signature approval of the award of these contracts.

The Commission determined that Requestor's involvement in the decision to award these contracts was personal and substantial, even though Requestor was following recommendations made by two agency contract committees.

Based upon the attestations of the Requestor and the Ethics Officer, the Commission determined that Requestor established by a preponderance of the evidence that his prospective employment did not affect the decisions he made with respect to the two contracts. Requestor had not overruled a recommendation of the contract committees in the four years that he served as agency head and there is no evidence that Requestor influenced the decision of the contract committees. Also, Requestor recused himself in writing from signing any contract with his prospective employer once he began discussing possible employment. Furthermore, the prospective employer had performed 112 projects for the agency since 1970.

For these reasons, the Commission granted Requestor's petition to waive the revolving door prohibition.

07-EEC-0006

Requestor exercised contract oversight concerning contracts his State agency had with his prospective employer. This oversight granted him the discretion to override (or not override) certain decisions that the prospective employer made concerning medical treatment.

From the initial documents, the Commission was unable to determine whether Requestor might have used this discretion to refuse to override inappropriate decisions by the prospective employer and thereby save his prospective employer a substantial amount of money.

Additional information from the Requestor and the agency Ethics Officer strongly

suggested that Requestor did not abuse his discretion to favor his prospective employer. The Ethics Officer stated that Requestor would override the prospective employer's medical treatment decisions about 90% of the time. Also, Requestor created policies that provide more transparency and opportunity to override the prospective employer's decisions.

For these reasons, the Commission granted Requestor's petition to waive the revolving door prohibition.

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Requestor sought employment with an entity that had a contract to provide services with the State of Illinois. Requestor and his Ethics Officer asserted that Requestor was not involved in the decision to award the contract, which was with another State agency.

The Commission contacted the other State agency that had the contract with Requestor's prospective employer. Officials with the other State agency confirmed that Requestor had no involvement in the decision to award the contract with Requestor's prospective employer.

For these reasons, the Commission determined that no waiver of the revolving door prohibition was necessary and dismissed Requestor's petition.

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2006 Decisions

06-EEC-001

Requestor was a program manager for a State agency grant program. Grant applicants were assessed by a third party. Requestor received these assessments, compiled and averaged grant applicant scores and ranked each applicant for funding in accordance with the scores. He then forwarded the rankings to the agency director who made final decisions with respect to awarding grants.

Eleven months after Requestor's termination from State service, he contracted with a grant recipient to do limited consulting work. The grant recipient had received a grant in excess of \$25,000 within one year of Requestor's termination of State service. The agency Ethics Officer confirmed that the grantee's request was approved through the typical process used for all other grant applications during that funding cycle.

The Commission considered whether Requestor participated personally and substantially in the decision to award a grant in excess of \$25,000 within one year of his termination of State employment.

Requestor insists and the Ethics Officer confirms that Requestor had no discretion in the decision to award grants. Commission staff interviewed the Ethics Officer concerning Requestor's authority and discretion. The Ethics Officer explained that other agency programs do permit the program managers to exercise some

discretion in the decision to award a grant and in the amount of the award. In Requestor's program, however, Requestor exercised no such discretion. His involvement in the decision to award the grant and the amount of the grant was merely clerical or ministerial in nature.

The Commission found that Requestor's conduct did not constitute personal and substantial participation in the decision to award a contract to his potential employer. Therefore, a waiver of the revolving door prohibition was not required under the provisions of the State Officials and Employees Ethics Act.

06-EEC-008

Requestor sought to accept an early retirement offer made by the State of Illinois and begin a position with a private employer. In her capacity as a State employee Requestor made two recommendations with respect to two contracts the State agency had with her prospective employer.

The first recommendation did not have the effect of increasing the amount of money under the contract. Instead, it permitted the contractor to shift money already in the contract to be used for different purposes. Requestor's recommendation had not been acted upon by the Department by the time the Commission reviewed Requestor's petition for a waiver.

The second recommendation made by Requestor with respect to her prospective employer's contracts concerns the contract renewal date. To allow the contractor to engage in responsible planning for the following year, Requestor suggested that the contract be renewed at an earlier date. This recommendation also had not been acted upon by the Department by the time the Commission reviewed Requestor's petition for a waiver. The second recommendation also would not have increased the amount of money under the contract.

Since the contracts in question were in place before Requestor began employment with the State and the amount of the contracts could not be increased due to Requestor's recommendations, the Commission found that Requestor's conduct did not constitute personal and substantial participation in the decision to award contracts in excess of \$25,000 to her prospective employer. Therefore, Requestor's petition was dismissed.

06-EEC-011

Requestor investigated license applications and recommended action for approval or denial of initial licensure and renewals. Acting within this responsibility, Requestor recommended approval of her prospective employer's license application less than one year prior to her termination of State employment.

The revolving door prohibition applies to State employees and officers with regulatory or licensing authority who, within one year of their termination of State employment, made a regulatory or licensing decision that directly applied to his or her prospective employer or its parent or subsidiary (5 ILCS 430/5-45(a)).

Requestor demonstrated by a preponderance of the evidence, however, that her prospective employment did not affect the decisions she made with respect to the licensure. Requestor's licensure recommendation was made months prior to her discussions of employment with the licensee and months prior to the State offering an attractive early retirement option.

Also, the Ethics Officer conducted an inquiry into the facts and circumstances surrounding Requestor's petition and concluded that prospective employer's license was issued in accordance with the policies in effect at that time and that no special treatment was provided to the prospective employer.

For these reasons, the Commission granted Requestor's waiver petition.

06-EEC-012

Requestor sought to accept employment with a subcontractor to a State contractor upon his termination of State service.

Though Requestor's prospective employer had no contract with the State, it did serve as a subcontractor on a State contract with which Requestor may have had some involvement. In the year prior to Requestor intending to terminate State service, Requestor's prospective employer and the contractor sought to reallocate \$35,000 under an existing contract to the prospective employer.

The Commission sought to determine whether Requestor participated personally and substantially in the decision to reallocate money under the contracts within one year of his termination of State employment.

Although Requestor's responsibilities at the State were such that he could have been in a position to influence the decision to reallocate money to his future employer, the Commission concluded that he did not do so. Requestor demonstrated by a preponderance of the evidence that he had no personal or substantial involvement in this decision. The Commission's conclusion is based upon the verified petition and letters of support as well as additional information concerning the reallocation approval process. Commission staff contacted key employees who confirmed the petition and letters of support

Because the Commission determined that Requestor was not personally and substantially involved in the decision to reallocate money under the contract, no waiver of the revolving door prohibition was required and the petition was dismissed.

06-EEC-015

Requestor was a former State employee who, as part of his duties as a State employee, had some involvement in licensing or regulation related to his prospective employer. He sought to begin employment with his prospective employer within one year of terminating State service.

Requestor asserted, and his ethics officer confirmed after reviewing meeting agendas, that his last licensing or regulatory involvement with respect to his prospective employer was more than 14 months before his termination of State service.

In the absence of any evidence to the contrary, the Commission found that Requestor made no regulatory or licensing decisions that directly applied to his prospective employer in the year prior to his separation of State service. Therefore, a waiver of the revolving door prohibition was not required under the provisions of the State Officials and Employees Ethics Act.

Because the Commission determined that Requestor requires no waiver of the

revolving door prohibition, this petition was dismissed.

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2005
Decisions

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2005 Decisions

05-EEC-001

Requestor coordinated the bidding process for two contracts between a State agency and his prospective employer in excess of \$25,000. The Commission determined that requestor's involvement in the decision to award these two contracts was personal and substantial, even though requestor did not make the final decision to award the contract. Therefore requestor cannot accept employment from the prospective employer without a waiver of the revolving door prohibition.

In the present case, certain objective facts and circumstances supported the requestor's assertion that his decisions were not affected by the prospect of future employment. First, requestor did not engage in employment discussions with his prospective employer until several months after his involvement in the contract. Second, requestor provided copies of the work he sent to his supervisors related to the contracts in question. The work indicates that the bids provided by the prospective employer were the lowest and that the decision to award these contracts was based upon sound program and financial criteria. Third, subsequent to his involvement in these contracts, requestor was moved to a less desirable position with the agency and the uncertainty of his future with the agency caused him to seek alternative employment.

The Commission determined that requestor demonstrated by a preponderance of the evidence that neither his prospective employment nor his relationship with the prospective employer affected his decisions with respect to the awarding of the two

contracts.

05-EEC-002

Requestor supervised 60 staff members who reviewed hundreds of loan applications each year. During part of her tenure with the agency, she also was a member of a loan committee that considered recommendations from staff to approve loans to applicants. Her prospective employer received three loans during her tenure at the agency. These loans are in excess of \$25,000, which may trigger the revolving door prohibition.

As to the first loan, the loan committee's decision was made more than one year prior to the date that requestor terminated State service. Therefore the revolving door prohibition did not apply regardless of requestor's involvement in the decision to award the loan.

For the second loan, requestor was no longer a member of the loan committee and there is no evidence that she had any involvement in the underwriting of the loan or had any contact with the prospective employer.

For the third loan, requestor's involvement in the underwriting process was limited to policy discussions regarding a legal issue related to the loan. Requestor, who is not an attorney, referred the issue to legal counsel, who determined that the loan was not prohibited. The Commission determined that requestor's involvement in this transaction was neither personal nor substantial.

Since requestor's involvement in the first loan was more than one year prior to her termination of State service and because requestor's involvement in the second and third loans was neither personal nor substantial, the Commission found that requestor was not subject to the revolving door prohibition.

05-CC-003

Requestor supervised employees who monitored grants from the agency to private entities, including a grant in excess of \$25,000 intended for a sub-grantee. This sub-grantee is also requestor's prospective employer. Requestor had the authority to recommend that grants under his supervision, including the grant in question, not be renewed or that funding to them be stopped.

The Commission found that requestor failed to show by a preponderance of the evidence that the prospective employment did not affect official decisions in which he personally and substantially participated.

Requestor's petition for a waiver of the revolving door prohibition was denied without prejudice and petitioner was granted leave to file a request to reconsider.

05-CC-004

Requestor was a member of a review committee as part of a multi-level approval process within the agency that awarded a contract in excess of \$25,000 to requestor's prospective employer.

The Commission found that though requestor did not make the final decision to award the contract, requestor's involvement in the approval process did constitute personal and substantial involvement in the decision to award the contract.

Requestor demonstrated in two ways that his decisions related to the contract were not affected by prospective employment with the grantee. First, requestor asserts that he sought alternative employment only after his involvement in the contract was over. This assertion is further supported by the fact that the State of Illinois offered two early retirement incentives late in 2004. Second, the agency provided copies of the evaluations and rankings of the bidders related to the contract in question. All evaluators on two separate committees ranked the prospective employer highest among the bidders.

For these reasons the Commission granted requestor's petition for a waiver.

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