

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

COMPLAINT NO. C-14-04

SUMMARY OF SETTLEMENT AGREEMENT

On or about December 17, 2014, the Board of Ethics (Board) received information that a WSSC contractor (the Contractor) hired a former Washington Suburban Sanitary Commission (WSSC) employee (the Former Employee), who had previously resigned from WSSC to accept an employment offer with the Contractor. On or about December 17, 2014, the Board filed a Complaint against the Contractor alleging it had violated Section 4-3(a)(1) of the WSSC Code of Ethics (Code).

The Complaint alleged, among other things, that the Contractor had made an offer of employment to the Former Employee during the time when the Former Employee was employed by WSSC and was a member of WSSC's Pre-Stressed Concrete Cylinder Pipe ("PCCP") Strategic Sourcing Team (the "PCCP Team").

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

Having reviewed and discussed the proposed Agreement at its May 14, 2015 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. The Agreement was entered into pursuant to Article VII.F of the WSSC Board of Ethics Rules of Procedure.

2. On December 14, 2014, the Board filed an ethics complaint (the "Complaint") against the Contractor which alleged a violation of Section 4-3(a)(1) of the Code.

3. The Former Employee at times relevant to the Complaint was the Technical Services Group ("TSG") Leader at WSSC.

4. In or about February 2014, WSSC launched the PCCP Team. As the leader of TSG, the Former Employee was assigned to the PCCP Team.

5. At that time and for some time before then, the TSG was responsible for managing WSSC Contract No. PM00013A07 for the assessment and monitoring of PCCP (the PCCP Contract), which was being performed by the Contractor.

6. On July 1, 2014, WSSC transferred responsibility for managing the PCCP Contract from the TSG to a different WSSC group, called the Utility Management Group.

7. Although he was no longer involved in managing the PCCP Contract after July 1, 2014, the Former Employee remained a member of the PCCP Team.

8. On July 8, 2014, the Former Employee sent an email to a fellow PCCP Team member that the PCCP Team needed to address/initiate a successor contract to the PCCP Contract.

9. On July 9, 2014, the Former Employee attended a PCCP Team meeting where a proposed successor contract to the PCCP Contract (referred to as the "Assessment Basic Ordering Agreement" or "Assessment BOA") was discussed. At this meeting, the Former

Employee agreed to be responsible for drafting the “Summary of Scope of Work” for the Assessment BOA.

10. On July 16, 2014, the Former Employee attended and participated in a PCCP Team meeting where the Assessment BOA was discussed.

11. On July 18, 2014, the Former Employee and two other WSSC employees met with representatives from the Contractor. At this meeting the Contractor representatives and WSSC representatives discussed a number of topics, including information related to a successor contract to the PCCP Contract.

12. On July 23, 2014, the Former Employee attended and participated in a PCCP Team meeting where the Assessment BOA was discussed.

13. On July 28, 2014, a representative of the Contractor and the Former Employee had a telephone conversation where the representative asked the Former Employee if he would consider leaving WSSC to come to work for the Contractor.

14. On July 29, 2014, a representative of the Contractor and the Former Employee had a telephone conversation regarding possible employment for the Former Employee at the Contractor. During this phone conversation, the representative of the Contractor learned that the Former Employee was a member of the PCCP Team.

15. On July 30, 2014, the Former Employee attended and participated in a PCCP Team meeting where the Assessment BOA was discussed.

16. On July 31, 2014, the Former Employee sent an email to a WSSC employee in the Utility Management Group, who managed the PCCP Contract, and was also a PCCP Team member. The email included the Former Employee’s draft “Summary of Scope of Work” for the Assessment BOA.

17. On August 1, 2014, a representative of the Contractor and the Former Employee had a telephone conversation regarding possible employment for the Former Employee at the Contractor.

18. On August 6, 2014, the Former Employee forwarded the draft "Summary of Scope of Work" for the Assessment BOA, including additional comments to another PCCP Team member.

19. Also on August 6, 2014, the Former Employee attended a PCCP Team meeting where the Assessment BOA, including the draft "Summary of Scope of Work" for the Assessment BOA, was discussed.

20. On August 13, 2014, the Former Employee attended and participated in a PCCP Team meeting where the Assessment BOA was discussed.

21. Also on August 13, 2014, the Former Employee met with Contractor representatives to learn more about possible employment opportunities for the Former Employee at the Contractor.

22. On August 15, 2014, the Former Employee informed his supervisor, WSSC's Chief Engineer, that he was considering leaving WSSC to accept employment at the Contractor.

23. On August 18, 2014, a Contractor representative provided the Former Employee with a written offer of employment as Regional Vice President, Southeast Region.

24. On August 20, 2014, the Former Employee attended and participated in a PCCP Team meeting where the Assessment BOA was discussed.

25. Also on August 20, 2014, the Former Employee attended and participated in the scheduled August 2014 Commission meeting. At this meeting, the Former Employee was introduced to the Commission as a member of the PCCP Team by WSSC's Chief Engineer. The

Former Employee then briefed the Commission, requested Commission award approval, and answered questions from the Commission regarding WSSC contract numbers PM0013A13 and PM0014A13 (PCCP Design Services Basic Ordering Agreement).

26. On August 22, 2014, the Former Employee sent an email to a Contractor representative regarding the Contractor's employment offer.

27. On August 25, 2014, a Contractor representative and the Former Employee corresponded via email regarding the Contractor's employment offer.

28. On August 26, 2014, a Contractor representative and the Former Employee corresponded via email regarding the Contractor's employment offer.

29. On August 27, 2014, the Former Employee attended and participated in a PCCP Team meeting where the Assessment BOA was discussed.

30. On August 28, 2014, the Contractor provided the Former Employee with a revised written offer of employment as Regional Vice President, Southeast Region.

31. On September 2, 2014, the Former Employee accepted the Contractor's offer of employment.

32. On September 22, 2014, the Assessment BOA was advertised for bid by WSSC under contact number RFP 1094.

33. On September 30, 2014, the Former Employee retired from WSSC.

34. On October 8, 2014, the Former Employee started his employment with the Contractor as Regional Vice President of the Contractor's Southeast Region.

35. On October 21, 2014, the Contractor submitted a proposal in response to the Assessment BOA (RFP 1094).

36. On October 22, 2014, WSSC's Procurement Office informed the Contractor that the Contractor's proposal submitted in response to the Assessment BOA (RFP 1094) was being rejected by WSSC due to the Former Employee's involvement with the Assessment BOA (RFP 1094).

37. The Contractor was not considered for award of the Assessment BOA (RFP 1094).

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 4, 7-10, 12, 15, 16, 18-20, 24, 25, and 29, the Contractor 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 Contractor 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 it violated Code Section 4-3(a)(1).

3. The Contractor acknowledged it should have used better judgment when offering employment to the Former Employee. The Contractor acknowledged it should have immediately suspended discussions with the Former Employee regarding possible employment opportunities with the Contractor upon learning (1) on July 18, 2014 that a successor contract to the PCCP Contract was in development by WSSC and (2) on July 29, 2014 that the Former Employee was a member of the PCCP Team. The Contractor acknowledged that it should not have had discussions with the Former Employee regarding possible employment opportunities with the Contractors until all procurements that (1) the Former Employee was involved in and

(2) the Contractor intended to submit a bid/proposal to were awarded by WSSC. The Contractor acknowledged that it could have also asked the Board for an Advisory Opinion regarding the application of Code Section 4-3(a)(1) to the Contractor.

4. The Contractor acknowledged the Former Employee is bound by Code Section 3-3(a) and that Former Employee cannot assist in any matter relating to the Former Employee's position at the Contractor that the Former Employee had participated significantly in at WSSC. The Contractor acknowledged that Code Section 3-3(a) is not time limited and the Former Employee's compliance responsibilities do not cease after the Former Employee's twelve month separation from WSSC.

5. The Contractor acknowledged that the Former Employee is bound by Code Section 3-3(b) and agreed that the Former Employee cannot act as an agent or representative of the Contractor in any business transaction with WSSC for twelve months following the Former Employee's separation from WSSC.

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 Contractor that it violated any provisions of the Code, including Section 4-3(a)(1).

7. The Board agreed that it will not impose any sanctions, penalties, or take other actions against the Contractor.

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

9. The Contractor 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.

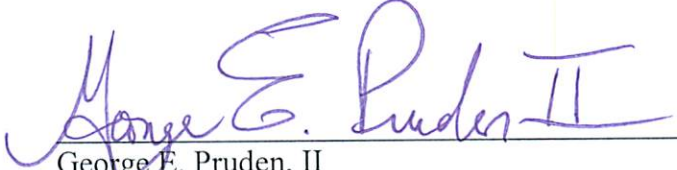
10. The Contractor voluntarily entered into the Agreement to resolve the Complaint pending against it without a hearing before the Board.

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

12. The Contractor was represented during the proceedings by counsel, Alan Kashdan, Esq. of Hughes Hubbard & Reed, LLP, 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 this 14TH day of MAY 2015, the Board approved the foregoing Summary of Settlement Agreement in the above-captioned Complaint for posting on the WSSC Board of Ethics internet page.


George E. Pruden, II
Chair