

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY



Office of Government Ethics

VIA EMAIL

March 25, 2014

Dear Ms. [REDACTED]:

This responds to your March 10, 2014 email, by which you request advice concerning whether accepting an offer from [REDACTED] (a private corrections company) to conduct audits of seven (7) of its community confinement facilities, for which you would be compensated, would be consistent with your ethical obligations as [REDACTED] Board of the District of Columbia (“[REDACTED]”). Based upon the information you provide in your email and in your follow-up conversation with a member of my staff, I conclude that, as long as you ensure that you meet the requirements set forth below, the outside auditing for pay activities would be permissible.

You are [REDACTED] of the [REDACTED], which is responsible, pursuant to D.C. Official Code § 24-101a(a), for the inspection of all facilities housing District of Columbia inmates who are under the jurisdiction of either the Federal Bureau of Prisons (“BOP”) or the District of Columbia Department of Corrections. Your term will end in [REDACTED] of this year.

You state that the [REDACTED] has offered to pay you to conduct Prison Rape Elimination Act audits of seven (7) of its community confinement facilities. These include: Reality House (Brownville, TX); Midvalley (Edinburg, TX); Marvin Gardens (Los Angeles, CA); Leidel Comp. Sanctions Ctr (Houston, TX); Taylor St (San Francisco, CA); Oakland Ctr (CA); and Grossman Ctr (Leavenworth, KS). You also state that the [REDACTED] has a contract to house BOP inmates in all seven (7) of these facilities. Nonetheless, you advise that no District inmates currently are housed in these facilities. As a result, you state that the [REDACTED] would not be mandated to inspect any of these facilities.

As [REDACTED], you are considered to be a “member of a board or commission” for purposes of section 1802 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (“CMPA”), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.02).¹ The section provides that “[n]o employee, member of a board or commission, or a public official of the District government shall engage in outside

¹ See section 301(2) of the CMPA (D.C. Official Code § 1-603.01(2) (defining “boards and commissions” to include bodies established by law consisting of “appointed members to perform a trust or execute official functions on behalf of the District government”).

employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.”

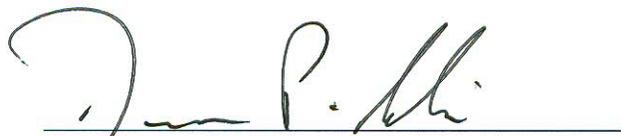
Given that there are no District inmates housed in any of the seven (7) facilities targeted in the proposed audits, there would be no overlap with your [REDACTED] duties. As you state, your [REDACTED] responsibilities are solely concerned with the welfare of D.C. inmates. To be sure, if there were District inmates housed in one or more of these facilities, an inherent conflict would exist because of the overlap and the potential for bias in your audit. Insofar as you would be compensated for the audit work, the conflict would be one of a financial nature and clearly prohibited. However, as long as no District inmates are housed, or will become housed during the course of your audits, in any of the subject correctional facilities, I do not believe there would be a conflict between your engaging in the proposed auditing work and your [REDACTED] responsibilities. Please remember, too, that you may not use non-public information gained in the course of your [REDACTED] work for the benefit of an outside entity.

This advice is provided to you pursuant to section 219 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion.

You are also advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that your identity will not be disclosed unless you consent to such disclosure in writing. Please, then, let me know your wishes about disclosure.

If you have any questions or wish to discuss this matter further, I can be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,



DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

DPS/jjg/sp/mtb

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