



CHARLES COUNTY ETHICS COMMISSION

Advisory Opinion 2018-02

DATE: June 11, 2018

This matter came before the Ethics Commission ("Commission") by referral from the County Attorney Office. The County Attorney Office received an inquiry as to whether a business operated by an elected official's spouse and had performed services for the County, constituted a conflict of interest pursuant to County Code §170-5 (Prohibited conduct and interests).¹ The Commission considered this matter during its meeting on June 6, 2018 and unanimously voted to render the following opinion.

The inquiry was received by the County Attorney Office initially on April 29, 2018. The inquiry was restated again on April 30, 2018. Since the inquiries were substantially the same, the received date will be recorded as April 29, 2018. The Commission has 60 days to provide a response. *See* County Code §170-4(J).

The inquiry apparently resulted when financial disclosure statements of the elected official were placed on social media.² The elected official disclosed that she was part-owner in a company that did business with the County. The release of those documents led to requests submitted to the County pursuant to the Maryland Public Information Act ("MPIA").

The Commission reviewed several documents including but not necessarily limited to: documents submitted in response to the MPIA requests, emails between the requestor of this inquiry and the County Attorney Office and statements from County employees with knowledge of the selection of this company to provide services.

The company was paid for three invoices, for a total amount of \$2718.86. The procurement rules dictate that formal procurements (which involves competitive bidding) apply when the cost is greater than \$25,000. *See* County Code §203-1(B). Informal procurements apply when costs are less than or equal to \$25,000. *Id.* at §203-1(F). Purchase orders are not required for expenses less than \$1000.

For informal procurements, the user agency can obtain informal quotes. One quote is required if the cost is less than \$5000. If the expenditure is between \$5000 and \$25,000, the user

¹ County Ethics Law does not allow disclosure of the name of the person who makes the inquiry of the subject of the inquiry. *See* County Code, §170-4(J)(1) and (2).

² The financial disclosure statements were released to a requester pursuant to the applicable provisions of the County's Ethics Code. The requester of the disclosure statements is not the same person who submitted this ethics inquiry.

department should get three quotes. *Id.* As it related to this company, the invoices submitted were for the following amounts: \$665.26, \$1,542.24 and \$511.36. In this case, the elected official disclosed this business on their disclosure statements reporting for the calendar years 2015 and 2017. Under the Commission's rules, the elected official could submit a short form for reporting calendar year 2016. This can occur if the information for the prior reporting year has not changed.

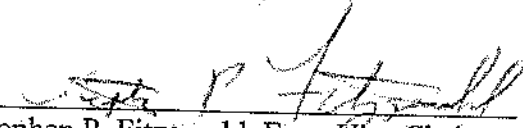
The Commission determined that, based on the information provided, there was no evidence that the conflict of interest rules was violated. This determination was based on primarily two grounds. First, there was no evidence that the elected official was involved in the company being selected for any of the services. This company is listed on the Small Local Business Vendor Report and the Minority Business Report that is established by the Department of Economic Development. These matters are generally handled at the agency level, and primarily at an administrative level. The company submitted the lowest bid for two of the services and was chosen for the third service because of its satisfactory performance on a prior job.³

Second, the elected official appropriately disclosed their connection with this business on their financial disclosure statements. As there was an invoice dated in 2016, the Commission asked to see the financial disclosure statement for 2015. (As previously noted, the 2016 statement was a short form). This company was noted on the statements for reporting calendar year 2015 and 2017. The ethic law requires the business relationship be disclosed, which occurred in this case. *See* County Code §170-5(B).

The Commission notes that this Advisory Opinion is limited to the facts presented in this matter.

APPROVED THIS 11th day of June, 2018.

ETHICS COMMISSION OF
CHARLES COUNTY, MARYLAND


Stephen P. Fitzgerald, Esq., Vice Chairman

³ The Commission reviewed statements from County employees who were involved in selecting this company for the services. One employee stated that they were not aware of the connection between the company and the elected official. The other employee stated they first checked the County preferred list for the Small Local Business Vendor Report and the Minority Business Report. Again, this company was listed on both reports. She was told the owner of the company was the spouse of the elected official, but she was never ordered by anyone to use the company. She chose the company because it had the lowest quote. During her interaction with the owner, there was never any mention that the owner was the spouse of an elected official.